

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2487 Session of
1990

INTRODUCED BY EVANS, APRIL 24, 1990

REFERRED TO COMMITTEE ON URBAN AFFAIRS, APRIL 24, 1990

AN ACT

1 Authorizing certain counties within this Commonwealth to levy,
2 assess and collect a tax upon each separate sale at retail of
3 tangible personal property or services; a tax upon the use
4 within those counties of tangible personal property purchased
5 at retail and on services purchased at retail; and imposing
6 penalties.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the Optional
11 County Sales Tax Act.

12 Section 2. Definitions.

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

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

17 "Municipality." A city, incorporated town, borough or
18 township.

19 "Per capita market value." The total market value of all

1 real property divided by population as determined by the last
2 decennial census.

3 "Weighted tax revenues." The total tax revenues from all
4 sources of a municipality as reported to the Department of
5 Revenue divided by the ratio of its per capita market value to
6 the per capita market value of its county.

7 Section 3. Optional county sales and use tax.

8 (a) Sales tax.--The board of commissioners in any county,
9 any portion of which lies within a 20-mile radius of any portion
10 of any city of the first class, may levy, assess and collect,
11 upon each separate sale at retail of tangible personal property
12 or services, a tax on the purchase price. The tax shall be
13 collected by the vendor from the purchaser and shall be paid
14 over to the Commonwealth as provided in regulations.

15 (b) Use tax.--In any county which imposes a tax authorized
16 in subsection (a), there shall be levied, assessed and
17 collected, upon the use within the county of tangible personal
18 property purchased at retail and on services purchased at
19 retail, a tax at the same rate as imposed pursuant to subsection
20 (a) on the purchase price. The tax shall be paid to the
21 Commonwealth by the person who makes such use as provided in
22 regulations. The use tax shall not be paid to the Commonwealth
23 by any person who has paid any county tax imposed under this
24 subsection equal to or greater than the tax imposed pursuant to
25 either subsection (a) or this subsection.

26 (c) Hotel occupancy tax.--In any county which imposes a tax
27 authorized in subsection (a), there shall be levied, assessed
28 and collected an excise tax at the same rate as imposed pursuant
29 to subsection (a) on the rent upon every occupancy of a room or
30 rooms in a hotel in the county. The tax shall be collected by

1 the operator or owner from the occupant and paid over to the
2 Commonwealth as provided in regulations.

3 (d) Rate of tax.--

4 (1) The tax authorized by subsections (a), (b) and (c)
5 may be imposed only at a rate of 0.5%.

6 (2) The rate imposed by subsections (a), (b) and (c)
7 shall be uniform.

8 (e) Computation of tax.--The amount of tax imposed by this
9 section shall be computed as follows:

10 (1) If the purchase price is 99¢ or less, no tax shall
11 be collected.

12 (2) If the purchase price of \$1 or more but less than
13 \$3, 1¢ shall be collected.

14 (3) If the purchase price is \$3 or more but less than
15 \$5, 2¢ shall be collected.

16 (4) If the purchase price is \$5 or more but less than
17 \$7, 3¢ shall be collected.

18 (5) If the purchase price is \$7 or more but less than
19 \$9, 4¢ shall be collected.

20 (6) If the purchase price is \$9 or more but less than
21 \$10.01, 5¢ shall be collected.

22 (7) If the purchase price is more than \$10, 0.5% of each
23 \$10 of purchase price plus the above-bracket charges upon any
24 fractional part of a \$10 increment shall be collected.

25 (f) Discounts.--There shall be no discount allowed for any
26 taxes collected and reported under this section.

27 Section 4. Situs for imposition of tax.

28 (a) Situs for retail sales.--For purposes of this section
29 and except as otherwise provided in this subsection, a sale at
30 retail shall be deemed to be consummated at the place of

1 business of the retailer unless the tangible personal property
2 sold is delivered by the retailer or his agent to an out-of-
3 State destination or to a common carrier for delivery to an out-
4 of-State destination. In the event a retailer has more than one
5 place of business in this Commonwealth which participates in the
6 sale, the sale shall be deemed to be consummated at the place of
7 business of the retailer where the initial order for the
8 tangible personal property is taken, even though the order must
9 be forwarded elsewhere for acceptance, approval of credit,
10 shipment or billing. A sale by a retailer's employee shall be
11 deemed to be consummated at the place of business from which he
12 works.

13 (b) Situs for use.--If the tangible personal property is
14 shipped from outside this Commonwealth to a customer within this
15 Commonwealth, the tangible personal property is subject to the
16 use tax imposed by section 3(b) and not the sales tax imposed by
17 section 3(a). The use is consummated at the first point in this
18 Commonwealth where the property is delivered for storage, used
19 or otherwise consumed after interstate transit has ceased.
20 Tangible personal property delivered to a point in this
21 Commonwealth is presumed to be delivered for storage, use or
22 other consumption at that point until the contrary is
23 established.

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

25 (1) The sale at retail or use of a motor vehicle,
26 trailer or semitrailer, as defined in 75 Pa.C.S. (relating to
27 vehicles), shall be deemed to have been completed or used at
28 the address of the purchaser or user. The tax due shall be
29 paid by the purchaser or user directly to the Department of
30 Transportation at the time of making application for the

1 issuance of a certificate of title or directly to the
2 department if a certificate of title is not obtained.

3 (2) The sale at retail or use of a motorboat, aircraft,
4 mobile home or similar tangible personal property, required
5 under Federal law or the laws of this Commonwealth to be
6 registered or licensed, purchased from a person not engaged
7 in the business of selling such property, shall be deemed to
8 have been completed or used at the address of the purchaser
9 or user. The tax due shall be paid by the purchaser or user
10 at the time of registration or licensing or directly to the
11 department if registration or licensing is not obtained.

