

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2082 Session of
1995

INTRODUCED BY TRUE, BARLEY, THOMAS, RYAN, E. Z. TAYLOR, PERZEL, MARKOSEK, LEDERER, FARMER, TIGUE, BELARDI, RUBLEY, MCGILL, HERSHEY, GRUPPO, VANCE, RUDY, COY, FICHTER, STRITTMATTER, MUNDY, CORRIGAN, BAKER, MCGEEHAN, ARMSTRONG, DeLUCA, BATTISTO, HERMAN, BARD, PLATTS, LEH, HALUSKA, ROHRER, DALEY, KAISER, COLAFELLA, BOSCOLA, BEBKO-JONES, CORNELL, MARSICO, ZIMMERMAN, JAROLIN, TRELLO, ROBINSON, CURRY, SHEEHAN, YOUNGBLOOD, HUTCHINSON, HESS, WALKO, MELIO, L. I. COHEN, GEORGE, BROWN, HENNESSEY, FAJT, PESCI, MANDERINO, JOSEPHS, TANGRETTI, ADOLPH, BROWNE, BUNT, STEELMAN, RAMOS, SAINATO, TRAVAGLIO, HABAY, WASHINGTON AND MILLER, OCTOBER 17, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 31, 1995

AN ACT

1 ~~Providing for an income tax refund checkoff for breast and~~ <—
2 ~~cervical cancer research; and making a repeal.~~
3 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <—
4 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING
5 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING
6 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,
7 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING
8 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND
9 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
10 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS
11 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND
12 PENALTIES," FURTHER PROVIDING FOR BAKERY PRODUCTS IN RELATION
13 TO THE SALES TAX; REPEALING CERTAIN PROVISIONS IMPOSING SALES
14 AND USE TAX ON LAWN CARE SERVICES; PROVIDING FOR AN INCOME
15 TAX REFUND CHECKOFF FOR BREAST AND CERVICAL CANCER RESEARCH;
16 AND MAKING A REPEAL.

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

19 ~~Section 1. Short title.~~ <—

20 ~~This act shall be known and may be cited as the Contributions~~

1 ~~to Breast and Cervical Cancer Research Act.~~

2 ~~Section 2. Definitions.~~

3 ~~The following words and phrases when used in this act shall~~
4 ~~have the meanings given to them in this section unless the~~
5 ~~context clearly indicates otherwise:~~

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

7 ~~"Individual income tax." The tax imposed by Article III of~~
8 ~~the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform~~
9 ~~Code of 1971.~~

10 ~~Section 3. Space on form for contributions to breast and~~
11 ~~cervical cancer research.~~

12 ~~(a) Use designation. The department shall provide a space~~
13 ~~on the face of the individual income tax return form whereby an~~
14 ~~individual may voluntarily designate a contribution of any~~
15 ~~amount desired to be utilized for breast and cervical cancer~~
16 ~~research in the Department of Health.~~

17 ~~(b) Deduction. The amount so designated on the individual~~
18 ~~income tax return form shall be deducted from the tax refund to~~
19 ~~which the individual is entitled and shall not constitute a~~
20 ~~charge against the income tax revenues due to the Commonwealth.~~

21 ~~(c) State Treasurer. The department shall determine~~
22 ~~annually the total amount designated under this section, less~~
23 ~~reasonable administrative costs, and shall report the amount to~~
24 ~~the State Treasurer, who shall transfer the amount from the~~
25 ~~General Fund to the Pennsylvania Cancer Control, Prevention and~~
26 ~~Research Advisory Board within the Department of Health.~~

27 ~~(d) Checkoff information. The department shall provide~~
28 ~~adequate information concerning the checkoff for breast and~~
29 ~~cervical cancer research in its instructions which accompany~~
30 ~~State income tax return forms. The information concerning the~~

~~checkoff shall include the listing of an address furnished by the Department of Health, to which contributions may be sent by taxpayers wishing to contribute to this effort, but who do not receive refunds. Additionally, the Department of Health shall be charged with the duty to conduct a public information campaign on the availability of this opportunity to Pennsylvania taxpayers.~~

~~(e) Report. The Department of Health shall report annually to the respective committees of the Senate and the House of Representatives which have jurisdiction over health matters on the amount received via the checkoff plan and how the funds were utilized.~~

