

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 76 Session of 2013

INTRODUCED BY ARGALL, FOLMER, SCHWANK, YUDICHAK, ALLOWAY, ERICKSON, FONTANA, MENSCH, WAUGH, SOLOBAY, RAFFERTY, BAKER, EICHELBERGER, BREWSTER, SMUCKER, BOSCOLA, FERLO, WARD, KASUNIC, WOZNIAK, WILEY, WHITE, BROWNE, DINNIMAN, KITCHEN AND WAGNER, MARCH 14, 2013

SENATOR BRUBAKER, FINANCE, AS AMENDED, SEPTEMBER 16, 2014

AN ACT

1 Providing for tax levies and information related to taxes;
2 authorizing the imposition of a personal income tax or an
3 earned income tax by a school district subject to voter
4 approval; providing for imposition of and exclusions from a
5 sales and use tax for the stabilization of education funding,
6 for increase to the personal income tax, for certain
7 licenses, for hotel occupancy tax, for procedure and
8 administration of the tax, for expiration of authority to
9 issue certain debt and for reporting by local government
10 units of debt outstanding; establishing the Education
11 Stabilization Fund; providing for disbursements from this
12 fund; and repealing certain provisions of the Public School
13 Code of 1949 and sales and use tax provisions of the Tax
14 Reform Code of 1971.

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19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 CHAPTER 1

22 PRELIMINARY PROVISIONS

23 Section 101. Short title.

24 This act shall be known and may be cited as the Property Tax  
25 Independence Act.

26 Section 102. Definitions.

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

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

1 "Education Stabilization Fund." The Education Stabilization  
2 Fund established in section 1302.

3 "Fiscal year." The fiscal year of the Commonwealth beginning  
4 on July 1 and ending on June 30 of the immediately following  
5 calendar year.

6 "Governing body." The board of school directors of a school  
7 district, except that the term shall mean the city council of a  
8 city of the first class for purposes of the levy and collection  
9 of any tax in a school district of the first class.

10 "Internal Revenue Code of 1986." The Internal Revenue Code  
11 of 1986 (Public Law 99-514, 26 U.S.C. § 166).

12 "Local Tax Enabling Act." The act of December 31, 1965  
13 (P.L.1257, No.511), known as The Local Tax Enabling Act,

14 "Public School Code of 1949." The act of March 10, 1949  
15 (P.L.30, No.14), known as the Public School Code of 1949.

16 "School district." A school district of the first class,  
17 first class A, second class, third class or fourth class,  
18 including any independent school district. For purposes of the  
19 levy, assessment and collection of any tax in a school district  
20 of the first class, the term shall include the City Council.

21 "School per capita tax." The tax authorized pursuant to  
22 section 679 of the act of March 10, 1949 (P.L.30, No.14), known  
23 as the Public School Code of 1949,

24 "Secretary." The Secretary of Revenue of the Commonwealth.

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

27 CHAPTER 3

28 TAXATION BY SCHOOL DISTRICTS

29 Section 301. Scope.

30 This chapter authorizes school districts to levy, assess and

1 collect a tax on personal income or a tax on earned income and  
2 net profits as a means of abolishing property taxation by the  
3 school district.

4 Section 302. Definitions.

5 The words and phrases used in this chapter shall have the  
6 same meanings given to them in the Tax Reform Code of 1971 or  
7 The Local Tax Enabling Act unless the context clearly indicates  
8 otherwise.

9 Section 303. Limitation.

10 Any tax imposed under this chapter shall be subject to the  
11 limitations set forth in Chapter 11.

12 Section 304. Preemption.

13 No act of the General Assembly shall vacate or preempt any  
14 resolution passed or adopted under the authority of this  
15 chapter, or any other act, providing authority for the  
16 imposition of a tax by a school district, unless the act of the  
17 General Assembly expressly vacates or preempts the authority to  
18 pass or adopt resolutions.

19 Section 305. General tax authorization.

20 (a) General rule.--A board of school directors may, by  
21 resolution, levy, assess and collect or provide for the levying,  
22 assessment and collection of a tax on personal income or a tax  
23 on earned income and net profits for general revenue purposes.

24 (b) Personal income tax.--

25 (1) A board of school directors may levy, assess and  
26 collect a tax on the personal income of resident individuals  
27 at a rate determined by the board of school directors.

28 (2) A school district which seeks to levy the tax  
29 authorized under paragraph (1) must comply with section 306.

30 (3) If a board of school directors seeks to impose a

1 personal income tax under this subsection and the referendum  
2 under section 306 is approved by the electorate, the board of  
3 school directors shall have no authority to impose an earned  
4 income and net profits tax under subsection (c) or any other  
5 act.

6 (4) A personal income tax imposed under the authority of  
7 this section shall be levied by the school district on each  
8 of the classes of income specified in section 303 of the Tax  
9 Reform Code of 1971 and regulations under that section,  
10 provisions of which are incorporated by reference into this  
11 chapter.

12 (i) Notwithstanding the provisions of section 353(f)  
13 of the Tax Reform Code of 1971, the Department of Revenue  
14 may permit the proper officer or an authorized agent of a  
15 school district imposing a personal income tax pursuant  
16 to this chapter to inspect the tax returns of any  
17 taxpayer of the school district or may furnish to the  
18 officer or an authorized agent an abstract of the return  
19 of income of any current or former resident of the school  
20 district or supply information concerning any item of  
21 income contained in any tax return. The officer or  
22 authorized agent of the school district imposing a tax  
23 under this chapter shall be furnished the requested  
24 information upon payment to the Department of Revenue of  
25 the actual cost of providing the requested information.

26 (ii) (A) Except for official purposes or as  
27 provided by law, it shall be unlawful for any officer  
28 or authorized agent of a school district to do any of  
29 the following:

30 (I) Disclose to any other individual or

1 entity the amount or source of income, profits,  
2 losses, expenditures or any particular  
3 information concerning income, profits, losses or  
4 expenditures contained in any return.

5 (II) Permit any other individual or entity  
6 to view or examine any return or copy of a return  
7 or any book containing any abstract or  
8 particulars.

9 (III) Print, publish or publicize in any  
10 manner any return; any particular information  
11 contained in or concerning the return; any amount  
12 or source of income, profits, losses or  
13 expenditures in or concerning the return; or any  
14 particular information concerning income,  
15 profits, losses or expenditures contained in or  
16 relating to any return.

17 (B) Any officer or authorized agent of a school  
18 district that violates clause (A):

19 (I) May be fined not more than \$1,000 or  
20 imprisoned for not more than one year, or both.

21 (II) May be removed from office or  
22 discharged from employment.

23 (c) Earned income and net profits tax.--

24 (1) A board of school directors may levy, assess and  
25 collect a tax on earned income and net profits of resident  
26 individuals at a rate determined by the board of school  
27 directors.

28 (2) A school district which seeks to levy the tax  
29 authorized under paragraph (1) must comply with section 306.

30 (3) If a board of school directors seeks to impose a tax

1 on earned income and net profits under this subsection and  
2 the referendum under section 306 is approved by the  
3 electorate, the board of school directors shall have no  
4 authority to impose a personal income tax under subsection  
5 (b) or any other act.

6 Section 306. Referendum.

7 (a) General rule.--In order to levy a personal income tax or  
8 an earned income and net profits tax under this chapter, a  
9 governing body shall use the procedures set forth in subsections  
10 (b), (c), (d), (e), (f) and (g).

11 (b) Approved by electorate.--

12 (1) Subject to notice and public hearing requirements of  
13 subsection (g), a governing body may levy the personal income  
14 tax or earned income and net profits tax under this chapter  
15 only by obtaining the approval of the electorate of the  
16 affected school district in a public referendum at only the  
17 primary election preceding the fiscal year when the personal  
18 income tax or earned income and net profits tax will be  
19 initially imposed or the rate increased.

20 (2) The referendum question must state the initial rate  
21 of the proposed personal income tax or earned income and net  
22 profits tax, the purpose of the tax, the duration of the tax  
23 and the amount of revenue to be generated by the  
24 implementation of the tax.

25 (3) The question shall be in clear language that is  
26 readily understandable by a layperson. For the purpose of  
27 illustration, a referendum question may be framed as follows:

28 Do you favor paying a personal income tax of X% for  
29 the purpose of X, for X years, which will generate  
30 \$X?

1 Do you favor paying an earned income and net profits  
2 tax of X% for the purpose of X, for X years, which  
3 will generate \$X?

4 (4) A nonlegal interpretative statement must accompany  
5 the question in accordance with section 201.1 of the act of  
6 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania  
7 Election Code, that includes the following:

8 (i) the initial rate of the personal income or  
9 earned income and net profits tax imposed under this  
10 chapter; and

11 (ii) the estimated revenues to be derived from the  
12 initial rate imposed under this chapter.

13 (c) School district located in more than one county.--In the  
14 event a school district is located in more than one county,  
15 petitions under this section shall be filed with the election  
16 officials of the county in which the administrative offices of  
17 the school district are located.

18 (d) Review and certification.--The election officials who  
19 receive a petition shall perform all administrative functions in  
20 reviewing and certifying the validity of the petition and  
21 conduct all necessary communications with the school district.

22 (e) Notification.--

23 (1) If the election officials of the county who receive  
24 the petition certify that it is sufficient under this section  
25 and determine that a question should be placed on the ballot,  
26 the decision shall be communicated to election officials in  
27 any other county in which the school district is also  
28 located.

29 (2) Election officials in the other county or counties  
30 shall cooperate with election officials of the county that

1 receives the petition to ensure that an identical question is  
2 placed on the ballot at the same election throughout the  
3 entire school district.

4 (f) Certification of results.--Election officials from each  
5 county involved shall independently certify the results from  
6 their county to the governing body.

7 (g) Adoption of resolution.--

8 (1) In order to levy the tax under this section, the  
9 governing body shall adopt a resolution which shall refer to  
10 this chapter prior to placing a question on the ballot.

11 (2) Prior to adopting a resolution imposing the tax  
12 authorized by this section, the governing body shall give  
13 public notice of its intent to adopt the resolution in the  
14 manner provided by The Local Tax Enabling Act and shall  
15 conduct at least two public hearings regarding the proposed  
16 adoption of the resolution. One public hearing shall be  
17 conducted during normal business hours and one public hearing  
18 shall be conducted during evening hours or on a weekend.

19 Section 307. Continuity of tax.

20 Every tax levied under this chapter shall continue in force  
21 on a fiscal year basis without annual reenactment unless the  
22 rate of the tax is subsequently changed or the duration placed  
23 on the referendum has expired.

24 Section 308. Collections.

25 Any income tax imposed under this chapter shall be subject to  
26 the provisions for collection and delinquency found in The Local  
27 Tax Enabling Act.

28 Section 309. Credits.

29 (a) Credit.--Except as set forth in subsection (b), the  
30 provisions of The Local Tax Enabling Act shall be applied by a

1 board of school directors to determine any credits applicable to  
2 a tax imposed under this chapter.

3 (b) Limitation.--Payment of any tax on income to any state  
4 other than Pennsylvania or to any political subdivision located  
5 outside the boundaries of this Commonwealth by a resident of a  
6 school district located in this Commonwealth shall not be  
7 credited to and allowed as a deduction from the liability of  
8 such person for any income tax imposed by the school district of  
9 residence pursuant to this chapter.

10 Section 310. Exemption and special provisions.

11 (a) Earned income and net profits tax.--A school district  
12 that imposes an earned income and net profits tax authorized  
13 under section 305(c) may exempt from the payment of that tax any  
14 person whose total income from all sources is less than \$12,000.

15 (b) Applicability to personal income tax.--Section 304 of  
16 the Tax Reform Code of 1971 shall apply to any personal income  
17 tax levied by a school district under section 305(b).

18 Section 311. Regulations.

19 A school district that imposes:

20 (1) an earned income and net profits tax authorized  
21 under section 305(c) shall be subject to the provisions of  
22 The Local Tax Enabling Act and may adopt procedures for the  
23 processing of claims for credits and exemptions under section  
24 309 and 310; or

25 (2) a personal income tax under section 305(b) shall be  
26 subject to all regulations adopted by the Department of  
27 Revenue in administering the tax due to the Commonwealth  
28 under Article III of the Tax Reform Code of 1971.

29 CHAPTER 4

30 EDUCATION TAX

1 Section 401. Education tax.

2 (a) General rule.--In addition to the tax collected under  
3 section 302 of the Tax Reform Code of 1971, the Commonwealth  
4 shall impose AND ADMINISTER the tax set forth in subsection ~~(e)~~ <--  
5 (B) in the same manner as the tax under ARTICLE III OF the Tax <--  
6 Reform Code of 1971.

7 (b) Imposition of tax.--

8 (1) Every resident individual, estate or trust shall be  
9 subject to, and shall pay for the privilege of receiving each  
10 of the classes of income enumerated in section 303 of the Tax  
11 Reform Code of 1971, a tax upon each dollar of income  
12 received by that resident during that resident's taxable year  
13 at the rate of 1.27%.

14 (2) Every nonresident individual, estate or trust shall  
15 be subject to, and shall pay for the privilege of receiving  
16 each of the classes of income enumerated in section 303 of  
17 the Tax Reform Code of 1971 from sources within this  
18 Commonwealth, a tax upon each dollar of income received by  
19 that nonresident during that nonresident's taxable year at  
20 the rate of 1.27%.

21 ~~(c) Deposit in Education Stabilization Fund. All moneys~~ <--

22 (C) DEPOSIT IN EDUCATION STABILIZATION FUND.-- <--

23 (1) ALL MONEYS collected under this section shall be  
24 deposited in the Education Stabilization Fund.

25 (2) SO MUCH OF THE PROCEEDS OF THE TAX IMPOSED BY THIS <--  
26 CHAPTER AS SHALL BE NECESSARY FOR THE PAYMENT OF REFUNDS,  
27 ENFORCEMENT OR ADMINISTRATION UNDER THIS CHAPTER IS HEREBY  
28 APPROPRIATED TO THE DEPARTMENT FOR SUCH PURPOSES.

29 (d) Combination of tax forms.--The department shall  
30 incorporate the taxpayer reporting requirement for the

1 implementation of this section into the forms utilized by the  
2 department under Article III of the Tax Reform Code of 1971.

3 (e) Definitions.--The words and phrases used in this section  
4 shall have the same meaning given to them in Article III of the  
5 Tax Reform Code of 1971.

6 CHAPTER 7

7 SALES AND USE TAX FOR THE  
8 STABILIZATION OF EDUCATION FUNDING

9 SUBCHAPTER A

10 PRELIMINARY PROVISIONS

11 Section 701. Scope.

12 The tax provided for under this chapter shall be known as the  
13 Sales and Use Tax for the Stabilization of Education Funding,  
14 which shall be a replacement for the sales and use tax  
15 authorized under Article II of the Tax Reform Code of 1971 and  
16 that is repealed by this act.

17 Section 701.1. 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 (a) "Soft drinks."

22 (1) All nonalcoholic beverages, whether carbonated or  
23 not, such as soda water, ginger ale, Coca Cola, lime cola,  
24 Pepsi Cola, Dr Pepper, fruit juice when plain or carbonated  
25 water, flavoring or syrup is added, carbonated water,  
26 orangeade, lemonade, root beer or any and all preparations,  
27 commonly referred to as soft drinks, of whatsoever kind, and  
28 are further described as including any and all beverages,  
29 commonly referred to as soft drinks, which are made with or  
30 without the use of any syrup.



1 use of the services described in subclauses (11) through (18)  
2 of clause (k) of this section, including, but not limited to,  
3 having, maintaining or using any office, distribution house,  
4 sales house, warehouse or other place of business, any stock  
5 of goods or any solicitor, canvasser, salesman,  
6 representative or agent under its authority, at its direction  
7 or with its permission, regardless of whether the person or  
8 subsidiary is authorized to do business in this Commonwealth.

9 (3) Regularly or substantially soliciting orders within  
10 this Commonwealth in connection with the lease, sale or  
11 delivery of tangible personal property to or the performance  
12 thereon of services or in connection with the sale or  
13 delivery of the services described in subclauses (11) through  
14 (18) of clause (k) of this section for residents of this  
15 Commonwealth by means of catalogs or other advertising,  
16 whether the orders are accepted within or without this  
17 Commonwealth.

18 (3.1) Entering this Commonwealth by any person to  
19 provide assembly, service or repair of tangible personal  
20 property, either directly or through a subsidiary,  
21 representative or an agent.

22 (3.2) Delivering tangible personal property to locations  
23 within this Commonwealth if the delivery includes the  
24 unpacking, positioning, placing or assembling of the tangible  
25 personal property.

26 (3.3) Having any contact within this Commonwealth which  
27 would allow the Commonwealth to require a person to collect  
28 and remit tax under the Constitution of the United States.

29 (3.4) Providing a customer's mobile telecommunications  
30 service deemed to be provided by the customer's home service

1 provider under the Mobile Telecommunications Sourcing Act (4  
2 U.S.C. § 116). For purposes of this clause, words and phrases  
3 used in this clause shall have the meanings given to them in  
4 the Mobile Telecommunications Sourcing Act.

5 (4) The term does not include:

6 (i) Owning or leasing of tangible or intangible  
7 property by a person who has contracted with an  
8 unaffiliated commercial printer for printing, provided  
9 that:

10 (A) the property is for use by the commercial  
11 printer; and

12 (B) the property is located at the Pennsylvania  
13 premises of the commercial printer.

14 (ii) Visits by a person's employees or agents to the  
15 premises in this Commonwealth of an unaffiliated  
16 commercial printer with whom the person has contracted  
17 for printing in connection with said contract.

18 ~~(b.1) "Service performed in this Commonwealth."~~ <--

19 ~~A service performed:~~

20 ~~(1) completely in this Commonwealth;~~

21 ~~(2) partially in this Commonwealth and partially outside~~  
22 ~~this Commonwealth, when the recipient or user of the service~~  
23 ~~is located in this Commonwealth; or~~

24 ~~(3) partially in this Commonwealth and partially outside~~  
25 ~~this Commonwealth, when the recipient or user of the service~~  
26 ~~is not located in this Commonwealth, but only to the extent~~  
27 ~~of those services actually performed in this Commonwealth.~~

28 ~~The place of performance need not be determined if the recipient~~  
29 ~~or user of the service is located in this Commonwealth.~~

30 ~~A service performed partially in this Commonwealth and partially~~

~~1 outside this Commonwealth shall be presumed to have been  
2 performed completely in this Commonwealth unless the taxpayer  
3 can show the place of performance by clear and convincing  
4 evidence. With respect to interstate telecommunications  
5 services, only services for interstate telecommunications which  
6 originate or are terminated in this Commonwealth and which are  
7 billed and charged to a service address in this Commonwealth  
8 shall be presumed to have been performed completely in this  
9 Commonwealth and shall be subject to tax.~~

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

16 (1) Every operation commencing with the first production  
17 stage and ending with the completion of tangible personal  
18 property having the physical qualities, including packaging,  
19 if any, passing to the ultimate consumer, which it has when  
20 transferred by the manufacturer to another. For purposes of  
21 this definition, "operation" includes clean rooms and their  
22 component systems, including: environmental control systems,  
23 antistatic vertical walls and manufacturing platforms and  
24 floors which are independent of the real estate; process  
25 piping systems; specialized lighting systems; deionized water  
26 systems; process vacuum and compressed air systems; process  
27 and specialty gases; and alarm or warning devices  
28 specifically designed to warn of threats to the integrity of  
29 the product or people. For purposes of this definition, a  
30 "clean room" is a location with a self-contained, sealed

1 environment with a controlled, closed air system independent  
2 from the facility's general environmental control system.

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

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

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

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

17 (i) product or utility service; or

18 (ii) method of producing a product or utility  
19 service,

20 but in either case not including market research or research  
21 having as its objective the improvement of administrative  
22 efficiency.

23 (6) Remanufacture for wholesale distribution by a  
24 remanufacturer of motor vehicle parts from used parts  
25 acquired in bulk by the remanufacturer using an assembly line  
26 process which involves the complete disassembly of such parts  
27 and integration of the components of such parts with other  
28 used or new components of parts, including the salvaging,  
29 recycling or reclaiming of used parts by the remanufacturer.

30 (7) Remanufacture or retrofit by a manufacturer or

1 remanufacturer of aircraft, armored vehicles, other defense-  
2 related vehicles having a finished value of at least \$50,000.  
3 Remanufacture or retrofit involves the disassembly of such  
4 aircraft, vehicles, parts or components, including electric  
5 or electronic components, the integration of those parts and  
6 components with other used or new parts or components,  
7 including the salvaging, recycling or reclaiming of the used  
8 parts or components and the assembly of the new or used  
9 aircraft, vehicles, parts or components. ~~The term does not~~ <--  
10 ~~include constructing, altering, servicing, repairing or~~  
11 ~~improving real estate or repairing, servicing or installing~~  
12 ~~tangible personal property, nor the cooking, freezing or~~  
13 ~~baking of fruits, vegetables, mushrooms, fish, seafood,~~  
14 ~~meats, poultry or bakery products.~~ For purposes of this  
15 clause, 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 and

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

26 (8) REMANUFACTURE BY A REMANUFACTURER OF LOCOMOTIVE <--  
27 PARTS FROM USED PARTS ACQUIRED IN BULK BY THE REMANUFACTURER  
28 USING AN ASSEMBLY LINE PROCESS WHICH INVOLVES THE COMPLETE  
29 DISASSEMBLY OF SUCH PARTS AND INTEGRATION OF THE COMPONENTS  
30 OF SUCH PARTS WITH OTHER USED OR NEW COMPONENTS OF PARTS,

1 INCLUDING THE SALVAGING, RECYCLING OR RECLAIMING OF USED  
2 PARTS BY THE REMANUFACTURER.  
3 THE TERM DOES NOT INCLUDE CONSTRUCTING, ALTERING, SERVICING,  
4 REPAIRING OR IMPROVING REAL ESTATE OR REPAIRING, SERVICING OR  
5 INSTALLING TANGIBLE PERSONAL PROPERTY, NOR THE PRODUCING OF A  
6 COMMERCIAL MOTION PICTURE, NOR THE COOKING, FREEZING OR BAKING  
7 OF FRUITS, VEGETABLES, MUSHROOMS, FISH, SEAFOOD, MEATS, POULTRY  
8 OR BAKERY PRODUCTS.

9 (c.1) "Blasting." The use of any combustible or explosive  
10 composition in the removal of material resources, minerals and  
11 mineral aggregates from the earth including the separation of  
12 the dirt, waste and refuse in which they are found.

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

15 (1) The filtering or heating of honey, the cooking,  
16 baking or freezing of fruits, vegetables, mushrooms, fish,  
17 seafood, meats, poultry or bakery products, when the person  
18 engaged in the business packages the property in sealed  
19 containers for wholesale distribution.

20 (1.1) The processing of fruits or vegetables by  
21 cleaning, cutting, coring, peeling or chopping and treating  
22 to preserve, sterilize or purify and substantially extend the  
23 useful shelf life of the fruits or vegetables, when the  
24 person engaged in the activity packages the property in  
25 sealed containers for wholesale distribution.

26 (2) The scouring, carbonizing, cording, combing,  
27 throwing, twisting or winding of natural or synthetic fibers,  
28 or the spinning, bleaching, dyeing, printing or finishing of  
29 yarns or fabrics, when the activities are performed prior to  
30 sale to the ultimate consumer.

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

5           (3.1) The blanking, shearing, leveling, slitting or  
6           burning of metals for sale to or use by a manufacturer or  
7           processor.

8           (4) The rolling, drawing or extruding of ferrous and  
9           nonferrous metals.

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

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

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

18          (8) The operation of a saw mill or planing mill for the  
19          production of lumber or lumber products for sale. The  
20          operation of a saw mill or planing mill begins with the  
21          unloading by the operator of the saw mill or planing mill of  
22          logs, timber, pulpwood or other forms of wood material to be  
23          used in the saw mill or planing mill.

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

25          (9.1) The aging, stripping, conditioning, crushing and  
26          blending of tobacco leaves for use as cigar filler or as  
27          components of smokeless tobacco products for sale to  
28          manufacturers of tobacco products.

29          (10) The slaughtering and dressing of animals for meat  
30          to be sold or to be used in preparing meat products for sale,

1 and the preparation of meat products including lard, tallow,  
2 grease, cooking and inedible oils for wholesale distribution.

3 (11) The processing of used lubricating oils.

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

6 (13) The cooking or baking of bread, pastries, cakes,  
7 cookies, muffins and donuts when the person engaged in the  
8 activity sells the items at retail at locations that do not  
9 constitute an establishment from which ready-to-eat food and  
10 beverages are sold. For purposes of this clause, a bakery, a  
11 pastry shop and a donut shop shall not be considered an  
12 establishment from which ready-to-eat food and beverages are  
13 sold.

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

17 (15) The preparation of dry or liquid fertilizer for  
18 sale.

19 (16) The production, processing and packaging of ice for  
20 wholesale distribution.

21 (17) The producing of mobile telecommunications  
22 services.

23 (18) THE COLLECTION, WASHING, SORTING, INSPECTING AND <--  
24 PACKAGING OF EGGS.

25 (e) "Person." Any natural person, association, fiduciary,  
26 partnership, corporation or other entity, including the  
27 Commonwealth of Pennsylvania, its political subdivisions and  
28 instrumentalities and public authorities. Whenever used in  
29 prescribing and imposing a penalty or imposing a fine or  
30 imprisonment, or both, the term as applied to an association,

1 includes the members of the association and, as applied to a  
2 corporation, the officers of the corporation.

3 (f) "Purchase at retail."

4 (1) The acquisition for a consideration of the  
5 ownership, custody or possession of tangible personal  
6 property other than for resale by the person acquiring the  
7 same when the acquisition is made for the purpose of  
8 consumption or use, whether the acquisition is absolute or  
9 conditional, and by any means it is effected.

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

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

17 (4) A retention after March 7, 1956, of possession,  
18 custody or a license to use or consume pursuant to a rental  
19 contract or other lease arrangement (other than as security)  
20 other than for resale.

21 (5) The obtaining for a consideration of those services  
22 described in subclauses (11) through (18) of clause (k) of  
23 this section.

24 The term, with respect to liquor and malt or brewed beverages,  
25 includes the purchase of liquor from any Pennsylvania Liquor  
26 Store by any person for any purpose, and the purchase of malt or  
27 brewed beverages from a manufacturer of malt or brewed  
28 beverages, distributor or importing distributor by any person  
29 for any purpose, except purchases from a manufacturer of malt or  
30 brewed beverages by a distributor or importing distributor or

1 purchases from an importing distributor by a distributor within  
2 the meaning of the Liquor Code. The term does not include any  
3 purchase of malt or brewed beverages from a retail dispenser or  
4 any purchase of liquor or malt or brewed beverages from a person  
5 holding a retail liquor license within the meaning of and  
6 pursuant to the provisions of the Liquor Code, but includes any  
7 purchase or acquisition of liquor or malt or brewed beverages  
8 other than pursuant to the provisions of the Liquor Code.

