AN ACT

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

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

Section 1. Section 201(k)(8) and (o)(4)(B) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended April 23, 1998 (P.L.239, No.45), are amended to read:

Section 201. Definitions.--The following words, terms and phrases when used in this Article II shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:
(k) "Sale at retail."

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

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

(A) The manufacture of tangible personal property.

(B) Farming, dairying, agriculture, timbering, horticulture or floriculture when engaged in as a business enterprise. The term "farming" shall include the propagation and raising of ranch raised fur-bearing animals and the propagation of game birds for commercial purposes by holders of propagation permits issued under 34 Pa.C.S. (relating to game) and the propagation and raising of horses to be used exclusively for commercial racing activities. The term "timbering" shall include:

(1) The business of producing or harvesting trees from forests, woodlots or tree farms for the purpose of the commercial production of wood, paper or energy products derived from wood.

(2) All operations prior to the transport of the harvested product necessary for the removal of timber or forest products.
from the site, in-field processing of trees into logs or chips,
complying with environmental protection and safety requirements
applicable to the harvest of forest products, creating access to
the harvest site, loading of forest products onto highway
vehicles for transport to storage or processing facilities and
postharvest site reclamation, including those activities
necessary to improve timber growth or ensure natural or direct
reforestation of the site.

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

(D) Processing as defined in clause (d) of this section.
The exclusions provided in paragraphs (A), (B), (C) and (D)
shall not apply to any vehicle required to be registered under
The Vehicle Code, except those vehicles used directly by a
public utility engaged in business as a common carrier; to
maintenance facilities; or to materials, supplies or equipment
to be used or consumed in the construction, reconstruction,
remodeling, repair or maintenance of real estate other than
directly used machinery, equipment, parts or foundations
therefore that may be affixed to such real estate.

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

The exclusion provided in paragraph (C) shall not apply to
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(i) construction materials, supplies or equipment used to 
construct, reconstruct, remodel, repair or maintain facilities 
not used directly by the purchaser in the production, delivering 
or rendition of public utility service, (ii) construction 
materials, supplies or equipment used to construct, reconstruct, 
remodel, repair or maintain a building, road or similar 
structure, or (iii) tools and equipment used but not installed 
in the maintenance of facilities used directly in the 
production, delivering or rendition of a public utility service. 
The exclusions provided in paragraphs (A), (B), (C) and (D) 
shall not apply to the services enumerated in clauses (k)(11) 
through (18) and (w) through (kk), except that the exclusion 
provided in this subclause for farming, dairying and agriculture 
shall apply to the service enumerated in clause (z). 

* * *

(o) "Use."

* * *

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

* * *

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

(i) The manufacture of tangible personal property.

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

(1) The business of producing or harvesting trees from forests, woodlots or tree farms for the purpose of the commercial production of wood, paper or energy products derived from wood.

(2) All operations prior to the transport of the harvested product necessary for the removal of timber or forest products from the site, in-field processing of trees into logs or chips, complying with environmental protection and safety requirements applicable to the harvest of forest products, creating access to the harvest site, loading of forest products onto highway...
vehicles for transport to storage or processing facilities and 
postharvest site reclamation, including those activities 
necessary to improve timber growth or ensure natural or direct 
reforestation of the site.

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

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

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

The exclusion provided in subparagraph (iii) shall not apply 
to (A) construction materials, supplies or equipment used to 
construct, reconstruct, remodel, repair or maintain facilities 
not used directly by the purchaser in the production, delivering 
or rendition of public utility service or (B) tools and
equipment used but not installed in the maintenance of
facilities used directly in the production, delivering or
rendition of a public utility service.

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

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Section 2. This act shall take effect in 60 days.