~~(f) Appropriation of funds. The General Assembly may, from time to time, appropriate funds for breast and cervical cancer research within the Department of Health.~~

~~Section 4. Repeal.~~

~~Section 12 of the act of June 23, 1982 (P.L.597, No.170), known as the Wild Resource Conservation Act, is repealed insofar as it is inconsistent with this act.~~

~~Section 5. Applicability.~~

~~This act shall apply to taxable years beginning on or after January 1, 1996.~~

~~Section 6. Effective date.~~

~~This act shall take effect immediately.~~

SECTION 1. SECTION 201(B)(2) AND (3), (C), (D), (F), (G),
(K), (O) AND (JJ) OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),
KNOWN AS THE TAX REFORM CODE OF 1971, AMENDED OR ADDED AUGUST 4,
1991 (P.L.97, NO.22), DECEMBER 13, 1991 (P.L.373, NO.40), JUNE
16, 1994 (P.L.279, NO.48) AND JUNE 30, 1995 (P.L.139, NO.21),
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:

* * *

(B) "MAINTAINING A PLACE OF BUSINESS IN THIS COMMONWEALTH."

* * *

(2) THE ENGAGING IN ANY ACTIVITY AS A BUSINESS WITHIN THIS COMMONWEALTH BY ANY PERSON, DIRECTLY OR BY A SUBSIDIARY, IN CONNECTION WITH THE LEASE, SALE OR DELIVERY OF TANGIBLE PERSONAL PROPERTY OR THE PERFORMANCE OF SERVICES THEREON FOR USE, STORAGE OR CONSUMPTION OR IN CONNECTION WITH THE SALE OR DELIVERY FOR USE OF THE SERVICES DESCRIBED IN SUBCLAUSES (11) THROUGH (16) AND (18) OF CLAUSE (K) OF THIS SECTION, INCLUDING, BUT NOT LIMITED TO, HAVING, MAINTAINING OR USING ANY OFFICE, DISTRIBUTION HOUSE, SALES HOUSE, WAREHOUSE OR OTHER PLACE OF BUSINESS, ANY STOCK OF GOODS OR ANY SOLICITOR, SALESMAN, AGENT OR REPRESENTATIVE UNDER ITS AUTHORITY, AT ITS DIRECTION OR WITH ITS PERMISSION, REGARDLESS OF WHETHER THE PERSON OR SUBSIDIARY IS AUTHORIZED TO DO BUSINESS IN THIS COMMONWEALTH.

(3) REGULARLY OR SUBSTANTIALLY SOLICITING ORDERS WITHIN THIS COMMONWEALTH IN CONNECTION WITH THE LEASE, SALE OR DELIVERY OF TANGIBLE PERSONAL PROPERTY TO OR THE PERFORMANCE THEREON OF SERVICES OR IN CONNECTION WITH THE SALE OR DELIVERY OF THE SERVICES DESCRIBED IN SUBCLAUSES (11) THROUGH (16) AND (18) OF CLAUSE (K) OF THIS SECTION FOR RESIDENTS OF THIS COMMONWEALTH BY MEANS OF CATALOGUES OR OTHER ADVERTISING, WHETHER SUCH ORDERS ARE ACCEPTED WITHIN OR WITHOUT THIS COMMONWEALTH.

* * *

(C) "MANUFACTURE." THE PERFORMANCE OF MANUFACTURING,

1 FABRICATING, COMPOUNDING, PROCESSING OR OTHER OPERATIONS,
2 ENGAGED IN AS A BUSINESS, WHICH PLACE ANY TANGIBLE PERSONAL
3 PROPERTY IN A FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT
4 IN WHICH IT IS ACQUIRED WHETHER FOR SALE OR USE BY THE
5 MANUFACTURER, AND SHALL INCLUDE, BUT NOT BE LIMITED TO--

6 (1) EVERY OPERATION COMMENCING WITH THE FIRST PRODUCTION
7 STAGE AND ENDING WITH THE COMPLETION OF TANGIBLE PERSONAL
8 PROPERTY HAVING THE PHYSICAL QUALITIES (INCLUDING PACKAGING, IF
9 ANY, PASSING TO THE ULTIMATE CONSUMER) WHICH IT HAS WHEN
10 TRANSFERRED BY THE MANUFACTURER TO ANOTHER;