9 (g) "Purchase price."

10 (1) The total value of anything paid or delivered, or  
11 promised to be paid or delivered, whether money or otherwise,  
12 in complete performance of a sale at retail or purchase at  
13 retail, without any deduction on account of the cost or value  
14 of the property sold, cost or value of transportation, cost  
15 or value of labor or service, interest or discount paid or  
16 allowed after the sale is consummated, any other taxes  
17 imposed by the Commonwealth or any other expense except that  
18 there shall be excluded any gratuity or separately stated  
19 deposit charge for returnable containers.

20 (2) The value of any tangible personal property actually  
21 taken in trade or exchange in lieu of the whole or any part  
22 of the purchase price shall be deducted from the purchase  
23 price. For the purpose of this clause, the amount allowed by  
24 reason of tangible personal property actually taken in trade  
25 or exchange shall be considered the value of such property.

26 (3) (i) In determining the purchase price on the sale  
27 or use of taxable tangible personal property or a service  
28 where, because of affiliation of interests between the  
29 vendor and purchaser, or irrespective of any such  
30 affiliation, if for any other reason the purchase price

1 declared by the vendor or taxpayer on the taxable sale or  
2 use of such tangible personal property or service is, in  
3 the opinion of the department, not indicative of the true  
4 value of the article or service or the fair price  
5 thereof, the department shall, pursuant to uniform and  
6 equitable rules, determine the amount of constructive  
7 purchase price on the basis of which the tax shall be  
8 computed and levied. The rules shall provide for a  
9 constructive amount of purchase price for each sale or  
10 use which would naturally and fairly be charged in an  
11 arms-length transaction in which the element of common  
12 interest between the vendor or purchaser is absent or, if  
13 no common interest exists, any other element causing a  
14 distortion of the price or value is likewise absent.

15 (ii) For the purpose of this clause where a taxable  
16 sale or purchase at retail transaction occurs between a  
17 parent and a subsidiary, affiliate or controlled  
18 corporation of such parent corporation, there shall be a  
19 rebuttable presumption, that because of the common  
20 interest, the transaction was not at arms-length.

21 (4) Where there is a transfer or retention of possession  
22 or custody, whether it is termed a rental, lease, service or  
23 otherwise, of tangible personal property including, but not  
24 limited to, linens, aprons, motor vehicles, trailers, tires,  
25 industrial office and construction equipment, and business  
26 machines the full consideration paid or delivered to the  
27 vendor or lessor shall be considered the purchase price, even  
28 though the consideration is separately stated and designated  
29 as payment for processing, laundering, service, maintenance,  
30 insurance, repairs, depreciation or otherwise. Where the

1 vendor or lessor supplies or provides an employee to operate  
2 the tangible personal property, the value of the labor  
3 supplied may be excluded and shall not be considered as part  
4 of the purchase price if separately stated. There shall also  
5 be included as part of the purchase price the value of  
6 anything paid or delivered, or promised to be paid or  
7 delivered by a lessee, whether money or otherwise, to any  
8 person other than the vendor or lessor by reason of the  
9 maintenance, insurance or repair of the tangible personal  
10 property which a lessee has the possession or custody of  
11 under a rental contract or lease arrangement.

12 (5) (i) With respect to the tax imposed by section  
13 702(a)(2), on any tangible personal property originally  
14 purchased by the user of the property six months or  
15 longer prior to the first taxable use of the property  
16 within this Commonwealth, the user may elect to pay tax  
17 on a substituted base determined by considering the  
18 purchase price of the property for tax purposes to be  
19 equal to the prevailing market price of similar tangible  
20 personal property at the time and place of the first use  
21 within this Commonwealth.

22 (ii) The election must be made at the time of filing  
23 a tax return with the department and reporting the tax  
24 liability and paying the proper tax due plus all accrued  
25 penalties and interest, if any, within six months of the  
26 due date of such report and payment, as provided for by  
27 section 717(a) and (c).

28 (6) The purchase price of employment agency services and  
29 help supply services shall be the service fee paid by the  
30 purchaser to the vendor or supplying entity. The term

1 "service fee," as used in this subclause, means the total  
2 charge or fee of the vendor or supplying entity minus the  
3 costs of the supplied employee which costs are wages,  
4 salaries, bonuses and commissions, employment benefits,  
5 expense reimbursements and payroll and withholding taxes, to  
6 the extent that these costs are specifically itemized or that  
7 these costs in aggregate are stated in billings from the  
8 vendor or supplying entity. To the extent that these costs  
9 are not itemized or stated on the billings, then the service  
10 fee shall be the total charge or fee of the vendor or  
11 supplying entity.

12 (7) Unless the vendor separately states that portion of  
13 the billing which applies to premium cable service as defined  
14 in clause (11), the total bill for the provision of all cable  
15 services shall be the purchase price.

16 (8) The purchase price of prebuilt housing shall be 60%  
17 of the manufacturer's selling price, provided that a  
18 manufacturer of prebuilt housing who precollects tax from a  
19 prebuilt housing builder at the time of the sale to the  
20 prebuilt housing builder shall have the option to collect tax  
21 on 60% of the selling price or on 100% of the actual cost of  
22 the supplies and materials used in the manufacture of the  
23 prebuilt housing.

24 (9) AMOUNTS REPRESENTING ON-THE-SPOT CASH DISCOUNTS, <--  
25 EMPLOYEE DISCOUNTS, VOLUME DISCOUNTS, STORE DISCOUNTS SUCH AS  
26 "BUY ONE, GET ONE FREE," WHOLESALER'S OR TRADE DISCOUNTS,  
27 REBATES AND STORE OR MANUFACTURER'S COUPONS SHALL ESTABLISH A  
28 NEW PURCHASE PRICE IF BOTH THE ITEM AND THE COUPON ARE  
29 DESCRIBED ON THE INVOICE OR CASH REGISTER TAPE. AN AMOUNT  
30 REPRESENTING A DISCOUNT ALLOWED FOR PROMPT PAYMENT OF BILLS

1 WHICH IS DEPENDENT UPON AN EVENT OCCURRING AFTER THE  
2 COMPLETION OF THE SALE MAY NOT BE DEDUCTED IN COMPUTING THE  
3 TAX. A SALE IS COMPLETED WHEN THERE IS A TRANSFER OF  
4 OWNERSHIP OF THE PROPERTY OR SERVICES TO THE PURCHASER.

5 (h) "Purchaser." Any person who acquires, for a  
6 consideration, the ownership, custody or possession by sale,  
7 lease or otherwise of tangible personal property, or who obtains  
8 services in exchange for a purchase price but not including an  
9 employer who obtains services from his employees in exchange for  
10 wages or salaries when such services are rendered in the  
11 ordinary scope of their employment.

12 (i) "Resale."

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 is 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 subclauses (2), (3) and (4) of clause (k) upon tangible  
25 personal property which is to be sold in the regular course  
26 of business or where the person incorporating the property  
27 has undertaken at the time of purchase to cause it to be  
28 transported in interstate commerce to a destination outside  
29 this Commonwealth. The term includes telecommunications  
30 services purchased by a cable operator or video programmer

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

4 (3) The term also includes tangible personal property  
5 purchased or having a situs within this Commonwealth solely  
6 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 does not include any sale of malt or brewed  
11 beverages by a retail dispenser, or any sale of liquor or  
12 malt or brewed beverages by a person holding a retail liquor  
13 license within the meaning of the act of April 12, 1951  
14 (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 paragraphs  
19 (A), (B), (C) and (D) of subclause (8) of clause (k) and  
20 subparagraphs (i), (ii), (iii) and (iv) of paragraph (B) of  
21 subclause (4) of clause (o), whether the foundations at the  
22 time of construction or transfer constitute tangible personal  
23 property or real estate.

24 (6) THE SALE AT RETAIL OR USE OF SERVICES PERFORMED FOR <--  
25 RESALE IN THE ORDINARY COURSE OF BUSINESS OF THE PURCHASER OR  
26 USER OF SUCH SERVICES.

27 (7) THE SALE AT RETAIL OR USE OF SERVICES THAT ARE  
28 OTHERWISE TAXABLE THAT ARE AN INTEGRAL, INSEPARABLE PART OF  
29 THE SERVICES THAT ARE TO BE SOLD OR USED THAT ARE TAXABLE.

30 (j) "Resident."

1           (1) Any natural person:  
2           (i) who is domiciled in this Commonwealth; or  
3           (ii) who maintains a permanent place of abode within  
4 this Commonwealth and spends in the aggregate more than  
5 60 days of the year within this Commonwealth.

6           (2) Any corporation:  
7           (i) incorporated under the laws of this  
8 Commonwealth;  
9           (ii) authorized to do business or doing business  
10 within this Commonwealth; or  
11           (iii) maintaining a place of business within this  
12 Commonwealth.

13           (3) Any association, fiduciary, partnership or other  
14 entity:  
15           (i) domiciled in this Commonwealth;  
16           (ii) authorized to do business or doing business  
17 within this Commonwealth; or  
18           (iii) maintaining a place of business within this  
19 Commonwealth.

20           (k) "Sale at retail."

21           (1) Any transfer, for a consideration, of the ownership,  
22 custody or possession of tangible personal property,  
23 including the grant of a license to use or consume whether  
24 the transfer is absolute or conditional and by any means the  
25 transfer is effected.

26           (2) The rendition of the service of printing or  
27 imprinting of tangible personal property for a consideration  
28 for persons who furnish, either directly or indirectly, the  
29 materials used in the printing or imprinting.

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

1 (i) washing, cleaning, waxing, polishing or  
2 lubricating of motor vehicles of another, regardless of  
3 whether any tangible personal property is transferred in  
4 conjunction with the activity; and

5 (ii) inspecting motor vehicles pursuant to the  
6 mandatory requirements of 75 Pa.C.S. (relating to  
7 vehicles).

8 (4) The rendition for a consideration of the service of  
9 repairing, altering, mending, pressing, fitting, dyeing,  
10 laundering, drycleaning or cleaning tangible personal  
11 property other than wearing apparel or shoes, or applying or  
12 installing tangible personal property as a repair or  
13 replacement part of other tangible personal property other  
14 than wearing apparel or shoes for a consideration, regardless  
15 of whether the services are performed directly or by any  
16 means other than by coin-operated self-service laundry  
17 equipment for wearing apparel or household goods and whether  
18 or not any tangible personal property is transferred in  
19 conjunction with the activity, except such services as are  
20 rendered in the construction, reconstruction, remodeling,  
21 repair or maintenance of real estate.

22 (5) (Reserved).

23 (6) (Reserved).

24 (7) (Reserved).

25 (8) Any retention of possession, custody or a license to  
26 use or consume tangible personal property or any further  
27 obtaining of services described in subclauses (2), (3) and  
28 (4) of this clause pursuant to a rental or service contract  
29 or other arrangement (other than as security). The term does  
30 not include:

1           (i) any transfer of tangible personal property or  
2 rendition of services for the purpose of resale; or

3           (ii) the rendition of services or the transfer of  
4 tangible personal property, including, but not limited  
5 to, machinery and equipment and their parts and supplies  
6 to be used or consumed by the purchaser directly in the  
7 operations of:

8           (A) The manufacture of tangible personal  
9 property.

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

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

24           (D) Processing as defined in clause (d). The  
25 exclusions provided in this paragraph or paragraph  
26 (A), (B) or (C) do not apply to any vehicle required  
27 registered under 75 Pa.C.S. (relating to vehicles),  
28 except those vehicles used directly by a public  
29 utility engaged in business as a common carrier; to  
30 maintenance facilities; or to materials, supplies or

1 equipment to be used or consumed in the construction,  
2 reconstruction, remodeling, repair or maintenance of  
3 real estate other than directly used machinery,  
4 equipment, parts or foundations that may be affixed  
5 to such real estate. The exclusions provided in this  
6 paragraph or paragraph (A), (B) or (C) do not apply  
7 to tangible personal property or services to be used  
8 or consumed in managerial sales or other  
9 nonoperational activities, nor to the purchase or use  
10 of tangible personal property or services by any  
11 person other than the person directly using the same  
12 in the operations described in this paragraph or  
13 paragraph (A), (B) or (C).

14 The exclusion provided in paragraph (C) does not apply to:

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

20 (ii) construction materials, supplies or equipment  
21 used to construct, reconstruct, remodel, repair or  
22 maintain a building, road or similar structure; or

23 (iii) tools and equipment used but not installed in  
24 the maintenance of facilities used directly in the  
25 production, delivering or rendition of a public utility

26 ~~service. The exclusions provided in paragraphs (A), (B),~~ <--  
27 SERVICE. <--

28 THE EXCLUSIONS PROVIDED IN PARAGRAPHS (A), (B), (C) and (D)  
29 do not apply to the services enumerated in clauses (k) (11)  
30 through (18) and (w) through (kk), except that the exclusion

1 provided in this subclause for farming, dairying and  
2 agriculture shall apply to the service enumerated in clause  
3 (z).

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

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

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

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

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

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

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

10 (16) (Reserved).

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

13 (18) The rendition for a consideration of self-storage  
14 service.

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

17 (20) Except as otherwise provided under section 704, the  
18 rendition for a consideration of any service ENUMERATED IN <--  
19 CLAUSE (DD) when the primary objective of the purchaser is  
20 the receipt of any benefit of the service performed, as  
21 distinguished from the receipt of property. ~~The following~~ <--  
22 ~~provisions shall apply:~~

23 ~~(i) In determining what is a service, the intended~~  
24 ~~use or stated objective of the contracting parties shall~~  
25 ~~not necessarily be controlling.~~

26 ~~(ii) Any service performed in this Commonwealth~~  
27 ~~shall be subject to the tax imposed under this chapter~~  
28 ~~unless specifically exempted in this chapter.~~

29 ~~(iii) With respect to services performed in this~~  
30 ~~Commonwealth for a recipient or user of the services~~

1 ~~located in another state in which the services, had they~~  
2 ~~been performed in that state, would not be subject to a~~  
3 ~~sales or use tax under the laws of that state, then no~~  
4 ~~tax may be imposed under this chapter.~~

5 ~~(iv) The tax on the sale or use of services shall~~  
6 ~~become due at the time payment or other consideration is~~  
7 ~~made for the portion of services actually paid.~~

8 (l) "Storage." Any keeping or retention of tangible  
9 personal property within this Commonwealth for any purpose  
10 including the interim keeping, retaining or exercising any right  
11 or power over such tangible personal property. This term is in  
12 no way limited to the provision of self-storage service.

13 (m) "Tangible personal property." Corporeal personal  
14 property including, but not limited to, goods, wares,  
15 merchandise, steam and natural and manufactured and bottled gas  
16 for non-residential use, electricity for non-residential use,  
17 prepaid telecommunications, ~~premium~~ cable or ~~premium~~ video <--  
18 programming service, spirituous or vinous liquor and malt or  
19 brewed beverages and soft drinks, interstate telecommunications  
20 service originating or terminating in this Commonwealth and  
21 charged to a service address in this Commonwealth, intrastate  
22 telecommunications service with the exception of:

23 (1) Subscriber line charges and basic local telephone  
24 service for residential use.

25 (2) Charges for telephone calls paid for by inserting  
26 money into a telephone accepting direct deposits of money to  
27 operate, provided further, the service address of any  
28 intrastate telecommunications service is deemed to be within  
29 this Commonwealth or within a political subdivision,  
30 regardless of how or where billed or paid.

1 In the case of any interstate or intrastate telecommunications  
2 service, any charge paid through a credit or payment mechanism  
3 which does not relate to a service address, such as a bank,  
4 travel, credit or debit card, but not including prepaid  
5 telecommunications, is deemed attributable to the address of  
6 origination of the telecommunications service.

7 (n) "Taxpayer." Any person required to pay or collect the  
8 tax imposed by this chapter.

9 (o) "Use."

10 (1) The exercise of any right or power incidental to the  
11 ownership, custody or possession of tangible personal  
12 property and includes, but is not limited to, transportation,  
13 storage or consumption.

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

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

19 (i) washing, cleaning, waxing, polishing or  
20 lubricating of motor vehicles regardless of whether any  
21 tangible personal property is transferred to the  
22 purchaser in conjunction with the services; and

23 (ii) inspecting motor vehicles pursuant to the  
24 mandatory requirements of 75 Pa.C.S. (relating to  
25 vehicles).

26 (4) The obtaining by a purchaser of the service of  
27 repairing, altering, mending, pressing, fitting, dyeing,  
28 laundering, drycleaning or cleaning tangible personal  
29 property other than wearing apparel or shoes or applying or  
30 installing tangible personal property as a repair or

1 replacement part of other tangible personal property,  
2 including, but not limited to, wearing apparel or shoes,  
3 regardless of whether the services are performed directly or  
4 by any means other than by means of coin-operated self-  
5 service laundry equipment for wearing apparel or household  
6 goods, and regardless of whether any tangible personal  
7 property is transferred to the purchaser in conjunction with  
8 the activity, THEREWITH, EXCEPT SUCH SERVICES ARE OBTAINED IN <--  
9 THE CONSTRUCTION, RECONSTRUCTION, REMODELING, REPAIR OR  
10 MAINTENANCE OF REAL ESTATE. The term "use" does not include:

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

18 (B) The use or consumption of tangible personal  
19 property, including, but not limited to, machinery  
20 and equipment and parts therefor, and supplies or the  
21 obtaining of the services described in subclauses  
22 (2), (3) and (4) of this clause directly in the  
23 operations of:

24 (i) The manufacture of tangible personal property.

25 (ii) Farming, dairying, agriculture, horticulture or  
26 floriculture when engaged in as a business enterprise.  
27 The term includes the propagation and raising of ranch-  
28 raised furbearing animals and the propagation of game  
29 birds for commercial purposes by holders of propagation  
30 permits issued under 34 Pa.C.S. (relating to game) and

1 the propagation and raising of horses to be used  
2 exclusively for commercial racing activities.

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

8 (iv) Processing as defined in subclause (d).  
9 The exclusions provided in subparagraphs (i), (ii), (iii)  
10 and (iv) do not apply to any vehicle required to be  
11 registered under 75 Pa.C.S. (relating to vehicles) except  
12 those vehicles directly used by a public utility engaged  
13 in the business as a common carrier; to maintenance  
14 facilities; or to materials, supplies or equipment to be  
15 used or consumed in the construction, reconstruction,  
16 remodeling, repair or maintenance of real estate other  
17 than directly used machinery, equipment, parts or  
18 foundations therefor that may be affixed to such real  
19 estate. The exclusions provided in subparagraphs (i),  
20 (ii), (iii) and this subparagraph do 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 subparagraphs (i), (ii), (iii) and this  
27 subparagraph. The exclusion provided in subparagraph  
28 (iii) does not apply to:

29 (A) construction materials, supplies or  
30 equipment used to construct, reconstruct, remodel,

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

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

8 The exclusion provided in subparagraphs (i), (ii), (iii)  
9 and this subparagraph does not apply to the services  
10 enumerated in clauses (9) through (16) and (w) through  
11 (kk), except that the exclusion provided in subparagraph  
12 (ii) for farming, dairying and agriculture shall apply to  
13 the service enumerated in clause (z).

14 (5) Where tangible personal property or services are  
15 utilized for purposes constituting a use, and for purposes  
16 excluded from the definition of "use," it shall be presumed  
17 that the property or services are utilized for purposes  
18 constituting a sale at retail and subject to tax unless the  
19 user proves to the department that the predominant purposes  
20 for which the property or services are utilized do not  
21 constitute a sale at retail.

22 (6) The term, with respect to liquor and malt or brewed  
23 beverages, includes the purchase of liquor from any  
24 Pennsylvania Liquor Store by any person for any purpose and  
25 the purchase of malt or brewed beverages from a manufacturer  
26 of malt or brewed beverages, distributor or importing  
27 distributor by any person for any purpose, except purchases  
28 from a manufacturer of malt or brewed beverages by a  
29 distributor or importing distributor, or purchases from an  
30 importing distributor by a distributor within the meaning of

1 the act of April 12, 1951 (P.L.90, No.21), known as the  
2 Liquor Code. The term does not include any purchase of malt  
3 or brewed beverages from a retail dispenser or any purchase  
4 of liquor or malt or brewed beverages from a person holding a  
5 retail liquor license within the meaning of and pursuant to  
6 the provisions of the Liquor Code, but includes the exercise  
7 of any right or power incidental to the ownership, custody or  
8 possession of liquor or malt or brewed beverages obtained by  
9 the person exercising the right or power in any manner other  
10 than pursuant to the provisions of the Liquor Code.

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

15 (8) (Reserved).

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

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

19 (11) The obtaining by the purchaser of secretarial or  
20 editing services.

21 (12) The obtaining by the purchaser of disinfecting or  
22 pest control services, building maintenance or cleaning  
23 services.

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

26 (14) (Reserved).

27 (15) The obtaining by the purchaser of lawn care  
28 service.

29 (16) The obtaining by the purchaser of self-storage  
30 service.

1           (17) The obtaining by a construction contractor of  
2 tangible personal property or services provided to tangible  
3 personal property which will be used pursuant to a  
4 construction contract regardless of whether the tangible  
5 personal property or services are transferred.

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

8           (19) Except as otherwise provided under section 704, the  
9 obtaining by the purchaser of any service, ~~not otherwise set~~ <--  
10 ~~forth in this definition,~~ ENUMERATED IN CLAUSE (DD) when the <--  
11 primary objective of the purchaser is the receipt of any  
12 benefit of the service performed, as distinguished from the  
13 receipt of property. ~~The following provisions shall apply:~~ <--

14           ~~(i) In determining what is a service, the intended~~  
15 ~~use or stated objective of the contracting parties shall~~  
16 ~~not necessarily be controlling.~~

17           ~~(ii) Any service performed in this Commonwealth~~  
18 ~~shall be subject to the tax imposed under this chapter~~  
19 ~~unless specifically exempted in this chapter.~~

20           ~~(iii) With respect to services performed in this~~  
21 ~~Commonwealth for a recipient or user of the services~~  
22 ~~located in another state in which the services, had they~~  
23 ~~been performed in that state, would not be subject to a~~  
24 ~~sales or use tax under the laws of that state, then no~~  
25 ~~tax may be imposed under this chapter.~~

26           ~~(iv) The tax on the sale or use of services shall~~  
27 ~~become due at the time payment or other consideration is~~  
28 ~~made for the portion of services actually paid.~~

29           (p) "Vendor." Any person maintaining a place of business in  
30 this Commonwealth, selling or leasing tangible personal

1 property, or rendering services, the sale or use of which is  
2 subject to the tax imposed by this chapter but not including any  
3 employee who in the ordinary scope of employment renders  
4 services to his employer in exchange for wages and salaries.

5 (q) ~~(Reserved)~~. "NAICS." THE 2012 NORTH AMERICAN INDUSTRY <--  
6 CLASSIFICATION SYSTEM DEVELOPED BY THE FEDERAL OFFICE OF  
7 MANAGEMENT AND BUDGET AND PUBLISHED AT 76 FED. REG. 159 (AUG.  
8 17, 2011) OR ITS SUCCESSOR REVISION.

9 (r) "Gratuity." Any amount paid or remitted for services  
10 performed in conjunction with any sale of food or beverages, or  
11 hotel or motel accommodations which amount is in excess of the  
12 charges and the tax for such food, beverages or accommodations  
13 regardless of the method of billing or payment.

14 (s) "Commercial aircraft operator." A person, excluding a  
15 scheduled airline who engages in any or all of the following:  
16 charter of aircraft, leasing of aircraft, aircraft sales,  
17 aircraft rental, flight instruction, air freight or any other  
18 flight activities for compensation.

19 (t) "Transient vendor."

20 (1) Any person who:

21 (i) brings into this Commonwealth, by automobile,  
22 truck or other means of transportation, or purchases in  
23 this Commonwealth tangible personal property the sale or  
24 use of which is subject to the tax imposed by this  
25 chapter or comes into this Commonwealth to perform  
26 services the sale or use of which is subject to the tax  
27 imposed by this chapter;

28 (ii) offers or intends to offer the tangible  
29 personal property or services for sale at retail within  
30 this Commonwealth; and

1 (iii) does not maintain an established office,  
2 distribution house, saleshouse, warehouse, service  
3 enterprise, residence from which business is conducted or  
4 other place of business within this Commonwealth.

5 (2) The term does not include a person who delivers  
6 tangible personal property within this Commonwealth pursuant  
7 to orders for the property which were solicited or placed by  
8 mail or other means.

9 (3) The term does not include a person who handcrafts  
10 items for sale at special events, including, but not limited  
11 to, fairs, carnivals, art and craft shows and other festivals  
12 and celebrations within this Commonwealth.

13 (u) "Promoter." A person who either, directly or  
14 indirectly, rents, leases or otherwise operates or grants  
15 permission to any person to use space at a show for the display  
16 for sale or for the sale of tangible personal property or  
17 services subject to tax under section 702.

18 (v) "Show." An event, the primary purpose of which involves  
19 the display or exhibition of any tangible personal property or  
20 services for sale, including, but not limited to, a flea market,  
21 antique show, coin show, stamp show, comic book show, hobby  
22 show, automobile show, fair or any similar show, whether held  
23 regularly or of a temporary nature, at which more than one  
24 vendor displays for sale or sells tangible personal property or  
25 services subject to tax under section 702.

26 (w) "Lobbying services." Providing the services of a  
27 lobbyist, as defined in the definition of "lobbyist" in 65  
28 Pa.C.S. Ch. 13 (relating to lobby regulation and disclosure).

29 (x) "Adjustment services, collection services or credit  
30 reporting services." Providing collection or adjustments of

1 accounts receivable or mercantile or consumer credit reporting,  
2 including, but not limited to, services of the type provided by  
3 adjustment bureaus or collection agencies, consumer or  
4 mercantile credit reporting bureaus, credit bureaus or agencies,  
5 credit clearinghouses or credit investigation services. The term  
6 does not include providing credit card service with collection  
7 by a central agency, providing debt counseling or adjustment  
8 services to individuals or billing or collection services  
9 provided by local exchange telephone companies.

10 (y) "Secretarial or editing services." Providing services  
11 which include, but are not limited to, editing, letter writing,  
12 proofreading, resume writing, typing or word processing. The  
13 term does not include court reporting and stenographic services.

14 (z) "Disinfecting or pest control services." Providing  
15 disinfecting, termite control, insect control, rodent control or  
16 other pest control services. The term includes, but is not  
17 limited to, deodorant servicing of rest rooms, washroom  
18 sanitation service, rest room cleaning service, extermination  
19 service or fumigating service. As used in this clause, the term  
20 "fumigating service" does not include the fumigation of  
21 agricultural commodities or containers used for agricultural  
22 commodities. As used in this clause, the term "insect control"  
23 does not include the gypsy moth control spraying of trees which  
24 are harvested for commercial purposes.