12 (d) Situs for utility services.--The sale or use of steam,
13 natural and manufactured gas, electricity and intrastate
14 telephone and telegraph service shall be deemed to occur in the
15 county where the telephone number under which the service
16 furnished is located or in the county where the telegraph
17 originated or in the county where the meter which registers the
18 service is located, without regard to where the services are
19 rendered.

20 Section 5. Application of State law.

21 (a) General rule.--Except as otherwise provided in this
22 section, the provisions of Article II of the act of March 4,
23 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall
24 apply to the taxes imposed by this section insofar as they are
25 applicable to such taxes.

26 (b) Licenses.--The license issued pursuant to Article II of
27 the Tax Reform Code of 1971 or a separate license may be issued
28 by the department for the collection and reporting of the tax
29 imposed by section 3. The license or licenses shall be
30 nonassignable and subject to renewal periodically at such times

1 as may be required by the department in regulations but in no
2 event more frequently than once within a five-year period. No
3 fee shall be charged for either a license or any renewal.
4 Failure of any person to obtain a license shall not relieve him
5 of liability to pay the taxes imposed by this subsection.

6 (c) Rules and regulations.--

7 (1) The rules and regulations promulgated under section
8 270 of the Tax Reform Code of 1971 shall be applicable to the
9 tax imposed by section 3 insofar as such rules and
10 regulations are consistent with section 3.

11 (2) The department shall administer and enforce the
12 provisions of this section and is authorized to promulgate
13 and enforce rules and regulations, not inconsistent with the
14 provisions of this section, relating to any matter or thing
15 pertaining to the administration and enforcement of the
16 provisions of this section. The department may prescribe the
17 extent to which any of the rules and regulations shall be
18 applied without retroactive effect.

19 (d) Procedure and administration.--Part VI of Article II of
20 the Tax Reform Code of 1971 is incorporated by reference into
21 this section insofar as applicable.

22 Section 6. Adoption of ordinance.

23 (a) Adoption of county ordinance.--Any county desiring to
24 impose the tax authorized by section 3 shall give at least 60
25 days' written notice to every municipality located in the county
26 of its intent to impose the tax and shall adopt an ordinance
27 after the expiration of 60 days after the date of such notice.
28 The ordinance shall state the tax rate and refer to this
29 subsection. The county ordinance shall authorize the imposition
30 of all taxes provided for in section 3.

(b) Adoption of municipal ordinance.--No municipality shall be entitled to a disbursement under section 7 unless one of the following applies:

(1) Prior to enactment of the county ordinance, it adopts an ordinance containing the following statement:

We strongly urge the county to enact a county sales and use tax and intend to accept disbursements of the sales and use taxes collected.

Any municipality which does not enact an ordinance in compliance with this paragraph shall not receive any distribution from funds collected during the first 24 months immediately following the initial date of imposition of such tax.

(2) Prior to October 1 of any year after the enactment of the county ordinance, it adopts an ordinance containing the following statement:

We support the enactment by the county of the county sales and use tax and strongly urge its continuation and intend to accept disbursements of the sales and use taxes collected.

A certified copy of the municipal ordinance shall be delivered to the county commissioners on or before the enactment of the county ordinance or October 15 of any year thereafter, as the case may be.

(c) Notification to department.--A certified copy of the county ordinance shall be delivered to the department by July 1 of the year prior to the effective date thereof. The county ordinance shall become effective on the January 1 following at least six months after the date of enactment of the county ordinance.

1 (d) Copy of repeal ordinance.--A certified copy of a repeal
2 ordinance shall be delivered to the department by July 1 of the
3 year prior to the effective date of such repeal. The repeal of
4 any such ordinance shall become effective on the January 1
5 following at least six months after the date of enactment of the
6 repeal ordinance.

7 (e) Copy of rate change ordinance.--A certified copy of any
8 ordinance changing the rate of the tax imposed by section 3
9 shall be delivered to the department by July 1 of the year prior
10 to the effective date of such ordinance. The ordinance shall
11 become effective on the January 1 following at least six months
12 after the date of enactment of the ordinance.

13 Section 7. Disbursement to municipalities and counties.

14 (a) Disbursement to counties.--On or before March 20, June
15 20, September 20 and December 20, the department shall disburse
16 to a county imposing the tax authorized by section 3 an amount
17 of money equal to the tax collected in that county and remitted
18 to the department less any refunds and credits granted during
19 the three months ending the last day of March, June, September
20 and December, respectively.

21 (b) Disbursement to municipalities.--On or before April 20,
22 July 20, October 20 and January 20, a county shall disburse, in
23 the following manner, a portion of the disbursement received
24 from the department under subsection (a) to municipalities which
25 are qualified under section 6. The total disbursement to a
26 municipality shall equal one-fourth of the disbursement received
27 from the department under subsection (a) multiplied by a ratio
28 equal to the weighted tax revenues of a municipality divided by
29 the sum of the weighted tax revenues of all municipalities
30 located in the county.

1 (c) County retention of disbursements.--If a municipality
2 fails to meet the requirements of this section and section 6,
3 then its disbursement shall remain with the county.

4 (d) Proportion.--The Department of Community Affairs shall
5 distribute to each county a listing of the proportion of the tax
6 distribution that each municipality is eligible to receive if it
7 has complied with section 6.

8 Section 8. Effective date.

9 This act shall take effect January 1, 1991.