11 (2) THE PUBLISHING OF BOOKS, NEWSPAPERS, MAGAZINES AND OTHER
12 PERIODICALS AND PRINTING;

13 (3) REFINING, BLASTING, EXPLORING, MINING AND QUARRYING FOR,
14 OR OTHERWISE EXTRACTING FROM THE EARTH OR FROM WASTE OR STOCK
15 PILES OR FROM PITS OR BANKS ANY NATURAL RESOURCES, MINERALS AND
16 MINERAL AGGREGATES INCLUDING BLAST FURNACE SLAG;

17 (4) BUILDING, REBUILDING, REPAIRING AND MAKING ADDITIONS TO,
18 OR REPLACEMENTS IN OR UPON VESSELS DESIGNED FOR COMMERCIAL USE
19 OF REGISTERED TONNAGE OF FIFTY TONS OR MORE WHEN PRODUCED UPON
20 SPECIAL ORDER OF THE PURCHASER, OR WHEN REBUILT, REPAIRED OR
21 ENLARGED, OR WHEN REPLACEMENTS ARE MADE UPON ORDER OF, OR FOR
22 THE ACCOUNT OF THE OWNER;

23 (5) RESEARCH HAVING AS ITS OBJECTIVE THE PRODUCTION OF A NEW
24 OR AN IMPROVED (I) PRODUCT OR UTILITY SERVICE, OR (II) METHOD OF
25 PRODUCING A PRODUCT OR UTILITY SERVICE, BUT IN EITHER CASE NOT
26 INCLUDING MARKET RESEARCH OR RESEARCH HAVING AS ITS OBJECTIVE
27 THE IMPROVEMENT OF ADMINISTRATIVE EFFICIENCY.

28 (6) REMANUFACTURE FOR WHOLESALE DISTRIBUTION BY A
29 REMANUFACTURER OF MOTOR VEHICLE PARTS FROM USED PARTS ACQUIRED
30 IN BULK BY THE REMANUFACTURER USING AN ASSEMBLY LINE PROCESS

1 WHICH INVOLVES THE COMPLETE DISASSEMBLY OF SUCH PARTS AND
2 INTEGRATION OF THE COMPONENTS OF SUCH PARTS WITH OTHER USED OR
3 NEW COMPONENTS OF PARTS, INCLUDING THE SALVAGING, RECYCLING OR
4 RECLAIMING OF USED PARTS BY THE REMANUFACTURER.

5 (7) REMANUFACTURE OR RETROFIT BY A MANUFACTURER OR
6 REMANUFACTURER OF AIRCRAFT, ARMORED VEHICLES, OTHER DEFENSE-
7 RELATED VEHICLES HAVING A FINISHED VALUE OF AT LEAST FIFTY
8 THOUSAND DOLLARS (\$50,000). REMANUFACTURE OR RETROFIT INVOLVES
9 THE DISASSEMBLY OF SUCH AIRCRAFT, VEHICLES, PARTS OR COMPONENTS,
10 INCLUDING ELECTRIC OR ELECTRONIC COMPONENTS, THE INTEGRATION OF
11 THOSE PARTS AND COMPONENTS WITH OTHER USED OR NEW PARTS OR
12 COMPONENTS, INCLUDING THE SALVAGING, RECYCLING OR RECLAIMING OF
13 THE USED PARTS OR COMPONENTS AND THE ASSEMBLY OF THE NEW OR USED
14 AIRCRAFT, VEHICLES, PARTS OR COMPONENTS. FOR PURPOSES OF THIS
15 CLAUSE, THE FOLLOWING TERMS OR PHRASES HAVE THE FOLLOWING
16 MEANINGS:

17 (I) "AIRCRAFT" MEANS FIXED-WING AIRCRAFT, HELICOPTERS,
18 POWERED AIRCRAFT, TILT-ROTOR OR TILT-WING AIRCRAFT, UNMANNED
19 AIRCRAFT AND GLIDERS;

20 (II) "ARMORED VEHICLES" MEANS TANKS, ARMED PERSONNEL
21 CARRIERS AND ALL OTHER ARMED TRACK OR SEMITRACK VEHICLES; OR

22 (III) "OTHER DEFENSE-RELATED VEHICLES" MEANS TRUCKS, TRUCK-
23 TRACTORS, TRAILERS, JEEPS AND OTHER UTILITY VEHICLES, INCLUDING
24 ANY UNMANNED VEHICLES.