25 (aa) "Building maintenance or cleaning services." Providing  
26 services which include, but are not limited to, janitorial, maid  
27 or housekeeping service, office or interior building cleaning or  
28 maintenance service, window cleaning service, floor waxing  
29 service, lighting maintenance service such as bulb replacement,  
30 cleaning, chimney cleaning service, acoustical tile cleaning

1 service, venetian blind cleaning, cleaning and maintenance of  
2 telephone booths or cleaning and degreasing of service stations.  
3 The term does not include: repairs on buildings and other  
4 structures; the maintenance or repair of boilers, furnaces and  
5 residential air conditioning equipment or their parts; the  
6 painting, wallpapering or applying other like coverings to  
7 interior walls, ceilings or floors; or the exterior painting of  
8 buildings.

9 (bb) "Employment agency services." Providing employment  
10 services to a prospective employer or employee other than  
11 employment services provided by theatrical employment agencies  
12 and motion picture casting bureaus. The term includes, but is  
13 not limited to, services of the type provided by employment  
14 agencies, executive placing services and labor contractor  
15 employment agencies other than farm labor.

16 (cc) "Help supply services." Providing temporary or  
17 continuing help where the help supplied is on the payroll of the  
18 supplying person or entity, but is under the supervision of the  
19 individual or business to which help is furnished. The term  
20 includes, but is not limited to, service of a type provided by  
21 labor and manpower pools, employee leasing services, office help  
22 supply services, temporary help services, usher services,  
23 modeling services or fashion show model supply services. The  
24 term does not include: providing farm labor services or human  
25 health-related services, including nursing, home health care and  
26 personal care. As used in this clause, "personal care" shall  
27 include providing at least one of the following types of  
28 assistance to persons with limited ability for self-care:

- 29 (1) dressing, bathing or feeding;  
30 (2) supervising self-administered medication;

1 (3) transferring a person to or from a bed or  
2 wheelchair; or

3 (4) routine housekeeping chores when provided in  
4 conjunction with and supplied by the same provider of the  
5 assistance listed in subclause (1), (2) or (3).

6 (dd) ~~(Reserved)~~. "NAICS TAXABLE SERVICES." ANY SERVICE <--  
7 PERFORMED IN THIS COMMONWEALTH AS DEFINED IN THE FOLLOWING  
8 SUBSECTORS AND INDUSTRIES OF THE REVISED 2012 NAICS DEVELOPED BY  
9 THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET AND PUBLISHED AT 76  
10 FED. REG. 159 (AUG. 17, 2011) OR ITS SUCCESSOR REVISION:

- 11 481, FOR INTRASTATE TRANSPORT OF PERSONS
- 12 482, FOR INTRASTATE TRANSPORT OF PERSONS
- 13 483, FOR INTRASTATE TRANSPORT OF PERSONS
- 14 4851, FOR INTRASTATE TRANSPORT OF PERSONS
- 15 4852, FOR INTRASTATE TRANSPORT OF PERSONS
- 16 4853, FOR INTRASTATE TRANSPORT OF PERSONS
- 17 4855, FOR INTRASTATE TRANSPORT OF PERSONS
- 18 4859, FOR INTRASTATE TRANSPORT OF PERSONS
- 19 487
- 20 48841
- 21 5111
- 22 5112
- 23 5121
- 24 512131
- 25 512132
- 26 523930
- 27 541
- 28 5611
- 29 5612
- 30 5613

1 5614

2 5615

3 5619

4 5621

5 NONTUITION AND NON-HOUSING-RELATED CHARGES IMPOSED BY THE  
6 FOLLOWING INDUSTRIES: 6112, 6113, 6114, 6115 AND 6116

7 6216, 6219, 6231, 6232, 6233, 6239, 6241, 6242, 6243,

8 UNLESS PROVIDED BY A NONPROFIT ORGANIZATION

9 6244

10 7111, UNLESS IMPOSED BY INDUSTRY 611110 OR A NONPROFIT  
11 CORPORATION OR NONPROFIT INCORPORATED ASSOCIATION UNDER THE  
12 LAWS OF THIS COMMONWEALTH OR THE UNITED STATES OR ANY ENTITY  
13 THAT IS AUTHORIZED TO DO BUSINESS IN THIS COMMONWEALTH AS A  
14 NONPROFIT CORPORATION OR UNINCORPORATED ASSOCIATION UNDER THE  
15 LAWS OF THIS COMMONWEALTH, INCLUDING A YOUTH OR ATHLETIC,  
16 VOLUNTEER FIRE, AMBULANCE, RELIGIOUS, CHARITABLE, FRATERNAL,  
17 VETERANS OR CIVIC ASSOCIATION OR ANY SEPARATELY CHARTERED  
18 AUXILIARY OF THE FOREGOING AND OPERATED ON A NONPROFIT BASIS

19 7112, UNLESS IMPOSED BY INDUSTRY 611110 OR A NONPROFIT  
20 CORPORATION OR NONPROFIT INCORPORATED ASSOCIATION UNDER THE  
21 LAWS OF THIS COMMONWEALTH OR THE UNITED STATES OR ANY ENTITY  
22 THAT IS AUTHORIZED TO DO BUSINESS IN THIS COMMONWEALTH AS A  
23 NONPROFIT CORPORATION OR UNINCORPORATED ASSOCIATION UNDER THE  
24 LAWS OF THIS COMMONWEALTH, INCLUDING A YOUTH OR ATHLETIC,  
25 VOLUNTEER FIRE, AMBULANCE, RELIGIOUS, CHARITABLE, FRATERNAL,  
26 VETERANS OR CIVIC ASSOCIATION OR ANY SEPARATELY CHARTERED  
27 AUXILIARY OF THE FOREGOING AND OPERATED ON A NONPROFIT BASIS

28 7113

29 7114

30 712

1 7131  
2 7139  
3 7212  
4 7224  
5 8121  
6 8122  
7 8123  
8 8129

9 (ee) (Reserved).

10 (ff) (Reserved).

11 (gg) (Reserved).

12 (hh) (Reserved).

13 (ii) (Reserved).

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

17 (kk) "Self-storage service." Providing a building, a room  
18 in a building or a secured area within a building with separate  
19 access provided for each purchaser of self-storage service,  
20 primarily for the purpose of storing personal property. The term  
21 does not include service involving:

- 22 (1) safe deposit boxes by financial institutions;
- 23 (2) storage in refrigerator or freezer units;
- 24 (3) storage in commercial warehouses;
- 25 (4) facilities for goods distribution; and
- 26 (5) lockers in airports, bus stations, museums and other  
27 public places.

28 (ll) "Cable or video programming service." Cable television  
29 services, video programming services, community antenna  
30 television services or any other distribution of television,

1 video, audio or radio services which is transmitted with or  
2 without the use of wires to purchasers.  
3 If a purchaser receives or agrees to receive cable or video  
4 programming service, then the following charges are included in  
5 the purchase price: charges for installation or repair of any  
6 cable or video programming service, upgrade to include  
7 additional premium cable or premium video programming service,  
8 downgrade to exclude all or some premium cable or premium video  
9 programming service, additional cable outlets in excess of ten  
10 or any other charge or fee related to cable or video programming  
11 services. The term does not apply to: transmissions by public  
12 television, public radio services or official Federal, State or  
13 local government cable services; local origination programming  
14 which provides a variety of public service programs unique to  
15 the community, programming which provides coverage of public  
16 affairs issues which are presented without commentary or  
17 analysis, including United States Congressional proceedings, or  
18 programming which is substantially related to religious  
19 subjects; or subscriber charges for access to a video dial tone  
20 system or charges by a common carrier to a video programmer for  
21 the transport of video programming.

22 (mm) (Reserved).

23 (nn) "Construction contract." A written or oral contract or  
24 agreement for the construction, reconstruction, remodeling,  
25 renovation or repair of real estate or a real estate structure.  
26 The term shall not apply to services which are taxable under  
27 clauses (k) (14) and (17) and (o) (12) and (15).

28 (oo) "Construction contractor." A person who performs an  
29 activity pursuant to a construction contract, including a  
30 subcontractor.

1 (pp) "Building machinery and equipment." Generation  
2 equipment, storage equipment, conditioning equipment,  
3 distribution equipment and termination equipment, limited to the  
4 following:

5 (1) air conditioning limited to heating, cooling,  
6 purification, humidification, dehumidification and  
7 ventilation;

8 (2) electrical;

9 (3) plumbing;

10 (4) communications limited to voice, video, data, sound,  
11 master clock and noise abatement;

12 (5) alarms limited to fire, security and detection;

13 (6) control system limited to energy management, traffic  
14 and parking lot and building access;

15 (7) medical system limited to diagnosis and treatment  
16 equipment, medical gas, nurse call and doctor paging;

17 (8) laboratory system;

18 (9) cathodic protection system; or

19 (10) furniture, cabinetry and kitchen equipment.

20 The term includes boilers, chillers, air cleaners, humidifiers,  
21 fans, switchgear, pumps, telephones, speakers, horns, motion  
22 detectors, dampers, actuators, grills, registers, traffic  
23 signals, sensors, card access devices, guardrails, medial  
24 devices, floor troughs and grates and laundry equipment,  
25 together with integral coverings and enclosures, regardless of  
26 whether: the item constitutes a fixture or is otherwise affixed  
27 to the real estate; damage would be done to the item or its  
28 surroundings on removal; or the item is physically located  
29 within a real estate structure. The term does not include  
30 guardrail posts, pipes, fittings, pipe supports and hangers,

1 valves, underground tanks, wire, conduit, receptacle and  
2 junction boxes, insulation, ductwork and coverings.

3 (qq) "Real estate structure." A structure or item purchased  
4 by a construction contractor pursuant to a construction contract  
5 with:

6 (1) a charitable organization, a volunteer firemen's  
7 organization, a nonprofit educational institution or a  
8 religious organization for religious purposes and which  
9 qualifies as an institution of purely public charity under  
10 the act of November 26, 1997 (P.L.508, No.55), known as the  
11 Institutions of Purely Public Charity Act;

12 (2) the United States; or

13 (3) the Commonwealth, its instrumentalities or political  
14 subdivisions.

15 The term includes building machinery and equipment; developed or  
16 undeveloped land; streets; roads; highways; parking lots;  
17 stadiums and stadium seating; recreational courts; sidewalks;  
18 foundations; structural supports; walls; floors; ceilings;  
19 roofs; doors; canopies; millwork; elevators; windows and  
20 external window coverings; outdoor advertising boards or signs;  
21 airport runways; bridges; dams; dikes; traffic control devices,  
22 including traffic signs; satellite dishes; antennas; guardrail  
23 posts; pipes; fittings; pipe supports and hangers; valves;  
24 underground tanks; wire; conduit; receptacle and junction boxes;  
25 insulation; ductwork and coverings; and any structure or item  
26 similar to any of the foregoing, regardless of whether the  
27 structure or item constitutes a fixture or is affixed to the  
28 real estate; or damage would be done to the structure or item or  
29 its surroundings on removal.

30 (rr) "Telecommunications service." Any one-way transmission

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

13 (1) Subscriber charges for access to a video dial tone  
14 system.

15 (2) Charges to video programmers for the transport of  
16 video programming.

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

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

26 (ii) Telecommunication services purchased by an  
27 Internet service provider to deliver access to the  
28 Internet to its customers.

29 (4) Mobile telecommunications services.

30 (ss) "Internet." The international nonproprietary computer

1 network of both Federal and non-Federal interoperable packet  
2 switched data networks.

3 (tt) "Commercial racing activities." Any of the following:

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

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

10 (uu) "Prepaid telecommunications." A tangible item  
11 containing a prepaid authorization number that can be used  
12 solely to obtain telecommunications service, including any  
13 renewal or increases in the prepaid amount.

14 (vv) "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 (ww) "Used prebuilt housing." Prebuilt housing that was  
24 previously subject to a sale to a prebuilt housing purchaser.

25 (xx) "Prebuilt housing builder." A person who makes a  
26 prebuilt housing sale to a prebuilt housing purchaser.

27 (yy) "Prebuilt housing sale." A sale of prebuilt housing to  
28 a prebuilt housing purchaser, including a sale to a landlord,  
29 without regard to whether the person making the sale is  
30 responsible for installing the prebuilt housing or whether the

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

5 (zz) "Prebuilt housing purchaser." A person who purchases  
6 prebuilt housing in a transaction and who intends to occupy the  
7 unit for residential purposes in this Commonwealth.

8 (aaa) "Mobile telecommunications service." Mobile  
9 telecommunications service as that term is defined in the Mobile  
10 Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. §  
11 116 et seq.).

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

14 (ccc) "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, regardless of whether manually or  
18 electronically dialed, if the remaining amount of units of the  
19 prepaid mobile telecommunications service is known by the  
20 service provider of the prepaid mobile telecommunications  
21 service on a continuous basis. The term does not include the  
22 advance purchase of mobile telecommunications service if the  
23 purchase is pursuant to a service contract between the service  
24 provider and customer and if the service contract requires the  
25 customer to make periodic payments to maintain the mobile  
26 telecommunications service.

27 ~~(ddd) "Call center." The physical location in this~~  
28 ~~Commonwealth:~~ <--

29 ~~(1) where at least 150 employees are employed to~~  
30 ~~initiate or answer telephone calls;~~



1 or any material imitative of fur and articles of which such fur,  
2 real, imitation or synthetic, is the component material of chief  
3 value, BUT ONLY IF SUCH VALUE IS MORE THAN THREE TIMES THE VALUE <--  
4 OF THE NEXT MOST VALUABLE COMPONENT MATERIAL, and sporting goods  
5 and clothing not normally used or worn when not engaged in  
6 sports.

7 (hhh) "Food and beverages." All food and beverages for  
8 human consumption, ~~including, but not limited to:~~ <--

9 ~~(1) Soft drinks.~~

10 ~~(2) Malt and brewed beverages and spiritous and vinous~~  
11 ~~liquors.~~

12 ~~(3) Food or beverages, whether sold for consumption on~~  
13 ~~or off the premises of on a take out or to go basis or~~  
14 ~~delivered to the purchaser or consumer, when purchased:~~

15 ~~(i) from persons engaged in the business of~~  
16 ~~eating, or~~

17 ~~(ii) from persons engaged in the business of~~  
18 ~~operating establishments from which ready to eat food and~~  
19 ~~beverages are sold, including, but not limited to,~~  
20 ~~restaurants, cafes, lunch counters, private and social~~  
21 ~~clubs, taverns, dining cars, hotels, night clubs, fast~~  
22 ~~food operations, pizzerias, fairs, carnivals, lunch~~  
23 ~~carts, ice cream stands, snack bars, cafeterias, employee~~  
24 ~~cafeterias, theaters, stadiums, arenas, amusement parks,~~  
25 ~~carryout shops, coffee shops and other establishments~~  
26 ~~whether mobile or immobile.~~

27 ~~For purposes of this clause, a bakery, a pastry shop, a donut~~  
28 ~~shop, a delicatessen, a grocery store, a supermarket, a farmer's~~  
29 ~~market, a convenience store or a vending machine shall not be~~  
30 ~~considered an establishment from which food or beverages ready~~

1 ~~to eat are sold except for the sale of meals, sandwiches, food~~  
2 ~~from salad bars, hand dipped or hand served ice based products~~  
3 ~~including ice cream and yogurt, hot soup, hot pizza and other~~  
4 ~~hot food items, brewed coffee and hot beverages. For purposes of~~  
5 ~~this subclause, beverages shall not include malt and brewed~~  
6 ~~beverages and spiritous and vinous liquors but shall include~~  
7 ~~soft drinks.~~

8 SUBCHAPTER B

9 SALES AND USE TAX

10 Section 702. Imposition of tax.

11 (a) Tax on certain sales at retail and uses of tangible  
12 personal property and services.--

13 (1) There is hereby imposed on each separate sale at  
14 retail of tangible personal property or services in this  
15 Commonwealth a tax of 7% of the purchase price, which tax  
16 shall be collected by the vendor from the purchaser, and  
17 shall be paid over to the Commonwealth as provided in this  
18 chapter.

19 (2) There is hereby imposed on the use in this  
20 Commonwealth of tangible personal property purchased at  
21 retail and on those services purchased at retail a tax of 7%  
22 of the purchase price, which tax shall be paid to the  
23 Commonwealth by the person who makes such use as provided  
24 under this chapter, except that the tax shall not be paid to  
25 the Commonwealth by the person where the person has paid the  
26 tax imposed by paragraph (1) or has paid the tax imposed by  
27 this subsection to the vendor with respect to the use.

28 (b) ~~(Reserved)~~. GENERAL SOURCING RULES.--

<--

29 (1) ALL SALES OF PRODUCTS SHALL BE SOURCED ACCORDING TO  
30 THIS SUBSECTION BY SELLERS OBLIGATED TO COLLECT SALES AND USE

1 TAX UNDER THIS CHAPTER. THE SOURCING RULES DESCRIBED IN THIS  
2 SUBSECTION APPLY TO SALES OF TANGIBLE PERSONAL PROPERTY,  
3 DIGITAL GOODS AND ALL SERVICES OTHER THAN TELECOMMUNICATIONS  
4 SERVICES. THIS SUBSECTION ONLY APPLIES TO DETERMINE A  
5 SELLER'S OBLIGATION TO PAY OR COLLECT AND REMIT A SALES OR  
6 USE TAX WITH RESPECT TO THE SELLER'S SALE OF A PRODUCT. THIS  
7 SUBSECTION DOES NOT AFFECT THE OBLIGATION OF A PURCHASER OR  
8 LESSEE TO REMIT TAX ON THE USE OF THE PRODUCT TO THE TAXING  
9 JURISDICTIONS IN WHICH THE USE OCCURS. A SELLER'S OBLIGATION  
10 TO COLLECT SALES TAX OR USE TAX UNDER THIS CHAPTER ONLY  
11 OCCURS IF THE SALE IS SOURCED TO THIS STATE. WHETHER SALES  
12 TAX TO A SALE SOURCE TO THE COMMONWEALTH SHALL BE DETERMINED  
13 BASED ON THE LOCATION AT WHICH THE SALE IS CONSUMMATED BY  
14 DELIVERY OR, IN THE CASE OF A SERVICE, WHERE THE FIRST USE OF  
15 THE SERVICE OCCURS.

16 (2) SALES, EXCLUDING LEASES OR RENTAL, OF PRODUCTS SHALL  
17 BE SOURCED AS FOLLOWS:

18 (I) WHEN THE PRODUCT IS RECEIVED BY THE PURCHASER AT  
19 A BUSINESS LOCATION OF THE SELLER, THE SALE IS SOURCED TO  
20 THAT BUSINESS LOCATION.

21 (II) WHEN THE PRODUCT IS NOT RECEIVED BY THE  
22 PURCHASER AT A BUSINESS LOCATION OF THE SELLER, THE SALE  
23 IS SOURCED TO THE LOCATION WHERE RECEIPT BY THE PURCHASER  
24 OR THE PURCHASER'S DONEE, DESIGNATED SUCH BY THE  
25 PURCHASER, OCCURS, INCLUDING THE LOCATION INDICATED BY  
26 INSTRUCTIONS FOR DELIVERY TO THE PURCHASER OR DONEE,  
27 KNOWN TO THE SELLER.

28 (III) WHEN SUBPARAGRAPHS (I) AND (II) DO NOT APPLY,  
29 THE SALE IS SOURCED TO THE LOCATION INDICATED BY AN  
30 ADDRESS FOR THE PURCHASER THAT IS AVAILABLE FROM THE

1 BUSINESS RECORDS OF THE SELLER THAT ARE MAINTAINED IN THE  
2 ORDINARY COURSE OF THE SELLER'S BUSINESS WHEN USE OF THIS  
3 ADDRESS DOES NOT CONSTITUTE BAD FAITH.

4 (IV) WHEN SUBPARAGRAPHS (I), (II) AND (III) DO NOT  
5 APPLY, THE SALE IS SOURCED TO THE LOCATION INDICATED BY  
6 AN ADDRESS FOR THE PURCHASER OBTAINED DURING THE  
7 CONSUMMATION OF THE SALE, INCLUDING THE ADDRESS OF A  
8 PURCHASER'S PAYMENT INSTRUMENT, IF NO OTHER ADDRESS IS  
9 AVAILABLE, WHEN USE OF THIS ADDRESS DOES NOT CONSTITUTE  
10 BAD FAITH.

11 (V) WHEN SUBPARAGRAPHS (I), (II), (III) AND (IV) DO  
12 NOT APPLY, INCLUDING THE CIRCUMSTANCE WHERE THE SELLER IS  
13 WITHOUT SUFFICIENT INFORMATION TO APPLY THE PREVIOUS  
14 RULES, WHEN THE LOCATION WILL BE DETERMINED BY THE  
15 ADDRESS FROM WHICH TANGIBLE PERSONAL PROPERTY WAS  
16 SHIPPED, FROM WHICH THE DIGITAL GOOD OR THE COMPUTER  
17 SOFTWARE DELIVERED ELECTRONICALLY WAS FIRST AVAILABLE FOR  
18 TRANSMISSION BY THE SELLER OR FROM WHICH THE SERVICE WAS  
19 PROVIDED DISREGARDING FOR THESE PURPOSES ANY LOCATION  
20 THAT MERELY PROVIDED THE DIGITAL TRANSFER OF THE PRODUCT  
21 SOLD.

22 (c) Telecommunications service.--

23 (1) Notwithstanding any other provisions of this  
24 chapter, the tax with respect to telecommunications service  
25 within the meaning of "tangible personal property" in section  
26 701 shall be computed at the rate of 7% on the total amount  
27 charged to customers for the services, irrespective of  
28 whether such charge is based on a flat rate or on a message  
29 unit charge.

30 (2) A telecommunications service provider shall have no

1 responsibility or liability to the Commonwealth for billing,  
2 collecting or remitting taxes that apply to services,  
3 products or other commerce sold over telecommunications lines  
4 by third-party vendors.

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

12 (4) WITH RESPECT TO INTERSTATE TELECOMMUNICATIONS <--  
13 SERVICES, ONLY SERVICES FOR INTERSTATE TELECOMMUNICATIONS  
14 WHICH ORIGINATE OR ARE TERMINATED IN THIS COMMONWEALTH AND  
15 WHICH ARE BILLED AND CHARGED TO A SERVICE ADDRESS IN THIS  
16 COMMONWEALTH SHALL BE PRESUMED TO HAVE BEEN PERFORMED  
17 COMPLETELY IN THIS COMMONWEALTH AND SHALL BE SUBJECT TO TAX  
18 UNDER THIS CHAPTER.

19 (d) Coin-operated vending machines.--Notwithstanding any  
20 other provisions of this chapter, the sale or use of food and  
21 beverages dispensed by means of coin-operated vending machines  
22 shall be taxed at the rate of 7% of the receipts collected from  
23 any coin-operated vending machine which dispenses food and  
24 beverages ~~that were previously taxable.~~ <--

25 (e) Prepaid telecommunications.--

26 (1) Notwithstanding any provisions of this chapter, the  
27 sale or use of prepaid telecommunications evidenced by the  
28 transfer of tangible personal property shall be subject to  
29 the tax imposed by subsection (a).

30 (2) The sale or use of prepaid telecommunications not

1 evidenced by the transfer of tangible personal property shall  
2 be subject to the tax imposed by subsection (a) and shall be  
3 deemed to occur at the purchaser's billing address.

4 (3) (i) Notwithstanding paragraph (2), the sale or use  
5 of prepaid telecommunications service not evidenced by  
6 the transfer of tangible personal property shall be taxed  
7 at the rate of 7% of the receipts collected on each sale  
8 if the service provider elects to collect the tax imposed  
9 by this chapter on receipts of each sale.

10 (ii) The service provider shall notify the  
11 department of its election and shall collect the tax on  
12 receipts of each sale until the service provider notifies  
13 the department otherwise.

14 (e.1) Prepaid mobile telecommunications service.--

15 (1) Notwithstanding any other provision of this chapter,  
16 the sale or use of prepaid mobile telecommunications service  
17 evidenced by the transfer of tangible personal property shall  
18 be subject to the tax imposed by subsection (a).

19 (2) The sale or use of prepaid mobile telecommunications  
20 service not evidenced by the transfer of tangible personal  
21 property shall be subject to the tax imposed by subsection  
22 (a) and shall be deemed to occur at the purchaser's billing  
23 address or the location associated with the mobile telephone  
24 number or the point of sale, whichever is applicable.

25 (3) (i) Notwithstanding paragraph (2), the sale or use  
26 of prepaid mobile telecommunications service not  
27 evidenced by the transfer of tangible personal property  
28 shall be taxed at the rate of 7% of the receipts  
29 collected on each sale if the service provider elects to  
30 collect the tax imposed by this chapter on receipts of

1 each sale.

2 (ii) The service provider shall notify the  
3 department of its election and shall collect the tax on  
4 receipts of each sale until the service provider notifies  
5 the department otherwise.

6 (f) Prebuilt housing.--

7 (1) Notwithstanding any other provision of this chapter,  
8 tax with respect to sales of prebuilt housing shall be  
9 imposed on the prebuilt housing builder at the time of the  
10 prebuilt housing sale within this Commonwealth and shall be  
11 paid and reported by the prebuilt housing builder to the  
12 department in the time and manner provided in this chapter.

13 (2) A manufacturer of prebuilt housing may, at its  
14 option, precollect the tax from the prebuilt housing builder  
15 at the time of sale to the prebuilt housing builder.

16 (3) In any case where prebuilt housing is purchased and  
17 the tax is not paid by the prebuilt housing builder or  
18 precollected by the manufacturer, the prebuilt housing  
19 purchaser shall remit tax directly to the department if the  
20 prebuilt housing is used in this Commonwealth without regard  
21 to whether the prebuilt housing becomes a real estate  
22 structure.

23 (g) Home service providers.--

24 (1) Notwithstanding any other provisions of this chapter  
25 and in accordance with the Mobile Telecommunications Sourcing  
26 Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or  
27 use of mobile telecommunications services which are deemed to  
28 be provided to a customer by a home service provider under 4  
29 U.S.C. § 117 (relating to sourcing rules) shall be subject to  
30 the tax of 7% of the purchase price, which tax shall be

1 collected by the home service provider from the customer, and  
2 shall be paid over to the Commonwealth as provided in this  
3 chapter if the customer's place of primary use is located  
4 within this Commonwealth, regardless of where the mobile  
5 telecommunications services originate, terminate or pass  
6 through.

7 (2) For purposes of this subsection, words and phrases  
8 used in this subsection shall have the same meanings given to  
9 them in the Mobile Telecommunications Sourcing Act.