25 THE TERM "MANUFACTURE[,]" SHALL NOT INCLUDE CONSTRUCTING,
26 ALTERING, SERVICING, REPAIRING OR IMPROVING REAL ESTATE OR
27 REPAIRING, SERVICING OR INSTALLING TANGIBLE PERSONAL PROPERTY,
28 NOR THE COOKING[,] OR FREEZING [OR BAKING] OF FRUITS,
29 VEGETABLES, MUSHROOMS, FISH, SEAFOOD, MEATS[,] OR POULTRY [OR
30 BAKERY PRODUCTS].

1 * * *

2 (D) "PROCESSING." THE PERFORMANCE OF THE FOLLOWING
3 ACTIVITIES WHEN ENGAGED IN AS A BUSINESS ENTERPRISE:

4 (1) THE FILTERING OR HEATING OF HONEY, THE COOKING[, BAKING]
5 OR FREEZING OF FRUITS, VEGETABLES, MUSHROOMS, FISH, SEAFOOD,
6 MEATS[,] OR POULTRY [OR BAKERY PRODUCTS], WHEN THE PERSON
7 ENGAGED IN SUCH BUSINESS PACKAGES SUCH PROPERTY IN SEALED
8 CONTAINERS FOR WHOLESALE DISTRIBUTION.

9 (1.1) THE PROCESSING OF VEGETABLES BY CLEANING, CUTTING,
10 CORING OR CHOPPING AND TREATING TO PRESERVE, STERILIZE OR PURIFY
11 AND SUBSTANTIALLY EXTEND THE USEFUL SHELF LIFE OF THE
12 VEGETABLES, WHEN THE PERSON ENGAGED IN SUCH ACTIVITY PACKAGES
13 SUCH PROPERTY IN SEALED CONTAINERS FOR WHOLESALE DISTRIBUTION.

14 (2) THE SCOURING, CARBONIZING, CORDING, COMBING, THROWING,
15 TWISTING OR WINDING OF NATURAL OR SYNTHETIC FIBERS, OR THE
16 SPINNING, BLEACHING, DYEING, PRINTING OR FINISHING OF YARNS OR
17 FABRICS, WHEN SUCH ACTIVITIES ARE PERFORMED PRIOR TO SALE TO THE
18 ULTIMATE CONSUMER.

19 (3) THE ELECTROPLATING, GALVANIZING, ENAMELING, ANODIZING,
20 COLORING, FINISHING, IMPREGNATING OR HEAT TREATING OF METALS OR
21 PLASTICS FOR SALE OR IN THE PROCESS OF MANUFACTURING.

22 (4) THE ROLLING, DRAWING OR EXTRUDING OF FERROUS AND NON-
23 FERROUS METALS.

24 (5) THE FABRICATION FOR SALE OF ORNAMENTAL OR STRUCTURAL
25 METAL OR OF METAL STAIRS, STAIRCASES, GRATINGS, FIRE ESCAPES OR
26 RAILINGS (NOT INCLUDING FABRICATION WORK DONE AT THE
27 CONSTRUCTION SITE).

28 (6) THE PREPARATION OF ANIMAL FEED OR POULTRY FEED FOR SALE.

29 (7) THE PRODUCTION, PROCESSING AND BOTTLING OF NON-ALCOHOLIC
30 BEVERAGES FOR WHOLESALE DISTRIBUTION.

1 (8) THE OPERATION OF A SAW MILL OR PLANING MILL FOR THE
2 PRODUCTION OF LUMBER OR LUMBER PRODUCTS FOR SALE.

3 (9) THE MILLING FOR SALE OF FLOUR OR MEAL FROM GRAINS.

4 (10) THE SLAUGHTERING AND DRESSING OF ANIMALS FOR MEAT TO BE
5 SOLD OR TO BE USED IN PREPARING MEAT PRODUCTS FOR SALE, AND THE
6 PREPARATION OF MEAT PRODUCTS INCLUDING LARD, TALLOW, GREASE,
7 COOKING AND INEDIBLE OILS FOR WHOLESALE DISTRIBUTION.

8 (11) THE PROCESSING OF USED LUBRICATING OILS.

9 (12) THE BROADCASTING OF RADIO AND TELEVISION PROGRAMS OF
10 LICENSED COMMERCIAL OR EDUCATIONAL STATIONS.

11 * * *

12 (F) "PURCHASE AT RETAIL."

13 (1) THE ACQUISITION FOR A CONSIDERATION OF THE OWNERSHIP,
14 CUSTODY OR POSSESSION OF TANGIBLE PERSONAL PROPERTY OTHER THAN
15 FOR RESALE BY THE PERSON ACQUIRING THE SAME WHEN SUCH
16 ACQUISITION IS MADE FOR THE PURPOSE OF CONSUMPTION OR USE,
17 WHETHER SUCH ACQUISITION SHALL BE ABSOLUTE OR CONDITIONAL, AND
18 BY WHATSOEVER MEANS THE SAME SHALL HAVE BEEN EFFECTED.

19 (2) THE ACQUISITION OF A LICENSE TO USE OR CONSUME, AND THE
20 RENTAL OR LEASE OF TANGIBLE PERSONAL PROPERTY, OTHER THAN FOR
21 RESALE REGARDLESS OF THE PERIOD OF TIME THE LESSEE HAS
22 POSSESSION OR CUSTODY OF THE PROPERTY.

23 (3) THE OBTAINING FOR A CONSIDERATION OF THOSE SERVICES
24 DESCRIBED IN SUBCLAUSES (2), (3) AND (4) OF CLAUSE (K) OF THIS
25 SECTION OTHER THAN FOR RESALE.

26 (4) A RETENTION AFTER MARCH 7, 1956, OF POSSESSION, CUSTODY
27 OR A LICENSE TO USE OR CONSUME PURSUANT TO A RENTAL CONTRACT OR
28 OTHER LEASE ARRANGEMENT (OTHER THAN AS SECURITY), OTHER THAN FOR
29 RESALE.

30 (5) THE OBTAINING FOR A CONSIDERATION OF THOSE SERVICES

1 DESCRIBED IN SUBCLAUSES (11) THROUGH (16) AND (18) OF CLAUSE (K)
2 OF THIS SECTION.

3 THE TERM "PURCHASE AT RETAIL" WITH RESPECT TO "LIQUOR" AND
4 "MALT OR BREWED BEVERAGES" SHALL INCLUDE THE PURCHASE OF
5 "LIQUOR" FROM ANY "PENNSYLVANIA LIQUOR STORE" BY ANY PERSON FOR
6 ANY PURPOSE, AND THE PURCHASE OF "MALT OR BREWED BEVERAGES" FROM
7 A "MANUFACTURER OF MALT OR BREWED BEVERAGES," "DISTRIBUTOR" OR
8 "IMPORTING DISTRIBUTOR" BY ANY PERSON FOR ANY PURPOSE, EXCEPT
9 PURCHASES FROM A "MANUFACTURER OF MALT OR BREWED BEVERAGES" BY A
10 "DISTRIBUTOR" OR "IMPORTING DISTRIBUTOR" OR PURCHASES FROM AN
11 "IMPORTING DISTRIBUTOR" BY A "DISTRIBUTOR" WITHIN THE MEANING OF
12 THE "LIQUOR CODE." THE TERM "PURCHASE AT RETAIL" SHALL NOT
13 INCLUDE ANY PURCHASE OF "MALT OR BREWED BEVERAGES" FROM A
14 "RETAIL DISPENSER" OR ANY PURCHASE OF "LIQUOR" OR "MALT OR
15 BREWED BEVERAGES" FROM A PERSON HOLDING A "RETAIL LIQUOR
16 LICENSE" WITHIN THE MEANING OF AND PURSUANT TO THE PROVISIONS OF
17 THE "LIQUOR CODE," BUT SHALL INCLUDE ANY PURCHASE OR ACQUISITION
18 OF "LIQUOR" OR "MALT OR BREWED BEVERAGES" OTHER THAN PURSUANT TO
19 THE PROVISIONS OF THE "LIQUOR CODE."

20 (G) "PURCHASE PRICE."