10 Section 703. Computation of tax.

11 ~~(a) Table to be published. Within 60 days of the effective <--~~  
12 ~~date of this section, the department shall prepare and publish~~  
13 ~~as a notice in the Pennsylvania Bulletin a table setting forth~~  
14 ~~the amount of tax imposed under section 702 for purchase prices~~  
15 ~~that are less than \$1.~~

16 (A) GENERAL RULE.--THE AMOUNT OF TAX IMPOSED BY SECTION 702 <--  
17 SHALL BE COMPUTED AS FOLLOWS:

18 (1) IF THE PURCHASE PRICE IS 7¢ OR LESS, NO TAX SHALL BE  
19 COLLECTED.

20 (2) IF THE PURCHASE PRICE IS 8¢ OR MORE BUT LESS THAN  
21 22¢, 1¢ SHALL BE COLLECTED.

22 (3) IF THE PURCHASE PRICE IS 22¢ OR MORE BUT LESS THAN  
23 36¢, 2¢ SHALL BE COLLECTED.

24 (4) IF THE PURCHASE PRICE IS 36¢ OR MORE BUT LESS THAN  
25 50¢, 3¢ SHALL BE COLLECTED.

26 (5) IF THE PURCHASE PRICE IS 50¢ OR MORE BUT LESS THAN  
27 65¢, 4¢ SHALL BE COLLECTED.

28 (6) IF THE PURCHASE PRICE IS 65¢ OR MORE BUT LESS THAN  
29 79¢, 5¢ SHALL BE COLLECTED.

30 (7) IF THE PURCHASE PRICE IS 79¢ OR MORE BUT LESS THAN

1 93¢, 6¢ SHALL BE COLLECTED.

2 (8) IF THE PURCHASE PRICE IS 93¢ OR MORE BUT LESS THAN  
3 \$1.07, SEVEN PERCENT OF EACH DOLLAR OF PURCHASE PRICE PLUS  
4 THE ABOVE TAX BRACKET CHARGES UPON ANY FRACTIONAL PART OF A  
5 DOLLAR IN EXCESS OF EVEN DOLLARS SHALL BE COLLECTED.

6 (b) Deposit into Education Stabilization Fund.--The tax  
7 collected under section 702 shall be deposited into the  
8 Education Stabilization Fund.

9 SUBCHAPTER C

10 EXCLUSIONS FROM SALES AND USE TAX

11 Section 704. Exclusions from tax.

12 The tax imposed by section 702 shall not be imposed upon any  
13 of the following:

14 (1) The sale at retail or use of tangible personal  
15 property (other than motor vehicles, trailers, semi-trailers,  
16 motor boats, aircraft or other similar tangible personal  
17 property required under either Federal law or laws of this  
18 Commonwealth to be registered or licensed) or services sold  
19 by or purchased from a person not a vendor in an isolated  
20 transaction or sold by or purchased from a person who is a  
21 vendor but is not a vendor with respect to the tangible  
22 personal property or services sold or purchased in such  
23 transaction, provided that inventory and stock in trade so  
24 sold or purchased shall not be excluded from the tax by the  
25 provisions of this subsection.

26 (2) The use of tangible personal property purchased by a  
27 nonresident person outside of, and brought into this  
28 Commonwealth for use therein for a period not to exceed seven  
29 days, or for any period of time when such nonresident is a  
30 tourist or vacationer and, in either case not consumed within

1 the Commonwealth.

2 (3) (i) The use of tangible personal property purchased  
3 outside this Commonwealth for use outside this  
4 Commonwealth by a then nonresident natural person or a  
5 business entity not actually doing business within this  
6 Commonwealth, who later brings the tangible personal  
7 property into this Commonwealth in connection with the  
8 person's or entity's establishment of a permanent  
9 business or residence in this Commonwealth, provided that  
10 the property was purchased more than six months prior to  
11 the date it was first brought into this Commonwealth or  
12 prior to the establishment of the business or residence,  
13 whichever first occurs.

14 (ii) This paragraph shall not apply to tangible  
15 personal property temporarily brought into this  
16 Commonwealth for the performance of contracts for the  
17 construction, reconstruction, remodeling, repairing and  
18 maintenance of real estate.

19 (4) (Reserved).

20 (5) The sale at retail or use of steam, natural and  
21 manufactured and bottled gas, fuel oil or electricity when  
22 purchased directly by the user solely for the user's own  
23 residential use.

24 (6) (Reserved).

25 (7) (Reserved).

26 (8) (Reserved).

27 (9) (Reserved).

28 (10) (i) The sale at retail to or use by any charitable  
29 organization, volunteer firefighters' organization or  
30 nonprofit educational institution or a religious

1 organization for religious purposes of tangible personal  
2 property or services other than pursuant to a  
3 construction contract.

4 (ii) This paragraph shall not apply with respect to  
5 any tangible personal property or services used in any  
6 unrelated trade or business carried on by the  
7 organization or institution or with respect to any  
8 materials, supplies and equipment used and transferred to  
9 the organization or institution in the construction,  
10 reconstruction, remodeling, renovation, repairs and  
11 maintenance of any real estate structure, other than  
12 building machinery and equipment, except materials and  
13 supplies when purchased by the organization or  
14 institution for routine maintenance and repairs.

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

19 (12) (i) The sale at retail to, or use by the United  
20 States, this Commonwealth or its instrumentalities or  
21 political subdivisions, nonpublic schools, charter  
22 schools, cyber charter schools or vocational schools of  
23 tangible personal property or services.

24 (ii) This paragraph includes the sale at retail to a  
25 supervisor of a home education program of tangible  
26 personal property or services used exclusively for the  
27 home education program.

28 (iii) As used in this paragraph, the terms  
29 "nonpublic school," "charter school," "cyber charter  
30 school," "vocational school," "supervisor" and "home

1 education program" shall have the meanings given to them  
2 in the Public School Code of 1949.

3 (13) The sale at retail, or use of wrapping paper,  
4 wrapping twine, bags, cartons, tape, rope, labels,  
5 nonreturnable containers and all other wrapping supplies,  
6 when such use is incidental to the delivery of any personal  
7 property, except that any charge for wrapping or packaging  
8 shall be subject to tax at the rate imposed by section 702.

9 (14) Sale at retail or use of vessels designed for  
10 commercial use of registered tonnage of 50 tons or more when  
11 produced by the builders thereof upon special order of the  
12 purchaser.

13 (15) Sale at retail of tangible personal property or  
14 services used or consumed in building, rebuilding, repairing  
15 and making additions to or replacements in and upon vessels  
16 designed for commercial use of registered tonnage of 50 tons  
17 or more upon special order of the purchaser, or when rebuilt,  
18 repaired or enlarged, or when replacements are made upon  
19 order of or for the account of the owner.

20 (16) The sale at retail or use of tangible personal  
21 property or services to be used or consumed for ship cleaning  
22 or maintenance or as fuel, supplies, ships' equipment, ships'  
23 stores or sea stores on vessels designed for commercial use  
24 of registered tonnage of 50 tons or more to be operated  
25 principally outside the limits of this Commonwealth.

26 (17) The sale at retail or use of prescription  
27 medicines, drugs or medical supplies, crutches and  
28 wheelchairs for the use of persons with disabilities and  
29 invalids, artificial limbs, artificial eyes and artificial  
30 hearing devices when designed to be worn on the person of the

1 purchaser or user, false teeth and materials used by a  
2 dentist in dental treatment, eyeglasses when especially  
3 designed or prescribed by an ophthalmologist, oculist or  
4 optometrist for the personal use of the owner or purchaser  
5 and artificial braces and supports designed solely for the  
6 use of persons with disabilities or any other therapeutic,  
7 prosthetic or artificial device designed for the use of a  
8 particular individual to correct or alleviate a physical  
9 incapacity, including, but not limited to, hospital beds,  
10 iron lungs and kidney machines.

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

12 (19) (Reserved).

13 (20) (Reserved).

14 (21) (Reserved).

15 (22) (Reserved).

16 (23) (Reserved).

17 (24) The sale at retail or use of motor vehicles,  
18 trailers and semitrailers, or bodies attached to the chassis  
19 thereof, sold to a nonresident of this Commonwealth to be  
20 used outside this Commonwealth and which are registered in a  
21 state other than this Commonwealth within 20 days after  
22 delivery to the vendee.

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

24 ~~(26) The sale at retail or use of all vesture, wearing <--~~  
25 ~~apparel, raiments, garments, footwear and other articles of~~  
26 ~~clothing with a purchase price of less than \$50, including~~  
27 ~~clothing patterns and items that are to be a component part~~  
28 ~~of clothing, worn or carried on or about the human body but~~  
29 ~~all accessories, ornamental wear, formal day or evening~~  
30 ~~apparel and articles made of fur on the hide or pelt or any~~

1 ~~material imitative of fur and articles of which such fur,~~  
2 ~~real, imitation or synthetic, is the component material of~~  
3 ~~chief value, but only if such value is more than three times~~  
4 ~~the value of the next most valuable component material, and~~  
5 ~~sporting goods and clothing not normally used or worn when~~  
6 ~~not engaged in sports shall not be excluded from the tax.~~

7 (26) THE SALE AT RETAIL OR USE OF CLOTHING AS DEFINED IN <--  
8 SECTION 701.1 (GGG) WITH A PURCHASE PRICE OF LESS THAN \$50.

9 (27) (Reserved).

10 (28) (Reserved).

11 (29) The sale at retail or use of food and beverages  
12 ~~that are federally approved items~~ AUTHORIZED for the Women, <--  
13 Infants and Children Program under section 17 of the Child  
14 Nutrition Act of 1966 (Public Law 89-642, 42 U.S.C. § 1786)  
15 AS ADMINISTERED BY THE DEPARTMENT OF HEALTH. <--

16 ~~(30) (i) The sale at retail or use of any printed or <--~~  
17 ~~other form of advertising materials regardless of where~~  
18 ~~or by whom the advertising material was produced.~~

19 ~~(ii) This paragraph shall not include the sale at~~  
20 ~~retail or use of mail order catalogs and direct mail~~  
21 ~~advertising literature or materials, including electoral~~  
22 ~~literature or materials, such as envelopes, address~~  
23 ~~labels and a one time license to use a list of names and~~  
24 ~~mailing addresses for each delivery of direct mail~~  
25 ~~advertising literature or materials, including electoral~~  
26 ~~literature or materials, through the United States Postal~~  
27 ~~Service.~~

28 (30) MEALS AND STUDENT FEES IMPOSED BY EDUCATIONAL <--  
29 INSTITUTIONS AS DESCRIBED IN NAICS INDUSTRY 611110.

30 (31) (Reserved).

1 (32) (Reserved).

2 (33) (Reserved).

3 (34) (Reserved).

4 (35) (Reserved).

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

7 (37) (Reserved).

8 (38) (Reserved).

9 (39) The sale at retail or use of fish feed purchased by  
10 or on behalf of sportsmen's clubs, fish cooperatives or  
11 nurseries approved by the Pennsylvania Fish Commission.

12 (40) The sale at retail of supplies and materials to  
13 tourist promotion agencies, which receive grants from the  
14 Commonwealth, for distribution to the public as promotional  
15 material or the use of such supplies and materials by said  
16 agencies for said purposes.

17 (41) (Reserved).

18 (42) The sale or use of brook trout (*salvelinus*  
19 *fontinalis*), brown trout (*Salmo trutta*) or rainbow trout  
20 (*Salmo gairdneri*).

21 (43) The sale at retail or use of buses to be used  
22 exclusively for the transportation of children for school  
23 purposes.

24 (44) The sale at retail or use of firewood. FOR THE <--  
25 PURPOSE OF THIS PARAGRAPH, FIREWOOD SHALL MEAN THE PRODUCT OF  
26 TREES WHEN SEVERED FROM THE LAND AND CUT INTO PROPER LENGTHS  
27 FOR BURNING AND PELLETS MADE FROM PURE WOOD SAWDUST IF USED  
28 FOR FUEL FOR COOKING, HOT WATER PRODUCTION OR TO HEAT  
29 RESIDENTIAL DWELLINGS.

30 (45) (Reserved).

1 (46) The sale at retail or use of tangible personal  
2 property purchased in accordance with the Food Stamp Act of  
3 1977, as amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029).

4 (47) (Reserved).

5 (48) (Reserved).

6 (49) (i) The sale at retail or use of food and  
7 beverages by nonprofit associations which support sports  
8 programs.

9 (ii) The following words and phrases when used in  
10 this paragraph shall have the meanings given to them in  
11 this subparagraph unless the context clearly indicates  
12 otherwise:

13 "Nonprofit association." An entity which is  
14 organized as a nonprofit corporation or nonprofit  
15 unincorporated association under the laws of this  
16 Commonwealth or the United States or any entity which is  
17 authorized to do business in this Commonwealth as a  
18 nonprofit corporation or unincorporated association under  
19 the laws of this Commonwealth, including, but not limited  
20 to, youth or athletic associations, volunteer fire,  
21 ambulance, religious, charitable, fraternal, veterans,  
22 civic, or any separately chartered auxiliary of the  
23 foregoing, if organized and operated on a nonprofit  
24 basis.

25 "Sports program." Baseball, softball, football,  
26 basketball, soccer and any other competitive sport  
27 formally recognized as a sport by the United States  
28 Olympic Committee as specified by and under the  
29 jurisdiction of the Amateur Sports Act of 1978 (Public  
30 Law 95-606, 36 U.S.C. Ch. 2205), the Amateur Athletic

1 Union or the National Collegiate Athletic Association.  
2 The term shall be limited to a program or that portion of  
3 a program that is organized for recreational purposes and  
4 whose activities are substantially for such purposes and  
5 which is primarily for participants who are 18 years of  
6 age or younger or whose 19th birthday occurs during the  
7 year of participation or the competitive season,  
8 whichever is longer. There shall, however, be no age  
9 limitation for programs operated for persons with  
10 physical handicaps or persons with mental retardation.

11 "Support." The funds raised from sales are used to  
12 pay the expenses of a sports program or the nonprofit  
13 association sells the food and beverages at a location  
14 where a sports program is being conducted under this  
15 chapter or the Tax Reform Code of 1971.

16 (50) (Reserved).

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) (Reserved).

27 (54) (Reserved).

28 (55) (Reserved).

29 (56) The sale at retail or use of tangible personal  
30 property or services used, transferred or consumed in

1 installing or repairing equipment or devices designed to  
2 assist persons in ascending or descending a stairway when:

3 (i) The equipment or devices are used by a person  
4 who, by virtue of a physical disability, is unable to  
5 ascend or descend stairs without the aid of such  
6 equipment or device.

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

9 (iii) A physician has certified the physical  
10 disability of the person in whose residence the equipment  
11 or device is installed or used.

12 (57) The sale at retail to or use by a construction  
13 contractor of building machinery and equipment and services  
14 thereto that are:

15 (i) transferred pursuant to a construction contract  
16 for any charitable organization, volunteer firemen's  
17 organization, nonprofit educational institution or  
18 religious organization for religious purposes, provided  
19 that the building machinery and equipment and services  
20 thereto are not used in any unrelated trade or business;  
21 or

22 (ii) transferred to the United States or the  
23 Commonwealth or its instrumentalities or political  
24 subdivisions.

25 (58) (Reserved).

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

30 (60) (Reserved).

1 (61) (Reserved).

2 (62) The sale at retail or use of tangible personal  
3 property or services which are directly used in farming,  
4 dairying or agriculture when engaged in as a business  
5 enterprise, regardless of whether the sale is made to the  
6 person directly engaged in the business enterprise or to a  
7 person contracting with the person directly engaged in the  
8 business enterprise for the production of food.

9 (63) (Reserved).

10 (64) The sale at retail to or use by a construction  
11 contractor, employed by a public school district pursuant to  
12 a construction contract, of any materials and building  
13 supplies which, during construction or reconstruction, are  
14 made part of any public school building utilized for  
15 instructional classroom education within this Commonwealth,  
16 if the construction or reconstruction:

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

20 (ii) takes place during the period when there is a  
21 declaration of disaster emergency under 35 Pa.C.S. §  
22 7301(c) (relating to general authority of Governor).

23 (65) (Reserved).

24 (66) The sale at retail or use of copies of an official  
25 document sold by a government agency or a court. For the  
26 purposes of this paragraph, the following terms or phrases  
27 shall have the following meanings:

28 (i) "court" includes:

29 (A) an appellate court as defined in 42 Pa.C.S.  
30 § 102 (relating to definitions);

1 (B) A court of common pleas as defined in 42

2 Pa.C.S. § 102; or

3 (C) the minor judiciary as defined in 42 Pa.C.S.

4 § 102;

5 (ii) "government agency" means an agency as defined

6 in section 102 of the act of February 14, 2008 (P.L.6,

7 No.3), known as the Right-to-Know Law; and

8 (iii) "official document" means a record as defined

9 in section 102 of the Right-to-Know Law. The term shall

10 include notes of court testimony, deposition transcripts,

11 driving records, accident reports, birth and death

12 certificates, deeds, divorce decrees and other similar

13 documents.

14 (67) The sale at retail or use of repair or replacement

15 parts, including the installation of those parts, exclusively

16 for use in helicopters and similar rotorcraft or in

17 overhauling or rebuilding of helicopters and similar

18 rotorcraft or helicopters and similar rotorcraft components.

19 (68) The sale at retail or use of helicopters and

20 similar rotorcraft.

21 (69) The sale at retail or use of ~~goods or services that~~ <--

22 ~~are part of a Medicare Part B transaction.~~ AIRCRAFT PARTS, <--

23 SERVICES TO AIRCRAFT AND AIRCRAFT COMPONENTS. FOR PURPOSES OF

24 THIS PARAGRAPH, THE TERM "AIRCRAFT" SHALL INCLUDE A FIXED-

25 WING AIRCRAFT, POWERED AIRCRAFT, POWERED AIRCRAFT, TILT-ROTOR

26 OR TILT-WING AIRCRAFT, GLIDER OR UNMANNED AIRCRAFT.

27 (70) ~~The sale at retail or use of transportation of~~ <--

28 ~~persons provided or funded by the Federal, State or local~~

29 ~~government~~ (RESERVED). <--

30 (71) The sale at retail ~~of insurance premiums~~ OR USE OF <--

1 TUITION.

2 ~~(72) The sale at retail, between an owner of real~~ <--  
3 ~~property and a financial institution, of a mortgage.~~

4 ~~(73) An investment or gain on an investment, including,~~  
5 ~~but not limited to, bank deposits, stocks and bonds,~~  
6 ~~including any commissions, maintenance costs and other~~  
7 ~~charges, which commissions, maintenance costs and other~~  
8 ~~charges related to the making of such investment or a gain~~  
9 ~~thereon.~~

10 ~~(74) The rental of real property.~~

11 ~~(75) The sale at retail of tuition.~~

12 ~~(76) The sale at retail of any of the following~~

13 (72) BUT FOR THE SERVICES AS DEFINED IN SECTION <--  
14 701.1(W), (X), (Y), (Z), (AA), (BB), (CC), (JJ) AND (KK), THE  
15 SALE AT RETAIL OR USE OF ANY OF THE FOLLOWING business,  
16 professional or technical services performed by a business  
17 and rendered to another business:

18 (i) Legal services AS DEFINED BY NAICS INDUSTRY <--  
19 5411.

20 (ii) Architectural, engineering and related services  
21 AS DEFINED BY NAICS INDUSTRY 5413. <--

22 (iii) Accounting, auditing and bookkeeping services  
23 AS DEFINED BY NAICS INDUSTRY 5412. <--

24 (iv) Specialized design services AS DEFINED BY NAICS <--  
25 INDUSTRY 5414.

26 (v) Advertising, public relations and related  
27 services AS DEFINED BY NAICS INDUSTRY 5418. <--

28 (vi) Services to ~~building and dwellings~~ BUILDINGS <--  
29 AND DWELLINGS AS DEFINED BY NAICS INDUSTRY 5617.

30 (vii) Scientific, environmental and technical

1 consulting services AS DEFINED BY NAICS INDUSTRY 5416. <--  
2 (viii) Scientific research and development services  
3 AS DEFINED BY NAICS INDUSTRIES 5417 AND 5419. <--  
4 (ix) Information services AS DEFINED BY NAICS <--  
5 SUBSECTOR 519.  
6 (x) Administrative services AS DEFINED BY NAICS <--  
7 INDUSTRIES 5611, 5612, 5613, 5614, 5615 AND 5619.  
8 (xi) Custom programming, design and data processing  
9 services AS DEFINED BY NAICS INDUSTRY 5415. <--  
10 (xii) Parking lot and garage services AS DEFINED BY <--  
11 NAICS INDUSTRY 8129.  
12 ~~(77) The sale at retail of legal services relating to <--~~  
13 ~~domestic relations matters or criminal matters.~~  
14 ~~(78) The sale at retail of services rendered as part of~~  
15 ~~a transfer of an interest in real property.~~  
16 ~~(79) The sale at retail to or use by a person of legal~~  
17 ~~services rendered by an attorney where the payment is made~~  
18 ~~pursuant to a contingency fee based upon a percentage of the~~  
19 ~~amount recovered with respect to a legal claim or dispute.~~  
20 ~~(80) The sale at retail to or use by a person of the~~  
21 ~~services rendered by or under the supervision of a licensed~~  
22 ~~real estate broker, associate broker or salesperson in~~  
23 ~~connection with any aspect of the sale, lease or acquisition~~  
24 ~~of any interest in real property.~~  
25 (73) THE SALE AT RETAIL OR USE OF LEGAL SERVICES <--  
26 RELATING TO FAMILY LAW OR CRIMINAL LAW.  
27 ~~(81)~~ (74) The sale at retail, or the use of motion <--  
28 picture film rented or licensed from a distributor for the  
29 purpose of commercial exhibition.  
30 ~~(82)~~ (75) The sale at retail or use of services <--

1 performed by minors under 18 years of age and not on behalf  
2 of another person.

3 ~~(83) The sale at retail or use of services performed by <--~~  
4 ~~any person to the extent that the recipient or user of such~~  
5 ~~services receives those services free of charge.~~

6 ~~(84)~~(76) The sale at retail or use of services provided <--  
7 by employees to their employers in exchange for wages and  
8 salaries when such services are rendered in the ordinary  
9 course of employment.

10 ~~(85) The sale at retail or use of services performed for <--~~  
11 ~~resale in the ordinary course of business of the purchaser or~~  
12 ~~user of such services.~~

13 ~~(86) The sale at retail or use of services that are~~  
14 ~~otherwise taxable that are an integral, inseparable part of~~  
15 ~~the services that are to be sold or used and that are~~  
16 ~~taxable.~~

17 ~~(87) (Reserved).~~

18 ~~(88) The sale at retail of medical goods or services by~~  
19 ~~a hospital, as defined in the act of December 20, 1985~~  
20 ~~(P.L.457, No.112), known as the Medical Practice Act of 1985.~~

21 ~~(89) The sale at retail of medical or dental services,~~  
22 ~~including charges for office visits.~~

23 (77) THE SALE AT RETAIL OR USE OF GOODS OR SERVICES THAT <--  
24 ARE PART OF A MEDICARE PART B TRANSACTION.

25 Section 705. Alternate imposition of tax.

26 (a) General rule.--If any person actively and principally  
27 engaged in the business of selling new or used motor vehicles,  
28 trailers or semitrailers, and registered with the department in  
29 the "dealer's class," acquires a motor vehicle, trailer or  
30 semitrailer for the purpose of resale, and prior to such resale,

1 uses the motor vehicle, trailer or semitrailer for a taxable use  
2 under this chapter or the Tax Reform Code of 1971, the person  
3 may pay a tax equal to 7% of the fair rental value of the motor  
4 vehicle, trailer or semitrailer during use.

5 (b) Aircraft.--A commercial aircraft operator who acquires  
6 an aircraft for the purpose of resale, or lease, or is entitled  
7 to claim another valid exemption at the time of purchase, and  
8 subsequent to the purchase, periodically uses the same aircraft  
9 for a taxable use under this chapter or the Tax Reform Code of  
10 1971, may elect to pay a tax equal to 7% of the fair rental  
11 value of the aircraft during such use.

12 (c) Applicability.--This section shall not apply to the use  
13 of a vehicle as a wrecker, parts truck, delivery truck or  
14 courtesy car.

15 Section 706. Credit against tax.

16 (a) Tax paid to another state.--

17 (1) A credit against the tax imposed by section 702  
18 shall be granted with respect to tangible personal property  
19 or services purchased for use outside the Commonwealth equal  
20 to the tax paid to another state by reason of the imposition  
21 by ~~the~~ SUCH other state of a tax similar to the tax imposed <--  
22 by this chapter.

23 (2) No credit under paragraph (1) shall be granted  
24 unless the other state grants substantially similar tax  
25 relief by reason of the payment of tax under this chapter or  
26 under the Tax Reform Code of 1971.

27 ~~(b) Telecommunications services.--A credit against the tax <--~~  
28 ~~imposed by section 702 on telecommunications services shall be~~  
29 ~~granted to a call center for gross receipts tax paid by a~~  
30 ~~telephone company on the receipts derived from the sale of~~

1 ~~incoming and outgoing interstate telecommunications services to~~  
2 ~~the call center under section 1101(a)(2) of the Tax Reform Code~~  
3 ~~of 1971. The following apply:~~

4 ~~(1) A telephone company, on request, shall notify a call~~  
5 ~~center of the amount of gross receipts tax paid by the~~  
6 ~~telephone company on the receipts derived from the sale of~~  
7 ~~incoming and outgoing interstate telecommunications services~~  
8 ~~to the call center.~~

9 ~~(2) A call center that is eligible for the credit in~~  
10 ~~this subsection may apply for a tax credit as set forth in~~  
11 ~~this subsection.~~

12 ~~(3) By February 15, a taxpayer must submit an~~  
13 ~~application to the department for gross receipts tax paid on~~  
14 ~~the receipts derived from the sale of incoming and outgoing~~  
15 ~~interstate telecommunications services incurred in the prior~~  
16 ~~calendar year.~~

17 ~~(4) By April 15 of the calendar year following the close~~  
18 ~~of the calendar year during which the gross receipts tax was~~  
19 ~~incurred, the department shall notify the applicant of the~~  
20 ~~amount of the applicant's tax credit approved by the~~  
21 ~~department.~~

22 ~~(5) The total amount of tax credits provided for in this~~  
23 ~~subsection and approved by the department shall not exceed~~  
24 ~~\$30,000,000 in any fiscal year. If the total amount of tax~~  
25 ~~credits applied for by all applicants exceeds the amount~~  
26 ~~allocated for those credits, then the credit to be received~~  
27 ~~by each applicant shall be determined as follows:~~

28 ~~(i) Divide:~~

29 ~~(A) the tax credit applied for by the applicant;~~

30 ~~by~~



1 five years.

2 (b.1) Refusal of license.--

3 (1) If an applicant for a license or any person holding  
4 a license has not filed all required State tax reports and  
5 paid any State taxes not subject to a timely perfected  
6 administrative or judicial appeal or subject to a duly  
7 authorized deferred payment plan, the department may refuse  
8 to issue, may suspend or may revoke said license.

9 (2) The department shall notify the applicant or  
10 licensee of any refusal, suspension or revocation. The notice  
11 shall contain a statement that the refusal, suspension or  
12 revocation may be made public. The notice shall be made by  
13 first class mail.

14 (3) An applicant or licensee aggrieved by the  
15 determination of the department may file an appeal pursuant  
16 to the provisions for administrative appeals in this chapter, <--  
17 EXCEPT THAT THE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE  
18 DATE OF THE NOTICE. In the case of a suspension or revocation  
19 which is appealed, the license shall remain valid pending a  
20 final outcome of the appeals process.

21 (4) Notwithstanding section 774 or sections 353(f),  
22 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform Code of  
23 1971, or any other provision of law to the contrary, if no  
24 appeal is taken or if an appeal is taken and denied at the  
25 conclusion of the appeal process, the department may  
26 disclose, by publication or otherwise, the identity of a  
27 person and the fact that the person's license has been  
28 refused, suspended or revoked under this subsection.  
29 Disclosure may include the basis for refusal, suspension or  
30 revocation.

1 (c) Penalties.--

2 (1) A person that maintains a place of business in this  
3 Commonwealth for the purpose of selling or leasing services  
4 or tangible personal property, the sale or use of which is  
5 subject to tax, without having ~~first been licensed by the~~ <--  
6 ~~department~~ A VALID LICENSE AT THE TIME OF THE SALE OR LEASE <--  
7 shall be guilty of a summary offense and, upon conviction  
8 thereof, be sentenced to pay a fine of not less than \$300 nor  
9 more than \$1,500 and, in default thereof, a term of  
10 imprisonment of not less than five days nor more than 30  
11 days.

12 (2) The penalties imposed by this subsection shall be in  
13 addition to any other penalties imposed by this chapter.

14 (3) For purposes of this subsection, the offering for  
15 sale or lease of any service or tangible personal property,  
16 the sale or use of which is subject to tax, during any  
17 calendar day shall constitute a separate violation.

18 (4) The secretary may designate employees of the  
19 department to enforce the provisions of this subsection. The  
20 employees shall exhibit proof of and be within the scope of  
21 the designation when instituting proceedings as provided by  
22 the Pennsylvania Rules of Criminal Procedure.

23 (d) Effect of failure to obtain license.--Failure of any  
24 person to obtain a license shall not relieve that person of  
25 liability to pay the tax imposed by this chapter.

26 SUBCHAPTER E

27 HOTEL OCCUPANCY TAX

28 Section 709. Definitions.

29 (a) General rule.--The following words and phrases when used  
30 in this subchapter shall have the meanings given to them in this

1 section unless the context clearly indicates otherwise:

2 "Hotel." A building or buildings in which the public may,  
3 for a consideration, obtain sleeping accommodations. The term  
4 does not include any charitable, educational or religious  
5 institution summer camp for children, hospital or nursing home.

6 "Occupancy." The use or possession or the right to the use or  
7 possession by any person, other than a permanent resident, of  
8 any room or rooms in a hotel for any purpose or the right to the  
9 use or possession of the furnishings or to the services and  
10 accommodations accompanying the use and possession of the room  
11 or rooms.

12 "Occupant." A person, other than a permanent resident, who,  
13 for a consideration, uses, possesses or has a right to use or  
14 possess any room or rooms in a hotel under any lease,  
15 concession, permit, right of access, license or agreement.

16 "Operator." Any person who operates a hotel.

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

20 "Rent." The consideration received for occupancy valued in  
21 money, whether received in money or otherwise, including all  
22 receipts, cash, credits and property or services of any kind or  
23 nature, and also any amount for which the occupant is liable for  
24 the occupancy without any deduction. The term "rent" shall not  
25 include a gratuity.

26 (b) Other definitions.--The following words and phrases,  
27 when used in Subchapters D and F, shall, in addition to the  
28 meaning ascribed to them by section 701, have the meaning  
29 ascribed to them in this subsection, except where the context  
30 clearly indicates a different meaning:

1 "Maintaining a place of business in this Commonwealth."

2 Being the operator of a hotel in this Commonwealth.

3 "Purchase at retail." Occupancy.

4 "Purchase price." Rent.

5 "Purchaser." Occupant.

6 "Sale at retail." The providing of occupancy to an occupant  
7 by an operator.

8 "Services." Occupancy.

9 "Tangible personal property." Occupancy.

10 "Use." Occupancy.

11 "Vendor." Operator.

12 Section 710. Imposition of tax.

13 There is hereby imposed an excise tax of 7% of the rent on  
14 every occupancy of a room or rooms in a hotel in this  
15 Commonwealth, which tax shall be collected by the operator from  
16 the occupant and paid over to the Commonwealth as provided in  
17 this ~~chapter and deposited into the Education Stabilization Fund~~ <--  
18 ACT. <--

19 Section 711. Seasonal tax returns.

20 Notwithstanding any other provisions in this chapter or the  
21 Tax Reform Code of 1971, the department may, by regulation,  
22 waive the requirement for the filing of quarterly returns in the  
23 case of any operator whose hotel is operated only during certain  
24 seasons of the year, and may provide for the filing of returns  
25 by such persons at times other than those provided by section  
26 721.

27 SUBCHAPTER F

28 PROCEDURE AND ADMINISTRATION

29 Section 715. Persons required to make returns.

30 Every person required to pay tax to the department or collect

1 and remit tax to the department shall file returns with respect  
2 to the tax.

3 Section 716. Form of returns.

4 The returns required by section 715 shall be on forms  
5 prescribed by the department and shall show such information  
6 with respect to the taxes imposed by this chapter as the  
7 department may reasonably require.

8 Section 717. Time for filing returns.

9 ~~(a) Monthly reporting. A return shall be filed monthly with <--~~  
10 ~~respect to each month by every licensee whose total tax reported~~  
11 ~~or, in the event no report is filed, the total tax which should~~  
12 ~~have been reported, for the third calendar quarter of the~~  
13 ~~preceding year equals or exceeds \$600. The returns shall be~~  
14 ~~filed on or before the 20th day of the next succeeding month~~  
15 ~~with respect to which the return is made. Any licensee required~~  
16 ~~to file monthly returns under this chapter shall be relieved~~  
17 ~~from filing quarterly returns.~~

18 (A) QUARTERLY AND MONTHLY RETURNS.-- <--

19 (1) FOR THE YEAR IN WHICH THIS CHAPTER BECOMES  
20 EFFECTIVE, AND IN EACH YEAR THEREAFTER, A RETURN SHALL BE  
21 FILED QUARTERLY BY EVERY LICENSEE ON OR BEFORE THE 20TH DAY  
22 OF APRIL, JULY, OCTOBER AND JANUARY FOR THE THREE MONTHS  
23 ENDING THE LAST DAY OF MARCH, JUNE, SEPTEMBER AND DECEMBER.

24 (2) FOR THE YEAR IN WHICH THIS CHAPTER BECOMES  
25 EFFECTIVE, AND IN EACH YEAR THEREAFTER, A RETURN SHALL BE  
26 FILED MONTHLY WITH RESPECT TO EACH MONTH BY EVERY LICENSEE  
27 WHOSE ACTUAL TAX LIABILITY FOR THE THIRD CALENDAR QUARTER OF  
28 THE PRECEDING YEAR EQUALS OR EXCEEDS \$600 AND IS LESS THAN  
29 \$25,000. SUCH RETURNS SHALL BE FILED ON OR BEFORE THE 20TH  
30 DAY OF THE NEXT SUCCEEDING MONTH WITH RESPECT TO WHICH THE

1 RETURN IS MADE. ANY LICENSEE REQUIRED TO FILE MONTHLY RETURNS  
2 UNDER THIS ACT SHALL BE RELIEVED FROM FILING QUARTERLY  
3 RETURNS.

4 (3) WITH RESPECT TO EVERY LICENSEE WHOSE ACTUAL TAX  
5 LIABILITY FOR THE THIRD CALENDAR QUARTER OF THE PRECEDING  
6 YEAR EQUALS OR EXCEEDS \$25,000 AND IS LESS THAN \$100,000, THE  
7 LICENSEE SHALL, ON OR BEFORE THE 20TH DAY OF EACH MONTH, FILE  
8 A SINGLE RETURN CONSISTING OF ALL OF THE FOLLOWING:

9 (I) EITHER OF THE FOLLOWING:

10 (A) AN AMOUNT EQUAL TO 50% OF THE LICENSEE'S  
11 ACTUAL TAX LIABILITY FOR THE SAME MONTH IN THE  
12 PRECEDING CALENDAR YEAR IF THE LICENSEE WAS A MONTHLY  
13 FILER OR, IF THE LICENSEE WAS A QUARTERLY OR  
14 SEMIANNUAL FILER, 50% OF THE LICENSEE'S AVERAGE  
15 ACTUAL TAX LIABILITY FOR THAT TAX PERIOD IN THE  
16 PRECEDING CALENDAR YEAR. THE AVERAGE ACTUAL TAX  
17 LIABILITY SHALL BE THE ACTUAL TAX LIABILITY FOR THE  
18 TAX PERIOD DIVIDED BY THE NUMBER OF MONTHS IN THAT  
19 TAX PERIOD. FOR LICENSEES THAT WERE NOT IN BUSINESS  
20 DURING THE SAME MONTH IN THE PRECEDING CALENDAR YEAR  
21 OR WERE IN BUSINESS FOR ONLY A PORTION OF THAT MONTH,  
22 THE AMOUNT SHALL BE 50% OF THE AVERAGE ACTUAL TAX  
23 LIABILITY FOR EACH TAX PERIOD THE LICENSEE HAS BEEN  
24 IN BUSINESS. IF THE LICENSEE IS FILING A TAX  
25 LIABILITY FOR THE FIRST TIME WITH NO PRECEDING TAX  
26 PERIODS, THE AMOUNT SHALL BE ZERO.

27 (B) AN AMOUNT EQUAL TO OR GREATER THAN 50% OF  
28 THE LICENSEE'S ACTUAL TAX LIABILITY FOR THE SAME  
29 MONTH.

30 (II) AN AMOUNT EQUAL TO THE TAXES DUE FOR THE

1 PRECEDING MONTH, LESS ANY AMOUNTS PAID IN THE PRECEDING  
2 MONTH AS REQUIRED BY SUBPARAGRAPH (I).

3 (4) WITH RESPECT TO EACH MONTH BY EVERY LICENSEE WHOSE  
4 ACTUAL TAX LIABILITY FOR THE THIRD CALENDAR QUARTER OF THE  
5 PRECEDING YEAR EQUALS OR EXCEEDS \$100,000, THE LICENSEE  
6 SHALL, ON OR BEFORE THE 20TH DAY OF EACH MONTH, FILE A SINGLE  
7 RETURN CONSISTING OF THE AMOUNTS UNDER PARAGRAPH (3) (I) (A)  
8 AND (II).

9 (5) THE AMOUNT DUE UNDER PARAGRAPH (3) (I) OR (4) SHALL  
10 BE DUE THE SAME DAY AS THE REMAINDER OF THE PRECEDING MONTH'S  
11 TAX.

12 (6) THE DEPARTMENT SHALL DETERMINE WHETHER THE AMOUNTS  
13 REPORTED UNDER PARAGRAPH (3) OR (4) SHALL BE REMITTED AS ONE  
14 COMBINED PAYMENT OR AS TWO SEPARATE PAYMENTS.

15 (7) THE DEPARTMENT MAY REQUIRE THE FILING OF THE RETURNS  
16 AND THE PAYMENTS FOR THESE TYPES OF FILERS BY ELECTRONIC  
17 MEANS APPROVED BY THE DEPARTMENT.

18 (8) ANY LICENSEE FILING RETURNS UNDER PARAGRAPH (3) OR  
19 (4) SHALL BE RELIEVED OF FILING QUARTERLY RETURNS.

20 (9) IF A LICENSEE REQUIRED TO REMIT PAYMENTS UNDER  
21 PARAGRAPH (3) OR (4) FAILS TO MAKE A TIMELY PAYMENT OR MAKES  
22 A PAYMENT WHICH IS LESS THAN THE REQUIRED AMOUNT, THE  
23 DEPARTMENT MAY, IN ADDITION TO ANY APPLICABLE PENALTIES,  
24 IMPOSE AN ADDITIONAL PENALTY EQUAL TO 5% OF THE AMOUNT DUE  
25 UNDER PARAGRAPH (3) OR (4) WHICH WAS NOT TIMELY PAID. THE  
26 PENALTY UNDER THIS PARAGRAPH SHALL BE DETERMINED WHEN THE TAX  
27 RETURN IS FILED FOR THE TAX PERIOD.

28 (b) Annual ~~reporting~~ RETURNS.--No annual return shall be <--  
29 filed, except as may be required by rules and regulations of the  
30 department promulgated and published at least 60 days prior to

1 the end of the year with respect to which the returns are made.  
2 Where such annual returns are required, licensees shall not be  
3 required to file such returns prior to the 20th day of the year  
4 succeeding the year with respect to which the returns are made.

5 (c) ~~Persons other than licensees~~ OTHER RETURNS.--Any person, <--  
6 other than a licensee, liable to pay to the department any tax  
7 under this chapter, shall file a return on or before the 20th  
8 day of the month succeeding the month in which the person  
9 becomes liable for the tax.

10 (d) ~~Waivers~~ SMALL TAXPAYERS.--The department, by regulation, <--  
11 may waive the requirement for the filing of quarterly return in  
12 the case of any licensee whose individual tax collections do not  
13 exceed \$75 per calendar quarter and may provide for reporting on  
14 a less frequent basis in such cases.

15 Section 718. Extension of time for filing returns.

16 The department may, on written application and for good cause  
17 shown, grant a reasonable extension of time for filing any  
18 return required under this subchapter. However, the time for  
19 making a return shall not be extended for more than three  
20 months.

21 Section 719. Place for filing returns.

22 Returns shall be filed with the department at its main office  
23 or at any branch office which it may designate for filing  
24 returns.

25 Section 720. Timely mailing treated as timely filing and  
26 payment.

27 (a) General rule.--Notwithstanding the provisions of any  
28 State tax law to the contrary, whenever a report or payment of  
29 all or any portion of a State tax is required by law to be  
30 received by the department or other agency of the Commonwealth

1 on or before a day certain, the taxpayer shall be deemed to have  
2 complied with the law if the letter transmitting the report or  
3 payment of the tax which has been received by the department is  
4 postmarked by the United States Postal Service on or prior to  
5 the final day on which the payment is to be received.

6 (b) Presentation of receipt.--For the purposes of this  
7 chapter, presentation of a receipt indicating that the report or  
8 payment was mailed by registered or certified mail on or before  
9 the due date shall be evidence of timely filing and payment.

10 Section 721. Payment of tax.

11 When a return of tax is required under this subchapter, the  
12 person required to make the return shall pay the tax to the  
13 department.

14 Section 722. Time of payment.

15 (a) General rule.--The tax imposed by this chapter and  
16 incurred or collected by a licensee shall be due and payable by  
17 the licensee on the day the return is required to be filed under  
18 the provisions of section 717 and the payment must accompany the  
19 return for the preceding period.

20 (b) ~~Other~~ ANNUAL payments.--If the amount of tax due for the <--  
21 preceding year as shown by the annual return of a taxpayer is  
22 greater than the amount already paid by the taxpayer in  
23 connection with the taxpayer's monthly or quarterly returns, the  
24 taxpayer shall send with the annual return a remittance for the  
25 unpaid amount of tax for the year.

26 (c) ~~Persons other than licensees~~ OTHER PAYMENTS.--Any person <--  
27 other than a licensee liable to pay any tax under this chapter  
28 shall remit the tax at the time of filing the return required by  
29 this chapter.

30 Section 723. Other times for payment.

1 In the event that the department authorizes a taxpayer to  
2 file a return at other times than those specified in section  
3 717, the tax due shall be paid at the time the return is filed.  
4 Section 724. Place for payment.

5 The tax imposed by this chapter shall be paid to the  
6 department at the place fixed for filing the return.  
7 Section 725. Tax held in trust for Commonwealth.

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

18 (b) Presumption.--Any person receiving payment of a lawful  
19 obligation of the taxpayer from the fund identified under  
20 subsection (a) shall be presumed to have received the same in  
21 good faith and without any knowledge of the breach of trust.

22 (c) Right to petition and appeal.--Any person, other than a  
23 taxpayer, against whom the department makes any claim under this  
24 section shall have the same right to petition and appeal as is  
25 given taxpayers by any provisions of this subchapter.

26 ~~Section 726. Local receivers of use tax.~~

<--

27 ~~(a) General rule. In every county, except counties of the~~  
28 ~~first class, the county treasurer shall receive use tax due and~~  
29 ~~payable under this chapter from any person other than a~~  
30 ~~licensee. The receiving of the taxes shall be pursuant to rules~~

1 ~~and regulations promulgated by the department and on forms~~  
2 ~~furnished by the department.~~

3 ~~(b) Deduction for administrative costs. Each county~~  
4 ~~treasurer shall remit to the department all use taxes received~~  
5 ~~under the authority of this section minus the costs of~~  
6 ~~administering this section not to exceed 1% of the amount of use~~  
7 ~~taxes received, which amount shall be retained in lieu of any~~  
8 ~~commission otherwise allowable by law for the collection of the~~  
9 ~~tax.~~

10 SECTION 726. (RESERVED).

<--

11 Section 727. Discount.

12 (a) General rule.--Subject to the provisions of subsection  
13 (b), if a return is filed by a licensee and the tax shown to be  
14 due thereon less any discount is paid all within the time  
15 prescribed, the licensee shall be entitled to credit and apply  
16 against the tax payable by the licensee a discount of 1% of the  
17 amount of the tax collected by the licensee, as compensation for  
18 the expense of collecting and remitting the tax due by the  
19 licensee and as consideration of the prompt payment.

20 (b) Types of periodic filers.--For returns filed on or after  
21 the effective date of this section, the discount under  
22 subsection (a) shall be limited to the following:

- 23 (1) For a monthly filer, \$25 per return.
- 24 (2) For a quarterly filer, \$75 per return.
- 25 (3) For a semiannual filer, \$150 per return.

26 Section 728. (Reserved).

27 Section 729. (Reserved).

28 Section 730. Assessment.

29 The department shall make the inquiries, determinations and  
30 assessments of the tax, including interest, additions and

1 penalties, imposed by this chapter. A notice of assessment and  
2 demand for payment shall be mailed ~~by certified mail~~ to the <--  
3 taxpayer. The notice shall set forth the basis of the  
4 assessment.

5 Section 731. Mode and time of assessment.

6 (a) Duty to examine.--

7 (1) Within a reasonable time after any return is filed,  
8 the department shall examine it and, if the return shows a  
9 greater tax due or collected than the amount of tax remitted  
10 with the return, the department shall issue an assessment for  
11 the difference, together with an addition of 3% of the  
12 difference, which shall be paid to the department within ten  
13 days after a notice of the assessment has been mailed to the  
14 taxpayer.

15 (2) If such assessment is not paid within ten days,  
16 there shall be added and paid to the department an additional  
17 3% of the difference for each month during which the  
18 assessment remains unpaid. The total of all additions shall  
19 not exceed 18% of the difference shown on the assessment.

20 (b) ~~Underestimated~~ UNDERSTATED tax on returns.-- <--

21 (1) If the department determines that any return or  
22 returns of any taxpayer understates the amount of tax due, it  
23 shall determine the proper amount and shall ascertain the  
24 difference between the amount of tax shown in the return and  
25 the amount determined. The difference may be referred to as  
26 the deficiency.

27 (2) The department shall send a notice of assessment for  
28 the deficiency and the reasons to the taxpayer.

29 (3) The taxpayer shall pay the deficiency to the  
30 department within 30 days after a notice of the assessment

1 has been mailed to the taxpayer.

2 (c) Estimated assessments.--

3 (1) In the event that any taxpayer fails to file a  
4 return required by this chapter, the department may make an  
5 estimated assessment, based on information available, of the  
6 proper amount of tax owed by the taxpayer and shall send a  
7 notice of assessment in the estimated amount to the taxpayer.

8 (2) The taxpayer shall pay the tax within 30 days after  
9 a notice of the estimated assessment has been mailed to the  
10 taxpayer.

11 (d) Studies.--

12 (1) The department may conduct the studies necessary to  
13 compute effective rates by business classification, based  
14 upon the ratio between the tax required to be collected and  
15 taxable sales and to use such rates in arriving at the  
16 apparent tax liability of a taxpayer.

17 (2) Any assessment based on such rates shall be prima  
18 facie correct, except that the rate shall not be considered  
19 where a taxpayer establishes the rate is based on a sample  
20 inapplicable to the taxpayer.

21 Section 732. Reassessment.

22 Any taxpayer against whom an assessment is made may petition  
23 the department for a reassessment under Article XXVII of the Tax  
24 Reform Code of 1971.

25 ~~Section 733. (Reserved).~~

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26 ~~Section 734. Review by Board of Finance and Revenue.~~

27 ~~(a) Procedure.~~

28 ~~(1) Within 60 days after the date of mailing of notice~~  
29 ~~by the department of the decision on any petition for~~  
30 ~~reassessment filed with it, the person against whom the~~

1 ~~assessment was made may, by petition, request the Board of~~  
2 ~~Finance and Revenue to review the decision.~~

3 ~~(2) The failure of the department to notify the~~  
4 ~~petitioner of a decision within the time provided by section~~  
5 ~~732 shall act as a denial of such petition, and a petition~~  
6 ~~for review may be filed with the Board of Finance and Revenue~~  
7 ~~within 120 days of the date prior to which the department~~  
8 ~~should have mailed to the petitioner its notice of decision.~~

9 ~~(b) Contents of petition for review. Each petition for~~  
10 ~~review filed under this section shall state specifically the~~  
11 ~~reasons on which the petitioner relies, or shall incorporate by~~  
12 ~~reference the petition for reassessment in which the reasons are~~  
13 ~~stated. The petition shall be supported by affidavit that it is~~  
14 ~~not made for the purpose of delay and that the facts set forth~~  
15 ~~in the petition are true.~~

16 ~~(c) Action by board.~~

17 ~~(1) The Board of Finance and Revenue shall act finally~~  
18 ~~in disposing of petitions filed with it within six months~~  
19 ~~after they have been received.~~

20 ~~(2) In the event of the failure of the board to dispose~~  
21 ~~of any petition within six months, the action taken by the~~  
22 ~~department, upon the petition for reassessment, shall be~~  
23 ~~sustained.~~

24 ~~(3) The Board of Finance and Revenue may sustain the~~  
25 ~~action taken by the department on the petition for~~  
26 ~~reassessment, or it may reassess the tax due on such basis as~~  
27 ~~it deems according to law.~~

28 ~~(4) The board shall give notice of its action to the~~  
29 ~~department and to the petitioner.~~

30 SECTION 733. ASSESSMENT TO RECOVER ERRONEOUS REFUNDS.

<--

1 THE DEPARTMENT MAY, WITHIN TWO YEARS OF THE GRANTING OF ANY  
2 REFUND OR CREDIT, OR WITHIN THE PERIOD IN WHICH AN ASSESSMENT  
3 COULD HAVE BEEN FILED BY THE DEPARTMENT WITH RESPECT TO THE  
4 TRANSACTION PERTAINING TO WHICH THE REFUND WAS GRANTED,  
5 WHICHEVER PERIOD SHALL LAST OCCUR, FILE AN ASSESSMENT TO RECOVER  
6 ANY REFUND OR PART THEREOF OR CREDIT OR PART THEREOF WHICH WAS  
7 ERRONEOUSLY MADE OR ALLOWED.

8 SECTION 734. (RESERVED).

9 Section 735. (Reserved).

10 Section 736. Burden of proof.

11 In all cases of petitions for reassessment, review or appeal,  
12 the burden of proof shall be on the petitioner or appellant, as  
13 applicable.

14 Section 737. Collection of tax.

15 (a) General rule.--The department shall collect the tax in  
16 the manner provided by law for the collection of taxes imposed  
17 by the laws of this Commonwealth.

18 (b) Collection by persons maintaining a place of business in  
19 the Commonwealth.--

20 (1) Every person maintaining a place of business in this  
21 Commonwealth and selling or leasing tangible personal  
22 property or services, the sale or use of which is subject to  
23 tax shall collect the tax from the purchaser or lessee at the  
24 time of making the sale or lease, and shall remit the tax to  
25 the department, unless the collection and remittance is  
26 otherwise provided for in this chapter.

27 (2) (i) Every person not otherwise required to collect  
28 tax that delivers tangible personal property to a  
29 location within this Commonwealth and that unpacks,  
30 positions, places or assembles the tangible personal

1 property shall collect the tax from the purchaser at the  
2 time of delivery and shall remit the tax to the  
3 department if the person delivering the tangible personal  
4 property is responsible for collecting any portion of the  
5 purchase price of the tangible personal property  
6 delivered and the purchaser has not provided the person  
7 with proof that the tax imposed by this chapter has been  
8 or will be collected by the seller or that the purchaser  
9 provided the seller with a valid exemption certificate.

10 (ii) Every person required to collect tax under this  
11 paragraph shall be deemed to be selling or leasing  
12 tangible personal property or services, the sale or use  
13 of which is subject to the tax imposed under section 702.

14 (3) Any person required under this chapter to collect  
15 tax from another person, who shall fail to collect the proper  
16 amount of the tax, shall be liable for the full amount of the  
17 tax which the person should have collected.

18 (c) Certificate for tax-exempt sales or leases.--

19 (1) If the tax does not apply to the sale or lease of  
20 tangible personal property or services, the purchaser or  
21 lessee shall furnish to the vendor a certificate indicating  
22 that the sale is not legally subject to the tax. The  
23 certificate shall be in substantially such form as the  
24 department may, by regulation, prescribe.

25 (2) Where the tangible personal property or service is  
26 of a type which is never subject to the tax imposed or where  
27 the sale or lease OF TANGIBLE PERSONAL PROPERTY is in <--  
28 interstate commerce, the certificate need not be furnished.

29 (3) Where a series of transactions are not subject to  
30 tax, a purchaser or user may furnish the vendor with a single

1 exemption certificate in substantially such form and valid  
2 for such period of time as the department may, by regulation,  
3 prescribe.

4 (4) The department shall provide all school districts  
5 and intermediate units with a permanent tax exemption number.

6 (5) An exemption certificate, which is complete and  
7 regular and on its face discloses a valid basis of exemption  
8 if taken in good faith, shall relieve the vendor from the  
9 liability imposed by this section.

10 (6) An exemption certificate:

11 (i) accepted by a vendor from a natural person  
12 domiciled within this Commonwealth or any association,  
13 fiduciary, partnership, corporation or other entity,  
14 either authorized to do business within this Commonwealth  
15 or having an established place of business within this  
16 Commonwealth, in the ordinary course of the vendor's  
17 business;

18 (ii) which on its face discloses a valid basis of  
19 exemption consistent with the activity of the purchaser  
20 and character of the property or service being purchased  
21 or which is provided to the vendor by a charitable,  
22 religious, educational or volunteer firefighters'  
23 organization;

24 (iii) contains the organization's charitable  
25 exemption number; and

26 (iv) which, in the case of any purchase costing \$200  
27 or more, is accompanied by a sworn declaration on a form  
28 to be provided by the department of an intended usage of  
29 the property or service which would render it nontaxable,  
30 shall be presumed to be taken in good faith and the burden of

1 proving otherwise shall be on the department.

2 (d) ~~Waivers~~ DIRECT PAYMENT PERMITS.--

<--

3 (1) The department may authorize a purchaser or lessee  
4 who acquires tangible personal property or services under  
5 circumstances which make it impossible at the time of  
6 acquisition to determine the manner in which the tangible  
7 personal property or service will be used, to pay the tax  
8 directly to the department, and waive the collection of the  
9 tax by the vendor.

10 (2) No such authority shall be granted or exercised,  
11 except on application to the department, and the issuance by  
12 the department, in its discretion, of a direct payment  
13 permit.

14 (3) If a direct payment permit is granted, its use shall  
15 be subject to conditions specified by the department, and the  
16 payment of tax on all acquisitions pursuant to the permit  
17 shall be made directly to the department by the permit  
18 holder.

19 Section 738. Collection of tax on motor vehicles, trailers and  
20 semitrailers.

21 (a) General rule.--Notwithstanding the provisions of section  
22 737(b)(1), tax due on the sale at retail or use of a motor  
23 vehicle, trailer or semitrailer, except mobile homes as defined  
24 in 75 Pa.C.S. (relating to vehicles), required by law to be  
25 registered with the department under the provisions of 75  
26 Pa.C.S. shall be paid by the purchaser or user directly to the  
27 department on application to the department for an issuance of a  
28 certificate of title on the motor vehicle, trailer or  
29 semitrailer.

30 (b) No issuance of certificate of title without payment of

1 tax.--

2 (1) The department shall not issue a certificate of  
3 title until the tax has been paid, or evidence satisfactory  
4 to the department has been given to establish that tax is not  
5 due.

6 (2) The department may cancel or suspend any record of  
7 certificate of title or registration of a motor vehicle,  
8 trailer or semitrailer when the check received in payment of  
9 the tax on the vehicle is not paid on demand.

10 (c) First encumbrance.--The tax shall be considered as a  
11 first encumbrance against the vehicle and the vehicle may not be  
12 transferred without first payment in full of the tax and any  
13 interest additions or penalties which shall accrue in accordance  
14 with this chapter.

15 Section 739. Precollection of tax.

16 (a) Authorization.--

17 (1) Except as otherwise provided under paragraph (2),  
18 the department may, by regulation, authorize or require  
19 particular categories of vendors selling tangible personal  
20 property for resale to precollect from the purchaser the tax  
21 which the purchaser will collect on making a sale at retail  
22 of the tangible personal property.

23 (2) The department, pursuant to this section, may not  
24 require a vendor to precollect tax from a purchaser who  
25 purchases for resale more than \$1,000 worth of tangible  
26 personal property from the vendor per year.

27 (b) No license required.--In any case in which a vendor has  
28 been authorized to prepay the tax to the person from whom the  
29 vendor purchased the tangible personal property for resale, the  
30 vendor authorized to prepay the tax may, under the regulations

1 of the department, be relieved from the duty to secure a license  
2 if the duty arises only by reason of the vendor's sale of the  
3 tangible personal property with respect to which the vendor is,  
4 under authorization of the department, to prepay the tax.

5 (c) Reimbursement.--

6 (1) The vendor, on making a sale at retail of tangible  
7 personal property with respect to which the vendor has  
8 prepaid the tax, must separately state at the time of resale  
9 the proper amount of tax on the transaction, and reimburse  
10 itself on account of the taxes which the vendor has  
11 previously prepaid.

12 (2) If the vendor collects a greater amount of tax in  
13 any reporting period than the vendor previously prepaid on  
14 purchase of the goods with respect to which the vendor  
15 prepaid the tax, the vendor must file a return and remit the  
16 balance to the Commonwealth at the time at which a return  
17 would otherwise be due with respect to the sales.

18 Section 740. Bulk and auction sales.

19 A person who sells or causes to be sold at auction, or who  
20 sells or transfers in bulk, 51% or more of any stock, of goods,  
21 wares or merchandise of any kind, fixtures, machinery,  
22 equipment, buildings or real estate, involved in a business for  
23 which the person is licensed or required to be licensed under  
24 this chapter, or is liable for filing use tax returns in  
25 accordance with this chapter, shall be subject to the provisions  
26 of section 1403 of The Fiscal Code.

27 ~~Section 741. Collection on failure to request reassessment,~~ <--  
28 ~~review or appeal.~~

29 ~~(a) General rule. The department may collect any tax:~~

30 ~~(1) If an assessment of tax is not paid within ten days~~

1 ~~or 30 days, as the case may be, after notice of the~~  
2 ~~assessment to the taxpayer and no petition for reassessment~~  
3 ~~has been filed.~~

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

6 ~~(3) Within 30 days from the date of the decision of the~~  
7 ~~Board of Finance and Revenue on a petition for review, or of~~  
8 ~~the expiration of the board's time for acting on the~~  
9 ~~petition, if no appeal has been made.~~

10 ~~(4) In all cases of judicial sales, receiverships,~~  
11 ~~assignments or bankruptcies.~~

12 ~~(b) Limitation on defenses.~~

13 ~~(1) Subject to the provisions of paragraph (2), in any~~  
14 ~~such case in a proceeding for the collection of the taxes,~~  
15 ~~the person against whom the taxes were assessed shall not be~~  
16 ~~permitted to set up any ground of defense that might have~~  
17 ~~been determined by the department, the Board of Finance and~~  
18 ~~Revenue or the courts.~~

19 ~~(2) The defense of failure of the department to mail~~  
20 ~~notice of assessment or reassessment to the taxpayer and the~~  
21 ~~defense of payment of assessment or reassessment may be~~  
22 ~~raised in proceedings for collection by a motion to stay the~~  
23 ~~proceedings.~~

24 SECTION 741. (RESERVED).

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25 Section 742. Lien for taxes.

26 (a) Nature and effect of lien.--

27 (1) If any person liable to pay any tax neglects or  
28 refuses to pay the same after demand, the amount, including  
29 any interest, addition or penalty, together with any costs  
30 that may accrue in addition, shall be a lien in favor of the

1 Commonwealth on the property, both real and personal, of the  
2 person but only after same has been entered and docketed of  
3 record by the prothonotary of the county where the property  
4 is situated.

5 (2) The department may, at any time, transmit to the  
6 prothonotaries of the respective counties certified copies of  
7 all liens for taxes imposed by this chapter or the Tax Reform  
8 Code of 1971 and penalties and interest.

9 (3) Each prothonotary receiving the lien shall enter and  
10 docket the lien of record in the prothonotary's office, which  
11 lien shall be indexed as judgments are now indexed.

12 (4) No prothonotary shall require, as a condition  
13 precedent to the entry of the liens, the payment of the costs  
14 incident thereto.

15 (b) Priority status.--

16 (1) The lien imposed under this section shall have  
17 priority from the date of its recording, and shall be fully  
18 paid and satisfied out of the proceeds of any judicial sale  
19 of property before any other obligation, judgment, claim,  
20 lien or estate to which the property may subsequently become  
21 subject, except costs of the sale and of the writ on which  
22 the sale was made, and real estate taxes and municipal claims  
23 against such property, but shall be subordinate to mortgages  
24 and other liens existing and duly recorded or entered of  
25 record prior to the recording of the tax lien.

26 (2) In the case of a judicial sale of property, subject  
27 to a lien imposed under this section, on a lien or claim over  
28 which the lien imposed under this section has priority, the  
29 sale shall discharge the lien imposed under this section to  
30 the extent only that the proceeds are applied to its payment,

1 and the lien shall continue in full force and effect as to  
2 the balance remaining unpaid.

3 (3) There shall be no inquisition or condemnation upon  
4 any judicial sale of real estate made by the Commonwealth  
5 pursuant to the provisions of this section.

6 (4) (i) The lien of the taxes, interest and penalties,  
7 shall continue for five years from the date of entry, and  
8 may be revived and continued in the manner now or  
9 hereafter provided for renewal of judgments, or as may be  
10 provided in The Fiscal Code, and a writ of execution may  
11 directly issue upon the lien without the issuance and  
12 prosecution to judgment of a writ of scire facias.

13 (ii) Not less than ten days before issuance of any  
14 execution on the lien, notice of the filing and the  
15 effect of the lien shall be sent by registered mail to  
16 the taxpayer at the taxpayer's last known post office  
17 address.

18 (iii) The lien shall have no effect on any stock of  
19 goods, wares or merchandise regularly sold or leased in  
20 the ordinary course of business by the person against  
21 whom the lien has been entered, unless and until a writ  
22 of execution has been issued and a levy made on the stock  
23 of goods, wares and merchandise.

24 (c) Penalty.--Any willful failure of any prothonotary to  
25 carry out any duty imposed on the prothonotary under this  
26 section shall be a misdemeanor, and, upon conviction, the  
27 prothonotary shall be sentenced to pay a fine not more than  
28 \$1,000 and costs of prosecution or to a term of imprisonment not  
29 exceeding one year, or both.

30 (d) Priority payment from distribution.--

1           (1) Except as otherwise provided under the law, in the  
2           distribution, voluntary or compulsory, in receivership,  
3           bankruptcy or otherwise, of the property or estate of any  
4           person, all taxes imposed by this chapter which are due and  
5           unpaid and are not collectible under section 725 shall be  
6           paid from the first money available for distribution in  
7           priority to all other claims and liens, except insofar as the  
8           laws of the United States may give a prior claim to the  
9           Federal Government.

10           (2) Any person charged with the administration or  
11           distribution of the property or estate, who violates the  
12           provisions of this section, shall be personally liable for  
13           any taxes imposed by this chapter, which are accrued and  
14           unpaid and are chargeable against the person whose property  
15           or estate is being administered or distributed.

16           (e) Construction.--Subject to the limitations contained in  
17           this chapter as to the assessment of taxes, nothing contained in  
18           this section shall be construed to restrict, prohibit or limit  
19           the use by the department in collecting taxes finally due and  
20           payable of any other remedy or procedure available at law or  
21           equity for the collection of debts.

22           Section 743. Suit for taxes.

23           (a) General rule.--At any time within three years after any  
24           tax or any amount of tax shall be finally due and payable, the  
25           department may commence an action in the courts of this  
26           Commonwealth, of any state or of the United States, in the name  
27           of the Commonwealth, to collect the amount of tax due together  
28           with additions, interest, penalties and costs in the manner  
29           provided at law or in equity for the collection of ordinary  
30           debts.

1 (b) Prosecution by Attorney General.--The Attorney General  
2 shall prosecute the action and, except as provided in this  
3 chapter, the provisions of the Rules of Civil Procedure and the  
4 provisions of the laws of this Commonwealth relating to civil  
5 procedures and remedies shall, to the extent that they are  
6 applicable, be available in such proceedings.

7 (c) Construction.--The provisions of this section are in  
8 addition to any process, remedy or procedure for the collection  
9 of taxes provided by this chapter or by the laws of this  
10 Commonwealth, and this section is neither limited by nor  
11 intended to limit any such process, remedy or procedure.  
12 Section 744. Tax suit comity.

13 The courts of this Commonwealth shall recognize and enforce  
14 liabilities for sales and use taxes, lawfully imposed by any  
15 other state if the other state extends a like comity to this  
16 Commonwealth.

17 Section 745. Service.

18 (a) General rule.--Any person who maintains a place of  
19 business in this Commonwealth is deemed to have appointed the  
20 Secretary of the Commonwealth as the person's agent for the  
21 acceptance of service of process or notice in any proceedings  
22 for the enforcement of the civil provisions of this chapter, and  
23 any service made upon the Secretary of the Commonwealth as agent  
24 shall be of the same legal force and validity as if the service  
25 had been personally made on the person.

26 (b) Substitute service.--Where service cannot be made on the  
27 person in the manner provided by other laws of this Commonwealth  
28 relating to service of process, service may be made on the  
29 Secretary of the Commonwealth and, in such case, a copy of the  
30 process or notice shall also be personally served on any agent

1 or representative of the person who may be found within this  
2 Commonwealth, or where no such agent or representative may be  
3 found a copy of the process or notice shall be sent by  
4 registered mail to the person at the last known address of the  
5 person's principal place of business, home office or residence.

6 Section 746. Collection and payment of tax on credit sales.

7 If any sale subject to tax under this chapter is wholly or  
8 partly on credit, the vendor shall require the purchaser to pay  
9 in cash at the time the sale is made, or within 30 days  
10 thereafter, the total amount of tax due upon the entire purchase  
11 price. The vendor shall remit the tax to the department,  
12 regardless of whether payment was made by the purchaser to the  
13 vendor, with the next return required to be filed under section  
14 717.

15 Section 747. Prepayment of tax.

16 (a) General rule.--Whenever a vendor is prohibited by law or  
17 governmental regulation to charge and collect the purchase price  
18 in advance of or at the time of delivery, the vendor shall  
19 prepay the tax as required by section 722, but in that case, if  
20 the purchaser fails to pay to the vendor the total amount of the  
21 purchase price and the tax and the amount is written off as  
22 uncollectible by the vendor, the vendor shall not be liable for  
23 the tax and shall be entitled to a credit or refund of the tax  
24 paid.

25 (b) Subsequent collection of tax.--If the purchase price is  
26 thereafter collected, in whole or in part, the amount collected  
27 shall be first applied to the payment of the entire tax portion  
28 of the bill, and shall be remitted to the department by the  
29 vendor with the first return filed after such collection.

30 (c) Time period for refund.--Tax prepaid shall be subject to

1 refund on petition to the department under the provisions of  
2 section 752, filed within 105 days of the close of the fiscal  
3 year in which the accounts are written off.

4 Section 747.1. Refund of sales tax attributed to bad debt.

5 (a) General rule.--A vendor may file a petition for refund  
6 of sales tax paid to the department that is attributed to a bad  
7 debt if all of the following apply:

8 (1) The purchaser fails to pay ~~the vendor~~ the total <--  
9 purchase price.

10 (2) The purchase price is written off, either in whole  
11 or in part, as a ~~bad~~ debt on the ~~vendor's~~ books and records <--  
12 OF THE VENDOR OR AN AFFILIATE OF THE VENDOR. <--

13 (3) The bad debt has been deducted for Federal income  
14 tax purposes under section 166 of the Internal Revenue Code  
15 of 1986.

16 ~~The petition must be filed with the department under Article~~ <--  
17 ~~XXVII of the Tax Reform Code of 1971 within the time limitations~~  
18 ~~prescribed by section 3003.1 of the Tax Reform Code of 1971.~~

19 (A.1) TIME FOR FILING PETITION.--A PETITION FOR REFUND, <--  
20 WHICH IS AUTHORIZED BY THIS SECTION, MUST BE FILED WITH THE  
21 DEPARTMENT WITHIN THE TIME LIMITATIONS UNDER SECTION 3003.1(A).

22 (A.2) PRIVATE-LABEL CREDIT CARDS.--IN THE CASE OF PRIVATE-  
23 LABEL CREDIT CARD ACCOUNTS NOT QUALIFYING UNDER SUBSECTION (A),  
24 A VENDOR OR LENDER THAT MAKES AN ELECTION PURSUANT TO SUBSECTION

25 (A.3) SHALL BE ENTITLED TO FILE A PETITION FOR REFUND OF SALES  
26 TAX THAT THE VENDOR HAS PREVIOUSLY REPORTED AND PAID TO THE  
27 DEPARTMENT, IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

28 (1) NO REFUND WAS PREVIOUSLY ALLOWED WITH RESPECT TO THE  
29 PORTION OF THE ACCOUNT WRITTEN OFF AS A BAD DEBT.

30 (2) THE ACCOUNT HAS BEEN FOUND WORTHLESS AND WRITTEN

1 OFF, EITHER IN WHOLE OR IN PART, AS BAD DEBT ON THE BOOKS AND  
2 RECORDS OF THE LENDER OR AN AFFILIATE OF THE LENDER.

3 (3) THE ACCOUNT HAS BEEN DEDUCTED FOR FEDERAL INCOME TAX  
4 PURPOSES UNDER SECTION 166 OF THE INTERNAL REVENUE CODE OF  
5 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 166) BY THE LENDER OR AN  
6 AFFILIATE OF THE LENDER.

7 (A.3) JOINT ELECTION.--IN ORDER TO BE ELIGIBLE FOR A REFUND  
8 UNDER SUBSECTION (A.2), THE LENDER AND THE VENDOR MUST EXECUTE  
9 AND FILE WITH THE DEPARTMENT A JOINT ELECTION, SIGNED BY BOTH  
10 PARTIES, DESIGNATING WHICH PARTY IS ENTITLED TO CLAIM THE  
11 REFUND. THIS ELECTION MAY NOT BE REVOKED UNLESS A WRITTEN NOTICE  
12 IS SIGNED BY THE PARTY THAT SIGNED THE ELECTION BEING REVOKED  
13 AND IS FILED WITH THE DEPARTMENT.

14 (b) Limitation.--

15 (1) The refund authorized by this section shall be  
16 limited to the sales tax paid to the department that is  
17 attributed to the bad debt, less any discount under section  
18 727.

19 (2) Partial payments by the purchaser ~~to the vendor~~ <--  
20 shall be prorated between the original purchase price and the  
21 sales tax due on the sale.

22 (3) Payments made ~~to a vendor~~ on any transaction which <--  
23 includes both taxable and nontaxable components shall be  
24 allocated proportionally between the taxable and nontaxable  
25 components.

26 (c) Assignment.--A vendor OR LENDER may assign its right to <--  
27 petition and receive a refund of sales tax attributed to a bad  
28 debt to an ~~affiliated entity. A vendor may not assign its right~~ <--  
29 ~~to petition and receive a refund of sales tax attributed to a~~  
30 ~~bad debt to any other person~~ AFFILIATE. <--

1 (d) Items not refundable.--No refund shall be granted under  
2 this section for interest, finance charges or expenses incurred  
3 in attempting to collect any amount receivable.

4 ~~(e) Contents of petition for refund. The documentation,~~ <--  
5 ~~procedures and methods for claiming and calculating the refund~~  
6 ~~allowed under this section shall be in such form as the~~  
7 ~~department may prescribe.~~

8 ~~(f) Subsequent collection. If the purchase price that is~~  
9 ~~attributed to a prior bad debt refund is collected in whole or~~  
10 ~~in part, the vendor or affiliated entity shall remit the~~  
11 ~~proportional tax to the department with the first return filed~~  
12 ~~after the collection.~~

13 (E) DOCUMENTATION.--DOCUMENTATION REQUIREMENTS ARE AS <--  
14 FOLLOWS:

15 (1) ANY PERSON CLAIMING A REFUND UNDER THIS SECTION  
16 SHALL, ON REQUEST, MAKE AVAILABLE ADEQUATE BOOKS, RECORDS OR  
17 OTHER DOCUMENTATION SUPPORTING THE CLAIMED REFUND, INCLUDING:

18 (I) DATE OF ORIGINAL SALE, NAME AND PENNSYLVANIA  
19 SALES TAX LICENSE NUMBER OF THE RETAILER.

20 (II) NAME AND ADDRESS OF PURCHASER.

21 (III) AMOUNT THAT THE PURCHASER PAID OR AGREED TO  
22 PAY.

23 (IV) TAXABLE AND NONTAXABLE CHARGES.

24 (V) AMOUNT ON WHICH THE RETAILER REPORTED AND PAID  
25 SALES TAX.

26 (VI) ALL PAYMENTS OR OTHER CREDITS APPLIED TO THE  
27 ACCOUNT OF THE PURCHASER.

28 (VII) EVIDENCE THAT THE UNCOLLECTED AMOUNT HAS BEEN  
29 DESIGNATED AS A BAD DEBT IN THE BOOKS AND RECORDS OF THE  
30 VENDOR OR LENDER, AS APPROPRIATE, AND THAT THE AMOUNT HAS

1 BEEN CLAIMED AS A BAD DEBT DEDUCTION FOR FEDERAL INCOME  
2 TAX PURPOSES.

3 (VIII) THE COUNTY IN WHICH ANY LOCAL SALES TAX WAS  
4 INCURRED.

5 (IX) THE UNPAID PORTION OF THE SALES PRICE.

6 (X) A CERTIFICATION, UNDER PENALTY OF PERJURY, THAT  
7 NO PERSON HAS COLLECTED MONEY ON THE BAD DEBT FOR WHICH  
8 THE REFUND IS CLAIMED.

9 (XI) ANY OTHER INFORMATION REQUIRED BY THE  
10 DEPARTMENT.

11 (2) A PERSON CLAIMING A REFUND UNDER THIS SECTION MAY  
12 PROVIDE ALTERNATIVE FORMS OF DOCUMENTATION ACCEPTABLE TO THE  
13 DEPARTMENT IF APPROPRIATE IN LIGHT OF THE VOLUME AND  
14 CHARACTER OF UNCOLLECTIBLE ACCOUNTS. THIS INCLUDES THE  
15 FOLLOWING:

16 (I) IF A VENDOR REMITS SALES OR USE TAX TO THE  
17 COMMONWEALTH AND TO ANOTHER STATE, THE ENTITY CLAIMING A  
18 REFUND UNDER THIS SECTION MAY USE AN APPORTIONMENT METHOD  
19 TO SUBSTANTIATE THE AMOUNT OF PENNSYLVANIA TAX INCLUDED  
20 IN THE BAD DEBTS TO WHICH THE REFUND APPLIES.

21 (II) THE APPORTIONMENT METHOD MUST USE THE VENDOR'S  
22 PENNSYLVANIA AND NON-PENNSYLVANIA SALES, THE VENDOR'S  
23 TAXABLE AND NONTAXABLE SALES AND THE AMOUNT OF TAX THE  
24 VENDOR REMITTED TO PENNSYLVANIA.

25 (F) SUBSEQUENT COLLECTION.--

26 (1) IF THE PURCHASE PRICE THAT IS ATTRIBUTED TO A PRIOR  
27 BAD DEBT REFUND IS COLLECTED IN WHOLE OR IN PART BY THE  
28 VENDOR OR LENDER, OR AN AFFILIATE OF THE VENDOR OR LENDER,  
29 THE ENTITY CLAIMING THE REFUND SHALL REMIT THE PROPORTIONAL  
30 TAX TO THE DEPARTMENT WITH THE FIRST RETURN FILED AFTER THE

1 COLLECTION. IF THE ENTITY IS NOT REQUIRED TO FILE PERIODIC  
2 RETURNS, THE ENTITY SHALL REMIT THE PROPORTIONAL TAX TO THE  
3 DEPARTMENT WITH ANOTHER RETURN PURSUANT TO SECTION 717(C).

4 (2) ANY CONSIDERATION RECEIVED FOR THE ASSIGNMENT, SALE  
5 OR OTHER TRANSFER OF A BAD DEBT WITH RESPECT TO WHICH A  
6 REFUND HAS BEEN GRANTED SHALL BE DEEMED TO BE A COLLECTION OF  
7 A PRIOR BAD DEBT. THIS PARAGRAPH SHALL NOT APPLY TO A  
8 TRANSFER TO AN ENTITY THAT IS PART OF THE SAME AFFILIATED  
9 GROUP, AS DEFINED BY SECTION 1504 OF THE INTERNAL REVENUE  
10 CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1504).

11 (3) A PERSON THAT COLLECTS, IN WHOLE OR IN PART, THE  
12 PURCHASE PRICE ATTRIBUTED TO A PRIOR BAD DEBT REFUND IS  
13 REQUIRED TO MAINTAIN ADEQUATE BOOKS, RECORDS OR OTHER  
14 DOCUMENTATION TO ALLOW THE DEPARTMENT TO DETERMINE WHETHER  
15 THE PURCHASE PRICE ATTRIBUTED TO A PRIOR BAD DEBT REFUND HAS  
16 BEEN COLLECTED. INFORMATION UNDER THIS PARAGRAPH INCLUDES THE  
17 PERTINENT FACTS REQUIRED BY SUBSECTION (E).

18 (4) IF IT IS DETERMINED BY THE DEPARTMENT THAT A PRIOR  
19 BAD DEBT HAS BEEN COLLECTED, IN WHOLE OR IN PART, AND THE  
20 PROPORTIONAL TAX HAS NOT BEEN PROPERLY REPORTED AND PAID TO  
21 THE DEPARTMENT, THE PERSON THAT CLAIMED THE REFUND ON THE  
22 TRANSACTION SHALL REPORT AND PAY THE PROPORTIONAL TAX TO THE  
23 DEPARTMENT PLUS APPLICABLE INTEREST AND PENALTY UNDER THIS  
24 CHAPTER.

25 (g) Interest prohibited.--Notwithstanding the provisions of  
26 section 806.1 of The Fiscal Code, no interest shall be paid by  
27 the Commonwealth on refunds of sales tax attributed to bad debt  
28 under this section.

29 (h) Administration.--

30 (1) No refund or credit of sales tax shall be made for

1 any uncollected purchase price or bad debt except as  
2 authorized by this section.

3 (2) No deduction or credit for bad debt may be taken on  
4 any return filed with the department.

5 (3) This section shall provide the exclusive procedure  
6 for claiming a refund or credit of sales tax attributed to  
7 uncollected purchase price or bad debt.

8 ~~(i) Definition. For purposes of this section, the term~~ <--  
9 ~~"affiliated entity" means any corporation that is part of the~~  
10 ~~same affiliated group as the vendor as defined by section~~  
11 ~~1504(a)(1) of the Internal Revenue Code of 1986.~~

12 (I) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING <--  
13 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
14 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

15 "AFFILIATE." A PERSON THAT IS:

16 (1) AN AFFILIATED ENTITY UNDER SECTION 1504(A)(1) OF THE  
17 INTERNAL REVENUE CODE OF 1986.

18 (2) A PERSON DESCRIBED IN PARAGRAPH (1) OR (2) OF THE  
19 DEFINITION OF "LENDER" THAT WOULD BE AN AFFILIATED ENTITY,  
20 UNDER SECTION 1504 OF THE INTERNAL REVENUE CODE OF 1986, OF A  
21 VENDOR BUT FOR THE FACT THE PERSON IS NOT A CORPORATION, AN  
22 ASSIGNEE OR ANOTHER TRANSFEREE OF A PERSON DESCRIBED IN  
23 PARAGRAPH (1) OR (2) OF THE DEFINITION OF "LENDER".

24 "LENDER." ANY OF THE FOLLOWING:

25 (1) A PERSON THAT OWNS OR HAS OWNED A PRIVATE-LABEL  
26 CREDIT CARD ACCOUNT PURCHASED DIRECTLY FROM A VENDOR THAT  
27 REPORTED THE TAX UNDER THIS CHAPTER.

28 (2) A PERSON THAT OWNS OR HAS OWNED A PRIVATE-LABEL  
29 CREDIT CARD ACCOUNT PURSUANT TO A CONTRACT DIRECTLY WITH THE  
30 VENDOR THAT REPORTED THE TAX UNDER THIS CHAPTER.

1 (3) A PERSON THAT IS:

2 (I) AN AFFILIATE OF A PERSON DESCRIBED IN PARAGRAPH

3 (1) OR (2); OR

4 (II) AN ASSIGNEE OR OTHER TRANSFEREE OF A PERSON

5 DESCRIBED IN PARAGRAPH (1) OR (2).

6 "PRIVATE-LABEL CREDIT CARD." ANY CHARGE CARD, CREDIT CARD OR  
7 OTHER INSTRUMENT SERVING SIMILAR PURPOSE WHICH CARRIES, REFERS  
8 TO OR IS BRANDED WITH THE NAME OR LOGO OF A VENDOR AND WHICH CAN  
9 BE USED FOR PURCHASES FROM THE VENDOR. THE TERM DOES NOT INCLUDE  
10 A CARD OR INSTRUMENT WHICH MAY ALSO BE USED TO MAKE PURCHASES  
11 FROM PERSONS OTHER THAN THE VENDOR WHOSE NAME OR LOGO APPEARS ON  
12 THE CARD OR INSTRUMENT OR THAT VENDOR'S AFFILIATES. NOTHING IN  
13 THIS DEFINITION SHALL BE CONSTRUED TO AUTHORIZE A REFUND WITH  
14 RESPECT TO BAD DEBTS ATTRIBUTABLE TO SALES BY UNRELATED PERSONS  
15 REFERRED TO IN THIS DEFINITION.

16 Section 748. Registration of transient vendors.

17 (a) General rule.--Prior to conducting business or otherwise  
18 commencing operations in this Commonwealth, a transient vendor  
19 shall register with the department. The application for  
20 registration shall be in such form and contain such information  
21 as the department, by regulation, shall prescribe and shall set  
22 forth truthfully and accurately the information desired by the  
23 department. This registration shall be renewed and updated  
24 annually.

25 (b) Certificate to be issued.--After registration and the  
26 posting of the bond required by section 748.1, the department  
27 shall issue to the transient vendor a certificate valid for one  
28 year. On renewal of registration, the department shall issue a  
29 new certificate valid for one year, if the department is  
30 satisfied that the transient vendor has complied with the

1 provisions of this chapter.

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

7 (d) Contents of certificate.--The certificate issued by the  
8 department shall state that the transient vendor named in the  
9 certificate has registered with the department and shall provide  
10 notice to the transient vendor that:

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

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

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

23 Section 748.1. Bond.

24 (a) General rule.--Upon registration with the department, a  
25 transient vendor shall also post a bond with the department in  
26 the amount of \$500 as surety for compliance with the provisions  
27 of this chapter. After a period of demonstrated compliance with  
28 these provisions or, if the transient vendor provides the  
29 license number of a promoter who has notified the department of  
30 a show, in accordance with the provisions of section 748.6(a),

1 the department may reduce the amount of bond required of a  
2 transient vendor or may eliminate the bond entirely.

3 (b) Voluntary suspension of certificate.--A transient vendor  
4 may file a request for voluntary suspension of certificate with  
5 the department. If the department is satisfied that the  
6 provisions of this chapter have been complied with and has  
7 possession of the transient vendor's certificate, it shall  
8 return the bond posted to the transient vendor.

9 Section 748.2. Notification to department.

10 (a) General rule.--Prior to entering this Commonwealth to  
11 conduct business, a transient vendor shall notify the department  
12 in writing of the location or locations where it intends to  
13 conduct business and the date or dates on which it intends to  
14 conduct business.

15 (b) Inspection of records.--While conducting business in  
16 this Commonwealth, the transient vendor shall permit authorized  
17 employees of the department to inspect its sales records,  
18 including, but not limited to, sales receipts and inventory or  
19 price lists and to permit inspection of the tangible personal  
20 property offered for sale at retail.

21 (c) Conditions for suspension or revocation of  
22 certificate.--The department may suspend or revoke a certificate  
23 issued to a transient vendor if the transient vendor:

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

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

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

30 (4) fails to file with the department a tax return as

1 required by section 717.

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

4 Section 748.3. Seizure of property.

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

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

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

19 (2) registration by the transient vendor with the  
20 department and the posting of a bond in the amount of \$500,  
21 either immediately or within 15 days after the property is  
22 seized.

23 Section 748.4. Fines.

24 Any transient vendor conducting business in this Commonwealth  
25 while its certificate is suspended or revoked, as provided by  
26 sections 748.1(b) and 748.2(c), commits a misdemeanor of the  
27 third degree and, upon conviction, shall be sentenced to pay a  
28 fine of not more than \$2,500 for each offense.

29 Section 748.5. Transient vendors subject to chapter.

30 Except as otherwise provided, a transient vendor shall be

1 subject to the provisions of this chapter in the same manner as  
2 a vendor who maintains a place of business in this Commonwealth.  
3 Section 748.6. Promoters.

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

10 (b) License.--

11 (1) Except as otherwise provided in this chapter, the  
12 department shall, within 15 days after receipt of an  
13 application for a license, issue to the promoter without  
14 charge a license to operate such shows.

15 (2) If application for a license under this section has  
16 been timely filed and if the license has not been received by  
17 the promoter prior to the opening of the show, the  
18 authorization contained in this section with respect to the  
19 obtaining of a promoter's license shall be deemed to have  
20 been complied with, unless or until the promoter receives  
21 notice from the department denying the application for a  
22 promoter's license.

23 (c) Compliance.--Any promoter who is a vendor under the  
24 provisions of section 701 shall comply with all the provisions  
25 of this chapter applicable to vendors and with the provisions of  
26 this section applicable to promoters.

27 (d) Prohibited conduct.--No licensed promoter shall permit  
28 any person to display for sale or to sell tangible personal  
29 property or services subject to tax under section 702 at a show  
30 unless the person is licensed under section 708 and provides to

1 the promoter the information required under law.

2 (e) Penalties.--

3 (1) Any licensed promoter who:

4 (i) permits any person to display for sale or to  
5 sell tangible personal property or service without first  
6 having been licensed under section 708;

7 (ii) fails to maintain records of a show as required  
8 by law; or

9 (iii) knowingly maintains false records or fails to  
10 comply with any provision contained in this section or  
11 any regulation promulgated by the department pertaining  
12 to shows,

13 shall be subject to denial of a license or the revocation of  
14 any existing license issued pursuant to this section.

15 (2) The department may deny the promoter a license  
16 certificate to operate a show for a period of not more than  
17 six months from the date of such denial. The penalty shall be  
18 in addition to any other penalty imposed by this chapter.

19 (3) Within 20 days of notice of denial or revocation of  
20 a license by the department, the promoter may petition the  
21 department for a hearing pursuant to 2 Pa.C.S. (relating to  
22 administrative law and procedure).

23 Section 749. (Reserved).

24 Section 750. (Reserved).

25 Section 751. (Reserved).

26 Section 752. Refunds.

27 (a) General rule.--Subject to the provisions of subsection

28 (b), the department shall, pursuant to the provisions of Article  
29 XXVII of the Tax Reform Code of 1971, refund all taxes, interest  
30 and penalties paid to the Commonwealth under the provisions of

1 this chapter and to which the Commonwealth is not rightfully  
2 entitled. The refunds shall be made to the person, the person's  
3 heirs, successors, assigns or other personal representatives,  
4 who actually paid the tax.

5 (b) Exception.--No refund shall be made under this section  
6 with respect to any payment made by reason of an assessment with  
7 respect to which a taxpayer has filed a petition for  
8 reassessment pursuant to section 2702 of the Tax Reform Code of  
9 1971 to the extent that the petition has been determined  
10 adversely to the taxpayer by a decision which is no longer  
11 subject to further review or appeal.

12 (c) Construction.--Nothing contained in this section shall  
13 be deemed to prohibit a taxpayer who has filed a timely petition  
14 for reassessment from amending it to a petition for refund where  
15 the petitioner has paid the tax assessed.

16 Section 753. Refund petition.

17 (a) General rule.--Except as provided for in subsection (b)  
18 and section 756, the refund or credit of tax, interest or  
19 penalty provided for by section 752 shall be made only where the  
20 person who has actually paid the tax files a petition for refund  
21 with the department under Article XXVII of the Tax Reform Code  
22 of 1971, within the limits of section 3003.1 of the Tax Reform  
23 Code of 1971.

24 (b) Assessments.--A refund or credit of tax, interest or  
25 penalty paid as a result of an assessment made by the department  
26 under section 731 shall be made only where the person who has  
27 actually paid the tax files with the department a petition for a  
28 refund with the department under Article XXVII of the Tax Reform  
29 Code of 1971 within the time limits of section 3003.1 of the Tax  
30 Reform Code of 1971. The filing of a petition for refund under

1 the provisions of this subsection shall not affect the abatement  
2 of interest, additions or penalties to which the person may be  
3 entitled by reason of the person's payment of the assessment.

4 Section 754. (Reserved).

5 Section 755. (Reserved).

6 Section 756. Extended time for filing special petition for  
7 refund.

8 (a) General rule.--Any party to a transaction who has paid  
9 tax by reason of a transaction with respect to which the  
10 department is assessing tax against another person may, within  
11 six months after the filing by the department of the assessment  
12 against the other person, file a special petition for refund,  
13 notwithstanding the person's failure to timely file a petition  
14 pursuant to section 3003.1 of the Tax Reform Code of 1971. The  
15 provisions of Article XXVII of the Tax Reform Code of 1971 shall  
16 be applicable to the special petition for refund, except that  
17 the department need not act on the petition until there is a  
18 final determination as to the propriety of the assessment filed  
19 against the other party to the transaction. Where a petition is  
20 filed under this provision in order to take advantage of the  
21 extended period of limitations, overpayments by the petitioner  
22 shall be refunded but only to the extent of the actual tax,  
23 without consideration of interest and penalties, paid by the  
24 other party to the transaction.

25 (b) Purpose.--The purpose of this section is to avoid  
26 duplicate payment of tax where a determination is made by the  
27 department that one party to a transaction is subject to tax,  
28 and another party to the transaction has previously paid tax  
29 with respect to the transaction and, as such, this section shall  
30 be construed as extending right beyond that provided for by

1 section 753, and not to limit the other section.

2 Section 757. (Reserved).

3 Section 758. Limitation on assessment and collection.

4 The amount of the tax imposed by this chapter ~~or the Tax~~ <--  
5 ~~Reform Code of 1971~~ shall be assessed within three years after  
6 the date when the return provided for by section 717(a) or (c)  
7 is filed or the end of the year in which the tax liability  
8 arises, whichever occurs later. Any assessment may be made at  
9 any time during the period notwithstanding that the department  
10 may have made one or more previous assessments against the  
11 taxpayer for the year in question, or for any part of the year.  
12 In any case, no credit shall be given for any penalty previously  
13 assessed or paid.

14 Section 759. Failure to file return.

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

18 Section 760. False or fraudulent return.

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

22 Section 761. Extension of limitation period.

23 Notwithstanding any other provisions of this subchapter  
24 where, before the expiration of the period prescribed in that  
25 other provision for the assessment of a tax, a taxpayer has  
26 consented in writing that the period be extended, the amount of  
27 tax due may be assessed at any time within the extended period.  
28 The period so extended may be extended further by subsequent  
29 consents in writing made before the expiration of the extended  
30 period.

1 Section 762. (Reserved).

2 Section 763. (Reserved).

3 Section 764. (Reserved).

4 Section 765. ~~Interest.~~ <--

5 ~~If any amount of tax imposed by this chapter is not paid to~~  
6 ~~the department on or before the last date prescribed for~~  
7 ~~payment, interest on the amount at the rate of .75% per month~~  
8 ~~for each month, or fraction thereof, from the date, shall be~~  
9 ~~paid for the period from the last date to the date paid. The~~  
10 ~~last date prescribed for payment shall be determined under~~  
11 ~~section 722(a) or (c) without regard to any extension of time~~  
12 ~~for payment. In the case of any amount assessed as a deficiency~~  
13 ~~or as an estimated assessment, the date prescribed for payment~~  
14 ~~shall be 30 days after notice of the assessment. (RESERVED).~~ <--

15 Section 766. Additions to tax.

16 (a) Failure to file return.--In the case of failure to file  
17 any return required by section 715 on the date prescribed for  
18 the return, determined with regard to any extension of time for  
19 filing, and, in the case in which a return filed understates the  
20 true amount due by more than 50%, there shall be added to the  
21 amount of tax actually due 5% of the amount of the tax if the  
22 failure to file a proper return is for not more than one month,  
23 with an additional 5% for each additional month, or fraction  
24 thereof, during which such failure continues, not exceeding 25%  
25 in the aggregate. In every case at least \$2 shall be added.

26 (b) Addition for understatement.--There shall be added to  
27 every assessment under section 731(b) an addition equal to 5% of  
28 the amount of the understatement and no addition to the tax  
29 shall be paid under section 731(a).

30 ~~(c) Interest. If the department assesses a tax according to~~ <--

~~1 section 731(a), (b) or (c), there shall be added to the amount  
2 of the deficiency interest at the rate of .75% per month for  
3 each month, or fraction thereof, from the date prescribed by  
4 subsection (a) or section 722(c) for the payment of the tax to  
5 the date of notice of the assessment.~~

6 Section 767. Penalties.

7 (a) General rule.--The penalties, additions, interest and  
8 liabilities provided by this chapter shall be paid on notice and  
9 demand by the department, and shall be assessed and collected in  
10 the same manner as taxes. Except as otherwise provided, any  
11 reference in this chapter to tax imposed by this chapter shall  
12 be deemed also to refer to the penalties, additions, interest  
13 and liabilities provided by this chapter.

14 (b) Monetary penalty.--Any person who willfully attempts, in  
15 any manner, to evade or defeat the tax imposed by this chapter,  
16 or the payment thereof, or to assist any other person to evade  
17 or defeat the tax imposed by this chapter, or the payment  
18 thereof, or to receive a refund improperly shall, in addition to  
19 other penalties provided by law, be liable for a penalty equal  
20 to one-half of the total amount of the tax evaded.

21 (c) Burden of proof.--In any direct proceeding arising out  
22 of a petition for reassessment or refund as provided in this  
23 chapter, in which an issue of fact is raised with respect to  
24 whether a return is fraudulent or with respect to the propriety  
25 of the imposition by the department of the penalty prescribed in  
26 subsection (b), the burden of proof with respect to the issue  
27 shall be on the department.

28 Section 768. Criminal offenses.

29 (a) False returns.--Any person who with intent to defraud  
30 the Commonwealth willfully makes, or causes to be made, any

1 return required by this chapter which is false commits a  
2 misdemeanor and, upon conviction, shall be sentenced to pay a  
3 fine of not more than \$2,000 or to imprisonment not exceeding  
4 three years, or both.

5 (b) Other offenses.--Except as otherwise provided by  
6 subsection (a) and subject to the provisions of subsection (c),  
7 any person who:

8 (1) advertises or holds out or states to the public or  
9 to any purchaser or user, directly or indirectly, that the  
10 tax or any part imposed by this chapter will be absorbed by  
11 the person, or that it will not be added to the purchase  
12 price of the tangible personal property or services described  
13 in section 701(k) (2), (3), (4) ~~and (11) through (18)~~, (11), <--  
14 (12), (13), (14), (15), (16), (17), (18) AND (20) sold or, if  
15 added, that the tax or any part will be refunded, other than  
16 when the person refunds the purchase price because of the  
17 property being returned to the vendor;

18 (2) sells or leases tangible personal property or the  
19 services, the sale or use of which by the purchaser is  
20 subject to tax under this chapter, and willfully fails to  
21 collect the tax from the purchaser and timely remit the same  
22 to the department;

23 (3) willfully fails or neglects to timely file any  
24 return or report required by this chapter or, as a taxpayer,  
25 refuses to timely pay any tax, penalty or interest imposed or  
26 provided for by this chapter, or willfully fails to preserve  
27 the person's books, papers and records as directed by the  
28 department;

29 (4) refuses to permit the department or any of its  
30 authorized agents to examine the person's books, records or

1 papers, or who knowingly makes any incomplete, false or  
2 fraudulent return or report;

3 (5) does or attempts to do anything to prevent the full  
4 disclosure of the amount or character of taxable sales  
5 purchases or use made by himself or any other person;

6 (6) provides any person with a false statement as to the  
7 payment of tax with respect to particular tangible personal  
8 property or services; or

9 (7) makes, utters or issues a false or fraudulent  
10 exemption certificate;

11 commits a misdemeanor and, upon conviction shall be sentenced to  
12 pay a fine of not more than \$1,000 and costs of prosecution or  
13 to imprisonment for not more than one year, or both.

14 (c) Exceptions.--

15 (1) Any person who maintains a place of business outside  
16 this Commonwealth may absorb the tax with respect to taxable  
17 sales made in the normal course of business to customers  
18 present at that place of business without being subject to  
19 the penalty and fines.

20 (2) Advertising tax-included prices shall be  
21 permissible, if the prepaid services are sold by the service  
22 provider, for prepaid telecommunications services not  
23 evidenced by the transfer of tangible personal property or  
24 for prepaid mobile telecommunications services.

25 (d) Penalties are cumulative.--The penalties imposed by this  
26 section shall be in addition to any other penalties imposed by  
27 any provision of this chapter.

28 Section 769. Abatement of additions or penalties.

29 On the filing of a petition for reassessment or a petition  
30 for refund as provided under this chapter by a taxpayer,

1 additions or penalties imposed on the taxpayer by this chapter  
2 ~~or the Tax Reform Code of 1971~~ may be waived or abated, in whole <--  
3 or in part, where the petitioner has established that the  
4 petitioner has acted in good faith, without negligence and with  
5 no intent to defraud.

6 Section 770. Rules and regulations.

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

16 (b) Determination of purchase price.--

17 (1) In determining the purchase price of taxable sales  
18 where, because of affiliation of interests between the vendor  
19 and the purchaser or irrespective of any such affiliation, if  
20 for any other reason, the purchase price of the sale is in  
21 the opinion of the department not indicative of the true  
22 value of the article or the fair price of the article, the  
23 department shall, pursuant to uniform and equitable rules,  
24 determine the amount of constructive purchase price on the  
25 basis of which the tax shall be computed and levied.

26 (2) The rules shall provide for a constructive amount of  
27 a purchase price for each sale, which price shall equal a  
28 price for the article which would naturally and fairly be  
29 charged in an arm's-length transaction in which the element  
30 of common interests between vendor and purchaser or, if no

1 common interest exists, any other element causing a  
2 distortion of the price or value is absent.

3 (3) For the purpose of this chapter where a taxable sale  
4 occurs between a parent corporation and a subsidiary  
5 affiliate or controlled corporation of such parent, there  
6 shall be a rebuttable presumption that because of such common  
7 interest the transaction was not at arm's-length.

8 Section 771. Keeping of records.

9 (a) Persons liable for taxes.--Every person liable for any  
10 tax imposed by this chapter, or for the collection of the tax,  
11 shall keep the records, render such statements, make the returns  
12 and comply with the rules and regulations as the department may,  
13 from time to time, prescribe regarding matters pertinent to the  
14 person's business. Whenever in the judgment of the department it  
15 is necessary, it may require any person, by notice served on the  
16 person, or by regulations, to make the returns, render the  
17 statements or keep the records as the department deems  
18 sufficient to show whether the person is liable to pay or  
19 collect tax under this chapter.

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

26 (c) Nonresidents.--

27 (1) A nonresident who does business in this Commonwealth  
28 as a retail dealer shall keep adequate records of the  
29 business and of the tax due with respect to the business,  
30 which records shall at all times be retained within this

1 Commonwealth unless retention outside this Commonwealth is  
2 authorized by the department.

3 (2) No taxes collected from purchasers shall be sent  
4 outside this Commonwealth without the written consent of and  
5 in accordance with conditions prescribed by the department.

6 (3) The department may require a taxpayer who desires to  
7 retain records or tax collections outside this Commonwealth  
8 to assume reasonable out-of-State audit expenses.

9 (d) Retail dealers.--

10 (1) Any person doing business as a retail dealer who at  
11 the same time is engaged in another business which does not  
12 involve the making of sales taxable under this chapter shall  
13 keep separate books and records of the person's businesses so  
14 as to show the sales taxable under this chapter separately  
15 from the sales not taxable under this chapter.

16 (2) If the person fails to keep such separate books and  
17 records, the person shall be liable for tax at the rate  
18 designated in section 702 on the entire purchase price of  
19 sales from both or all of the person's businesses.

20 (e) Segregation of taxes required.--

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

26 (2) A vendor may apply to the department for permission  
27 to use a collection and recording procedure which will show  
28 the information as the law requires with reasonable accuracy  
29 and simplicity. The application must contain a detailed  
30 description of the procedure to be adopted.

1           (3) Permission to use the proposed procedure is not to  
2 be construed as relieving the vendor from remitting the full  
3 amount of tax collected.

4           (4) The department may revoke the permission on 30 days'  
5 notice to the vendor.

6           (5) Refusal of the department to grant permission in  
7 advance to use the procedure shall not be construed to  
8 invalidate a procedure which on examination shows the  
9 information as the law requires.

10 Section 771.1. Reports and records of promoters.

11       Every licensed promoter shall keep a record of the date and  
12 place of each show and the name, address, sales, use and hotel  
13 occupancy license number of every person whom the licensed  
14 promoter permits to display for sale or to sell tangible  
15 personal property or services subject to tax under section 702  
16 at the show. The records shall be open for inspection and  
17 examination at any reasonable time by the department or a duly  
18 authorized representative, and the records shall, unless the  
19 department consents in writing to an earlier destruction, be  
20 preserved for three years after the date the report was filed or  
21 the date it was due, whichever occurs later, except that the  
22 department may by regulation require that they be kept for a  
23 longer period of time.

24 Section 772. Examinations.

25       (a) Power of department.--The department or any of its  
26 authorized agents may examine the books, papers and records of  
27 any taxpayer in order to verify the accuracy and completeness of  
28 any return made or if no return was made, to ascertain and  
29 assess the tax imposed by this chapter. The department may  
30 require the preservation of all such books, papers and records

1 for any period deemed proper by it but not to exceed three years  
2 from the end of the calendar year to which the records relate.

3 (b) Duty of taxpayers.--Every taxpayer shall give to the  
4 department, or its agent, the means, facilities and opportunity  
5 for the examinations and investigation.

6 (c) Other powers of department.--

7 (1) The department is further authorized to examine any  
8 person, under oath, concerning taxable sales or use by any  
9 taxpayer or concerning any other matter relating to the  
10 enforcement or administration of this chapter, and to this  
11 end may compel the production of books, papers and records  
12 and the attendance of all persons whether as parties or  
13 witnesses whom it believes to have knowledge of such matters.

14 (2) The procedure for such hearings or examinations  
15 shall be the same as that provided by The Fiscal Code  
16 relating to inquisitorial powers of fiscal officers.

17 Section 773. Records and examinations of delivery agents.

18 Every agent for the purpose of delivery of goods shipped into  
19 this Commonwealth by a nonresident, including, but not limited  
20 to, a common carrier, shall maintain adequate records of such  
21 deliveries pursuant to rules and regulations adopted by the  
22 department and shall make the records available to the  
23 department upon request after due notice.

24 Section 774. Unauthorized disclosure.

25 Any information gained by the department as a result of any  
26 return, examination, investigation, hearing or verification  
27 required or authorized by this chapter shall be confidential,  
28 except for official purposes and except in accordance with  
29 proper judicial order or as otherwise provided by law, and any  
30 person unlawfully divulging such information commits a

1 misdemeanor and, upon conviction, shall be sentenced to pay a  
2 fine of not more than \$1,000 and costs of prosecution or to  
3 imprisonment for not more than one year, or both.

4 Section 775. Cooperation with other governments.

5 Notwithstanding the provisions of section 774, the department  
6 may permit the Commissioner of Internal Revenue of the United  
7 States, or the proper officer of any state, or the authorized  
8 representative of either such officer, to inspect the tax  
9 returns of any taxpayer, or may furnish to the officer or to the  
10 officer's authorized representative an abstract of the return of  
11 any taxpayer, or supply the officer or the authorized  
12 representative with information concerning any item contained in  
13 any return or disclosed by the report of any examination or  
14 investigation of the return of any taxpayer. This permission  
15 shall be granted only if the statutes of the United States or of  
16 such other state, as the case may be, grant substantially  
17 similar privileges to the proper officer of the Commonwealth  
18 charged with the administration of this chapter.

19 Section 776. Interstate compacts.

20 (a) General rule.--The Governor, or the Governor's  
21 authorized representative, may confer with the Governor and the  
22 authorized representatives of other states with respect to  
23 reciprocal use tax collection between the Commonwealth and such  
24 other states.

25 (b) Other powers.--The Governor, or the Governor's  
26 authorized representative, may join with the authorities of  
27 other states to conduct joint investigations, to exchange  
28 information, hold joint hearings and enter into compacts or  
29 interstate agreements with such other states to accomplish  
30 uniform reciprocal use tax collections between those states who

1 are parties to any compact or interstate agreement and the  
2 Commonwealth.

3 Section 777. Bonds.

4 (a) Procedure.--

5 (1) Whenever the department, in its discretion, deems it  
6 necessary to protect the revenues to be obtained under the  
7 provisions of this chapter, it may require any nonresident  
8 natural person or any foreign corporation, association,  
9 fiduciary, partnership or other entity, not authorized to do  
10 in this Commonwealth or not having an established place of  
11 business in this Commonwealth and subject to the tax imposed  
12 by section 702, to file a bond issued by a surety company  
13 authorized to do business in this Commonwealth and approved  
14 by the Insurance Commissioner as to solvency and  
15 responsibility, in such amounts as it may fix, to secure the  
16 payment of any tax or penalties due, or which may become due,  
17 from a natural person or corporation.

18 (2) In order to protect the revenues to be obtained  
19 under the provisions of this chapter, the department shall  
20 require any nonresident natural person or any foreign  
21 corporation, association, fiduciary, partnership or entity,  
22 who or which is a building contractor, or who or which is a  
23 supplier delivering building materials for work in this  
24 Commonwealth and is not authorized to do business in this  
25 Commonwealth or does not have an established place of  
26 business in this Commonwealth and is subject to the tax  
27 imposed by section 702, to file a bond issued by a surety  
28 company authorized to do business in this Commonwealth and  
29 approved by the Insurance Commissioner as to solvency and  
30 responsibility, in the amounts as it may fix, to secure the

1 payments of any tax or penalties due, or which may become  
2 due, from a natural person, corporation or other entity.

3 (3) The department may also require a bond of any person  
4 petitioning the department for reassessment, in the case of  
5 any assessment over \$500 or where it is of the opinion that  
6 the ultimate collection is in jeopardy.

7 (4) (i) The department may, for a period of three  
8 years, require a bond of any person who has on three or  
9 more occasions within a 12-month period either filed a  
10 return or made payment to the department more than 30  
11 days late.

12 (ii) If the department determines that a taxpayer is  
13 to file a bond, the department shall give notice to the  
14 taxpayer to that effect, specifying the amount of the  
15 bond required.

16 (iii) The taxpayer shall file a bond within five  
17 days after the giving of the notice by the department  
18 unless, within the five-day period, the taxpayer requests  
19 in writing a hearing before the secretary or the  
20 secretary's representative at which hearing the  
21 necessity, propriety and amount of the bond shall be  
22 determined by the secretary or a representative. The  
23 determination shall be final and shall be complied within  
24 15 days after notice is mailed to the taxpayer.

25 (b) Alternative security.--

26 (1) In lieu of the bond required by this section,  
27 securities approved by the department, or cash in the amount  
28 as it may prescribe, may be deposited.

29 (2) Such securities or cash shall be kept in the custody  
30 of the department, who may, at any time, without notice to

1 the depositor, apply them to any tax and/or interest or  
2 penalties due, and for that purpose the securities may be  
3 sold by the department, at public or private sale, on five  
4 days' written notice to the depositor.

5 (c) Lien may be filed.--

6 (1) The department may file a lien pursuant to section  
7 742 against any taxpayer who fails to file a bond when  
8 required to do so under this section.

9 (2) All funds received on execution of the judgment on  
10 the lien shall be refunded to the taxpayer with 3% interest  
11 should a final determination be made that the taxpayer does  
12 not owe any payment to the department.

13 SECTION 778. REMOTE SALES REPORTS. <--

14 (A) DUTY TO SUBMIT.--WITHIN 90 DAYS OF THE PUBLICATION OF  
15 THE NOTICE UNDER SUBSECTION (B), THE INDEPENDENT FISCAL OFFICE,  
16 IN CONJUNCTION WITH THE DEPARTMENT, SHALL SUBMIT A DETAILED  
17 REPORT TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE  
18 APPROPRIATIONS COMMITTEE OF THE SENATE, THE CHAIRMAN AND  
19 MINORITY CHAIRMAN OF THE FINANCE COMMITTEE OF THE SENATE, THE  
20 CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE  
21 OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRMAN AND MINORITY  
22 CHAIRMAN OF THE FINANCE COMMITTEE OF THE HOUSE OF  
23 REPRESENTATIVES OUTLINING THE PLANS CONCERNING THE  
24 IMPLEMENTATION OF THE LEGISLATION REFERENCED IN SUBSECTION (B)  
25 OR OTHER SUBSTANTIALLY SIMILAR FEDERAL LEGISLATION, WHICH WOULD  
26 GRANT THE COMMONWEALTH THE AUTHORITY TO IMPOSE AND COLLECT THE  
27 TAX UNDER THIS CHAPTER DUE ON SALES FROM REMOTE SELLERS. THE  
28 REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

29 (1) THE AMOUNT OF STATE FUNDS NECESSARY TO IMPLEMENT THE  
30 LEGISLATION REFERENCED IN SUBSECTION (B) OR OTHER

1 SUBSTANTIALLY SIMILAR LEGISLATION. THE AMOUNT NEEDED SHALL BE  
2 ITEMIZED AND ALL COSTS, INCLUDING PERSONNEL, OFFICE EXPENSES  
3 AND OTHER RELATED COSTS, SHALL BE INCLUDED.

4 (2) THE AMOUNT OF STATE TAX REVENUE EXPECTED TO RESULT  
5 FROM THE IMPLEMENTATION OF THE LEGISLATION REFERENCED IN  
6 SUBSECTION (B) OR OTHER SUBSTANTIALLY SIMILAR LEGISLATION FOR  
7 THE FISCAL YEAR AND FOR FIVE FISCAL YEARS THEREAFTER.

8 (3) THE SOURCE OF FUNDS WHICH WILL BE UTILIZED TO PAY  
9 FOR THE LEGISLATION REFERENCED IN SUBSECTION (B) OR OTHER  
10 SUBSTANTIALLY SIMILAR LEGISLATION IMPLEMENTATION PROGRAM.

11 (4) THE LEGAL AND PRACTICAL ISSUES CONCERNING THE  
12 PROPRIETY OF COLLECTING AND ENFORCING THE TAX IMPOSED UNDER  
13 THIS CHAPTER FROM REMOTE SELLERS.

14 (5) THE NUMBER OF OTHER STATES WHICH HAVE A SIMILAR LAW  
15 IN EFFECT AND THE SUCCESS OR DEFICIENCIES OF THE LAW.

16 (6) PROPOSED DRAFT LEGISLATION CONCERNING THE  
17 IMPLEMENTATION OF THE LEGISLATION REFERENCED IN SUBSECTION  
18 (B) OR OTHER SUBSTANTIALLY SIMILAR LEGISLATION.

19 (7) A DETAILED TIMETABLE ON WHEN SEPARATE TASKS MUST BE  
20 COMPLETED FOR FULL IMPLEMENTATION ON AN ESTIMATED START DATE.

21 (B) NOTICE IN THE PENNSYLVANIA BULLETIN.--THE SECRETARY  
22 SHALL PUBLISH NOTICE IN THE PENNSYLVANIA BULLETIN THAT FEDERAL  
23 LEGISLATION RELATING TO REMOTE SELLERS HAS BEEN ENACTED.

#### 24 SUBCHAPTER G

#### 25 FUNDING PROVISIONS

26 Section 780. (Reserved).

27 Section 781. Appropriation for refunds.

28 So much of the proceeds of the tax imposed by this chapter as  
29 shall be necessary for the payment of refunds, enforcement or  
30 administration under this chapter is hereby appropriated for

1 those purposes.

2 Section 781.1. Construction.

3 To the extent that the language of this chapter is identical  
4 to that of equivalent provisions in the former act of March 6,  
5 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for  
6 Education, or Article II of the Tax Reform Code of 1971, that  
7 language shall be deemed a reenactment of such identical  
8 provisions.

9 Section 782. Transfers to Education Stabilization Fund.

10 ~~(a) Legislative intent. It is the intent of the General <--~~  
11 ~~Assembly to increase the rate of the current sales and use tax~~  
12 ~~and broaden the sales and use tax base in order to provide funds~~  
13 ~~for the operating expenses of school districts and as a means to~~  
14 ~~abolish the school property tax.~~

15 ~~(b)~~ (A) Deposit of sales and use tax AND HOTEL OCCUPANCY TAX <--  
16 collected.--The secretary shall deposit into the Education  
17 Stabilization Fund revenues received on or after January 1, 2014<--  
18 2015, regardless of the transaction date, that equal the portion <--  
19 of the tax imposed by this chapter as follows:

20 (1) Except as otherwise provided in ~~paragraphs (2) and <--~~  
21 ~~(3), 1% SECTION 2301 OF THE TAX REFORM CODE OF 1971 PROVIDING <--~~  
22 FOR THE ESTABLISHMENT OF THE PUBLIC TRANSPORTATION ASSISTANCE  
23 FUND, 39.6% of the tax collected on the sales at retail and  
24 use of tangible personal property and services as provided in  
25 ~~section 702 SUBCHAPTER B. <--~~

26 ~~(2) All of the tax collected on the sale at retail of <--~~  
27 ~~services under section 702, including those services subject~~  
28 ~~to the tax as provided under sections 701(k)(4) and (o)(4)~~  
29 ~~and 704(51).~~

30 ~~(3) All of the tax collected on expanded sales and uses.~~

1       ~~(c) Definition. For purposes of this section, "expanded~~  
2 ~~sales and uses" means:~~

3           ~~(1) The sale at retail or use of disposable diapers;~~  
4 ~~premoistened wipes; incontinence products; colostomy~~  
5 ~~deodorants; toilet paper; sanitary napkins, tampons or~~  
6 ~~similar items used for feminine hygiene; or toothpaste,~~  
7 ~~toothbrushes or dental floss.~~

8           ~~(2) The sale at retail or use of nonprescription~~  
9 ~~medicines.~~

10          ~~(3) The sale at retail or use of all vesture, wearing~~  
11 ~~apparel, raiments, garments, footwear and other articles of~~  
12 ~~clothing, except as excluded from the tax under section~~  
13 ~~704(26).~~

14          ~~(4) The sale at retail or use of food and beverages for~~  
15 ~~human consumption, except as excluded from the tax under~~  
16 ~~section 704(29).~~

17          ~~(5) The sale at retail or use of newspapers. For~~  
18 ~~purposes of this section, the term "newspaper" shall mean a~~  
19 ~~"legal newspaper" or a publication containing matters of~~  
20 ~~general interest and reports of current events which~~  
21 ~~qualifies as a "newspaper of general circulation" qualified~~  
22 ~~to carry a "legal advertisement" as those terms are defined~~  
23 ~~in 45 Pa.C.S. § 101 (relating to definitions), not including~~  
24 ~~magazines. The term "newspaper" also includes any printed~~  
25 ~~advertising materials circulated with such newspaper~~  
26 ~~regardless of where or by whom such printed advertising~~  
27 ~~material was produced.~~

28          ~~(6) The sale at retail or use of caskets and burial~~  
29 ~~vaults for human remains and markers and tombstones for human~~  
30 ~~graves.~~

1           ~~(7) The sale at retail or use of flags of the United~~  
2           ~~States and the Commonwealth of Pennsylvania.~~

3           ~~(8) The sale at retail or use of textbooks for use in~~  
4           ~~schools, colleges and universities, either public or private,~~  
5           ~~when purchased in behalf of or through such schools, colleges~~  
6           ~~or universities provided such institutions of learning are~~  
7           ~~recognized by the Department of Education.~~

8           ~~(9) The sale at retail or use of motion picture film~~  
9           ~~rented or licensed from a distributor for the purpose of~~  
10          ~~commercial exhibition.~~

11          ~~(10) The sale at retail or use of mail order catalogs~~  
12          ~~and direct mail advertising literature or materials,~~  
13          ~~including electoral literature or materials, such as~~  
14          ~~envelopes, address labels and a one time license to use a~~  
15          ~~list of names and mailing addresses for each delivery of~~  
16          ~~direct mail advertising literature or materials, including~~  
17          ~~electoral literature or materials, through the United States~~  
18          ~~Postal Service.~~

19          ~~(11) The sale at retail of horses, if at the time of~~  
20          ~~purchase, the seller is directed to ship or deliver the horse~~  
21          ~~to an out of State location, whether or not the charges for~~  
22          ~~shipment are paid for by the seller or the purchaser.~~

23          ~~(12) The sale at retail of supplies and materials to~~  
24          ~~tourist promotion agencies, which receive grants from the~~  
25          ~~Commonwealth, for distribution to the public as promotional~~  
26          ~~material or the use of such supplies and materials by said~~  
27          ~~agencies for said purposes.~~

28          ~~(13) The sale at retail or use of materials used in the~~  
29          ~~construction and erection of objects purchased by not for~~  
30          ~~profit organizations for purposes of commemoration and~~

1 ~~memorialization of historical events, provided that the~~  
2 ~~object is erected upon publicly owned property or property to~~  
3 ~~be conveyed to a public entity upon the commemoration or~~  
4 ~~memorialization of the historical event.~~

5 ~~(14) The sale at retail or use of candy or gum~~  
6 ~~regardless of the location from which the candy or gum is~~  
7 ~~sold.~~

8 ~~(15) The sale at retail or use of horses to be used~~  
9 ~~exclusively for commercial racing activities and the sale at~~  
10 ~~retail and use of feed, bedding, grooming supplies, riding~~  
11 ~~tack, farrier services, portable stalls and sulkies for~~  
12 ~~horses used exclusively for commercial racing activities.~~

13 ~~(16) The sale at retail to or use by a construction~~  
14 ~~contractor of building machinery and equipment and services~~  
15 ~~thereto that are:~~

16 ~~(i) transferred pursuant to a construction contract~~  
17 ~~for any charitable organization, volunteer firemen's~~  
18 ~~organization, volunteer firefighters' relief association,~~  
19 ~~nonprofit educational institution or religious~~  
20 ~~organization for religious purposes, provided that the~~  
21 ~~building machinery and equipment and services thereto are~~  
22 ~~not used in any unrelated trade or business; or~~

23 ~~(ii) transferred to the United States or the~~  
24 ~~Commonwealth or its instrumentalities or political~~  
25 ~~subdivisions.~~

26 ~~(17) The sale or use of used prebuilt housing.~~

27 ~~(18) The sale at retail to or use of food and~~  
28 ~~nonalcoholic beverages by an airline which will transfer the~~  
29 ~~food or nonalcoholic beverages to passengers in connection~~  
30 ~~with the rendering of the airline service.~~



1 and collect any real property tax under the Public School  
2 Code of 1949, or any other act shall expire, subject to the  
3 provisions of section 1102, January 1, ~~2014~~ 2015. <--

4 (2) The authority of a city of the first class to impose  
5 or continue to provide for the imposition or continuation of  
6 ~~any tax, including, but not limited to,~~ the real property <--  
7 tax, for the use of a school district of the first class  
8 shall expire in accordance with section 1102(b).

9 (b) Collection of certain taxes unaffected.--The provisions  
10 of this section or any other provision of this act shall not  
11 prevent or interfere with any action of any school district to  
12 collect any tax owed by any taxpayer prior to the repeal of any  
13 law authorizing such tax after such law is repealed pursuant to  
14 this act.

15 (c) Limitations on adoption of personal income taxes and  
16 earned income taxes authorized under Chapter 3.--A school  
17 district that adopts a personal income tax pursuant to Chapter 3  
18 may not adopt an earned income tax. A school district that  
19 adopts an earned income tax under Chapter 3 may not adopt a  
20 personal income tax.

21 Section 1102. Transitional taxes.

22 (a) Transitional taxes for school districts other than  
23 school districts of the first class.--Notwithstanding any other  
24 provision of the Public School Code of 1949 or any other law to  
25 the contrary:

26 (1) Any school district, other than a school district of  
27 the first class, may continue to levy, assess and collect a  
28 real property tax ~~for fiscal year 2013-2014.~~ IN EXISTENCE ON <--  
29 JUNE 30, 2014, AT THE RATES IN EFFECT ON THAT DATE FOR THE  
30 USE OF A SCHOOL DISTRICT FOR FISCAL YEAR 2014-2015.

1           (2) ~~For~~ EXCEPT AS PROVIDED IN SECTION 1101(B), FOR all <--  
2           fiscal years beginning after June 30, ~~2014~~ 2015, no school <--  
3           district shall have any power or authority to levy, assess  
4           and collect any real property tax, except as necessary to  
5           fund the annual debt service payments for its outstanding  
6           debt in existence on December 31, ~~2012~~ 2013. <--

7           (b) Transitional taxes for school districts of the first  
8           class.--Notwithstanding any other provision of the Public School  
9           Code of 1949 or any other law to the contrary:

10           (1) Any school district of the first class and city of  
11           the first class may continue to levy, assess and collect a  
12           real property tax ~~and all other taxes~~ in existence on July <--  
13           31, ~~2013~~ 2014 at the rates in effect on that date for the use <--  
14           of a coterminous school district of the first class for  
15           fiscal year ~~2013-2014~~. ~~The authority to levy, assess and~~ <--  
16           ~~collect such taxes for the use of coterminous school~~  
17           ~~districts shall expire at midnight on December 31, 2013.~~  
18           2014-2015. <--

19           (2) ~~For~~ EXCEPT AS PROVIDED IN SECTION 1101(B), FOR all <--  
20           fiscal years beginning after June 30, 2013, no city of the  
21           first class shall have any power or authority to levy, assess  
22           and collect ~~any of the taxes identified under paragraph (1) A~~ <--  
23           REAL PROPERTY TAX for school purposes, except as necessary to  
24           fund the annual debt service payments for its outstanding  
25           debt in existence on December 31, ~~2012~~ 2013. <--

26           Section 1103. Consideration of State appropriations or  
27           reimbursements.

28           The personal income or earned income tax levied shall not be  
29           invalidated by reason of the fact that in determining the amount  
30           to be raised by such tax no deduction was made for

1 appropriations or reimbursements paid or payable by the  
2 Commonwealth to the school district.

3 Section 1104. Taxes for cities and school districts of the  
4 first class.

5 Notwithstanding any other provision of the Public School Code  
6 of 1949 or any other law to the contrary, nothing in this act  
7 shall be construed to limit or impair a city of the first class  
8 from levying, assessing or collecting any tax for municipal  
9 purposes or from increasing the millage for real estate taxes or  
10 revenues if the revenues derived from the real property tax are  
11 used solely for municipal purposes.

12 CHAPTER 12

13 INDEBTEDNESS

14 Section 1201. ~~Expiration of authority to issue debt.~~ <--

15 ~~No school district, including a school district of the first~~  
16 ~~class, shall incur any electoral debt, lease rental debt or~~  
17 ~~nonelectoral debt under 53 Pa.C.S. Pt. VII Subpt. B after the~~  
18 ~~effective date of this section unless such debt is authorized~~  
19 ~~under Chapter 3 or any other law.~~ (RESERVED). <--

20 Section 1202. Notices and reporting by school districts of debt  
21 outstanding.

22 (a) Duties.--

23 (1) Each school district, including a school district of  
24 the first class, shall identify the outstanding amount of all  
25 electoral debt, lease rental debt or nonelectoral debt  
26 incurred as of ~~December 31, 2012~~ SEPTEMBER 15, 2014. <--

27 (2) On or before ~~September 30, 2013~~ DECEMBER 31, 2014, <--  
28 each school district, including a school district of the  
29 first class, shall certify and report to the Department of  
30 Revenue the outstanding amount of all electoral debt, lease

1 rental debt or nonelectoral debt incurred as of ~~December 31,~~ <--  
2 ~~2012,~~ SEPTEMBER 15, 2014, together with any information <--  
3 requested by the department in order for the Commonwealth to  
4 comply with requirements of this section.

5 (b) Audit by Department of Revenue.--

6 (1) The Department of Revenue shall audit each report  
7 submitted under subsection (a) and shall certify the amount  
8 of each report and the total aggregate amount of all reports  
9 to the State Treasurer on or before March 31, ~~2014~~ 2015. <--

10 (2) If the Department of Revenue disputes all or any  
11 portion of a report submitted under subsection (a), the  
12 department shall not include such amount in the certification  
13 to the State Treasurer and shall notify the school district  
14 in writing of the exclusion from the certification.

15 CHAPTER 13

16 FUNDING PROVISIONS

17 Section 1301. 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 "Base revenue." The money a school district receives from  
22 school property taxes during fiscal year ~~2013-2014~~ 2014-2015 <--  
23 less the amount necessary to fund the annual debt service  
24 payments for its outstanding debt in existence on December 31,  
25 ~~2012~~ 2013. <--

26 "Cost of living factor." The lesser of:

27 (1) the ~~average annual~~ percentage increase in the <--  
28 ~~Consumer Price Index for All Urban Consumers (CPI-U) for the~~ <--  
29 ~~Pennsylvania, New Jersey and Maryland area for the preceding~~  
30 STATEWIDE AVERAGE WEEKLY WAGE, AS DEFINED IN 53 PA.C.S. § <--

1 8401 (RELATING TO DEFINITIONS), FROM THE PREVIOUS calendar  
2 year; or

3 (2) the AVERAGE OF THE percentage increase in sales and <--  
4 use tax collected under section 702 AND THE TAX UPON EACH <--  
5 DOLLAR INCOME COLLECTED UNDER SECTION 401(B) (1) AND THE  
6 PERCENTAGE INCREASE OF THE HOTEL OCCUPANCY TAX COLLECTED  
7 UNDER SECTION 710 from the previous calendar year.

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

10 "Fund." The Education Stabilization Fund established in  
11 section 1302.

12 Section 1302. Education Stabilization Fund.

13 (a) Establishment.--The Education Stabilization Fund is  
14 established as a separate fund in the State Treasury.

15 (b) Sources.--The following are the sources of the fund:

16 (1) Money collected by the department under:

17 (i) section 401; or

18 (ii) Chapter 7.

19 (2) All revenue transferred to or received by the

20 ~~property tax relief fund under:~~ PROPERTY TAX RELIEF FUND, <--

21 EXCEPT FOR AMOUNTS NEEDED TO PROVIDE TAX RELIEF IN CITIES OF

22 THE FIRST CLASS AND PROPERTY TAX AND RENT REBATE ASSISTANCE

23 TO SENIOR CITIZENS AS PROVIDED IN CHAPTERS 5, 7 AND 13 OF THE

24 ACT OF JUNE 27, 2006 (1ST SP.SESS., P.L.1873, NO.1), KNOWN AS

25 THE TAXPAYER RELIEF ACT:

26 (i) 4 Pa.C.S. § 1408(e) (relating to transfers from  
27 State Gaming Fund); and

28 (ii) 4 Pa.C.S. § 1409 (relating to Property Tax  
29 Relief Fund).

30 (3) Appropriations.

1 (4) Return on money in the fund.

2 (c) Use.--The department shall use the fund to make  
3 disbursements under section 1303.

4 (d) Continuing appropriation.--The money of the fund is  
5 hereby continuously appropriated to the department as provided  
6 in this act. This appropriation shall not lapse at the end of  
7 any fiscal year.

8 Section 1303. Standard disbursements to school districts from  
9 Education Stabilization Fund.

10 (a) General rule.--In fiscal year ~~2014-2015~~ 2015-2016, the <--  
11 department shall make disbursements to each school district as  
12 follows:

13 (1) Ascertain base revenue.

14 (2) Multiply:

15 (i) the amount ascertained under paragraph (1); by

16 (ii) the cost of living factor.

17 (3) Divide:

18 (i) the product under paragraph (2); by

19 (ii) four.

20 (4) Each quarter, disburse the quotient under paragraph  
21 (3).

22 (b) Annual adjustment.--In fiscal year ~~2015-2016~~ 2016-2017 <--  
23 and each fiscal year thereafter, the department shall make  
24 disbursements to each school district as follows:

25 (1) Take the amount received in the prior fiscal year  
26 under this section.

27 (2) Multiply:

28 (i) the amount ascertained under paragraph (1); by

29 (ii) the cost of living factor.

30 (3) Divide:

- 1 (i) the product under paragraph (2); by  
2 (ii) four.  
3 (4) Each quarter, disburse the quotient under paragraph  
4 (3).

5 CHAPTER 15

6 MISCELLANEOUS PROVISIONS

7 Section 1501. Transitional provision.

8 (a) Sales and use tax.--Notwithstanding the repeal of  
9 Article II of the Tax Reform Code of 1971, under section ~~1504~~ <--  
10 1505, the department shall have the authority to enforce the <--  
11 collection of taxes imposed for transactions that occur prior to  
12 the effective date of this section under former Article II of  
13 the Tax Reform Code of 1971. The taxes collected ON OR after <--  
14 January 1, ~~2014~~ 2015, regardless of the transaction date, shall <--  
15 be deposited as provided in section 782.

16 (b) Other taxes.--Notwithstanding the repeal of any  
17 provision of the Public School Code of 1949 or of any other law  
18 authorizing school districts to impose taxes, a governing body  
19 shall have the authority to enforce, after the effective date of  
20 the repeal, the collection of taxes levied and assessed under  
21 those former provisions prior to the effective date of the  
22 repeal under section ~~1504~~ 1505. <--

23 SECTION 1502. REGULATIONS. <--

24 THE DEPARTMENT SHALL HAVE JURISDICTION OVER AND SHALL  
25 PROMULGATE REGULATIONS AS NECESSARY FOR THE PROPER  
26 ADMINISTRATION OF THIS ACT.

27 Section ~~1502~~ 1503. Construction. <--

28 Any and all references in any other act to Article II or any  
29 provision in Article II of the Tax Reform Code of 1971 shall be  
30 deemed a reference to Chapter 7 of this act or the corresponding

1 provisions in Chapter 7 of this act.

2 Section ~~1503~~ 1504. Severability. <--

3 The provisions of this act are severable as follows:

4 (1) If any provision of this act is held invalid, the  
5 invalidity shall not affect other provisions or applications  
6 of this act which can be given effect without the invalid  
7 provision or application.

8 (2) Under no circumstances shall the invalidity of any  
9 provision or application of this act affect the validity of  
10 any provision in this act that abolishes the power of the  
11 governing body and any school district and city of the first  
12 class or any other political subdivision to levy, assess or  
13 collect a tax on any interest in real property for school  
14 purposes.

15 Section ~~1504~~ 1505. Repeals. <--

16 (a) Intent.--The General Assembly declares that the repeals  
17 under subsection (b) are necessary to effectuate this act.

18 (b) Provisions.--The following acts and parts of acts are  
19 repealed:

20 (1) Section 631 of the act of March 10, 1949 (P.L.30,  
21 No.14), known as the Public School Code of 1949, is repealed.

22 (2) Any provision of the Public School Code of 1949 and  
23 of any other law relating to the authority of any school  
24 district to levy, assess and collect any tax on real property  
25 and the power of any city of the first class to levy, assess  
26 and collect any tax real property for school purposes is  
27 repealed upon the expiration of the respective schedule  
28 prescribed in sections 1101 and 1102.

29 (3) Any provision of the act of the Public School Code  
30 of 1949 and any other law relating to debt is repealed to the

1 extent that it is inconsistent with this act.

2 (4) Any provision of the Public School Code of 1949 and  
3 any home rule charter adopted pursuant thereto is repealed  
4 insofar as it is inconsistent with this act.

5 (5) Any provision of the act of August 9, 1963 (P.L.643,  
6 No.341), known as the First Class City Public Education Home  
7 Rule Act, and any home rule school district charter adopted  
8 pursuant thereto is repealed insofar as it is inconsistent  
9 with this act.

10 (6) Article II of the act of March 4, 1971 (P.L.6,  
11 No.2), known as the Tax Reform Code of 1971, is repealed.

12 (7) All acts and parts of acts that are inconsistent  
13 with this act are repealed to the extent of such  
14 inconsistency.

15 Section ~~1505~~ 1506. Applicability. <--

16 ~~Section 1504(b)(6) and~~ Chapter 7 AND SECTION 1505(B)(6) shall <--  
17 apply January 1, ~~2014~~ 2015. <--

18 Section ~~1506~~ 1507. Effective date. <--

19 This act shall take effect as follows:

20 ~~(1) Section 1504(b)(2) and (7) and Chapters 3 and 4~~ <--  
21 ~~shall take effect January 1, 2014.~~

22 (1) CHAPTERS 3 AND 4 AND SECTION 1505(B)(2) SHALL TAKE <--  
23 EFFECT JANUARY 1, 2015.

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