21 (1) THE TOTAL VALUE OF ANYTHING PAID OR DELIVERED, OR
22 PROMISED TO BE PAID OR DELIVERED, WHETHER IT BE MONEY OR
23 OTHERWISE, IN COMPLETE PERFORMANCE OF A SALE AT RETAIL OR
24 PURCHASE AT RETAIL, AS HEREIN DEFINED, WITHOUT ANY DEDUCTION ON
25 ACCOUNT OF THE COST OR VALUE OF THE PROPERTY SOLD, COST OR VALUE
26 OF TRANSPORTATION, COST OR VALUE OF LABOR OR SERVICE, INTEREST
27 OR DISCOUNT PAID OR ALLOWED AFTER THE SALE IS CONSUMMATED, ANY
28 OTHER TAXES IMPOSED BY THE COMMONWEALTH OF PENNSYLVANIA OR ANY
29 OTHER EXPENSE EXCEPT THAT THERE SHALL BE EXCLUDED ANY GRATUITY
30 OR SEPARATELY STATED DEPOSIT CHARGE FOR RETURNABLE CONTAINERS.

1 (2) THERE SHALL BE DEDUCTED FROM THE PURCHASE PRICE THE
2 VALUE OF ANY TANGIBLE PERSONAL PROPERTY ACTUALLY TAKEN IN TRADE
3 OR EXCHANGE IN LIEU OF THE WHOLE OR ANY PART OF THE PURCHASE
4 PRICE. FOR THE PURPOSE OF THIS CLAUSE, THE AMOUNT ALLOWED BY
5 REASON OF TANGIBLE PERSONAL PROPERTY ACTUALLY TAKEN IN TRADE OR
6 EXCHANGE SHALL BE CONSIDERED THE VALUE OF SUCH PROPERTY.

7 (3) IN DETERMINING THE PURCHASE PRICE ON THE SALE OR USE OF
8 TAXABLE TANGIBLE PERSONAL PROPERTY OR A SERVICE DESCRIBED IN
9 SUBCLAUSES (11) THROUGH (16) AND (18) OF CLAUSE (K) OF THIS
10 SECTION WHERE, BECAUSE OF AFFILIATION OF INTERESTS BETWEEN THE
11 VENDOR AND PURCHASER, OR IRRESPECTIVE OF ANY SUCH AFFILIATION,
12 IF FOR ANY OTHER REASON THE PURCHASE PRICE DECLARED BY THE
13 VENDOR OR TAXPAYER ON THE TAXABLE SALE OR USE OF SUCH TANGIBLE
14 PERSONAL PROPERTY OR SERVICE IS, IN THE OPINION OF THE
15 DEPARTMENT, NOT INDICATIVE OF THE TRUE VALUE OF THE ARTICLE OR
16 SERVICE OR THE FAIR PRICE THEREOF, THE DEPARTMENT SHALL,
17 PURSUANT TO UNIFORM AND EQUITABLE RULES, DETERMINE THE AMOUNT OF
18 CONSTRUCTIVE PURCHASE PRICE UPON THE BASIS OF WHICH THE TAX
19 SHALL BE COMPUTED AND LEVIED. SUCH RULES SHALL PROVIDE FOR A
20 CONSTRUCTIVE AMOUNT OF PURCHASE PRICE FOR EACH SUCH SALE OR USE
21 WHICH WOULD NATURALLY AND FAIRLY BE CHARGED IN AN ARMS-LENGTH
22 TRANSACTION IN WHICH THE ELEMENT OF COMMON INTEREST BETWEEN THE
23 VENDOR OR PURCHASER IS ABSENT OR IF NO COMMON INTEREST EXISTS,
24 ANY OTHER ELEMENT CAUSING A DISTORTION OF THE PRICE OR VALUE IS
25 LIKEWISE ABSENT. FOR THE PURPOSE OF THIS CLAUSE WHERE A TAXABLE
26 SALE OR PURCHASE AT RETAIL TRANSACTION OCCURS BETWEEN A PARENT
27 AND A SUBSIDIARY, AFFILIATE OR CONTROLLED CORPORATION OF SUCH
28 PARENT CORPORATION, THERE SHALL BE A REBUTTABLE PRESUMPTION,
29 THAT BECAUSE OF SUCH COMMON INTEREST SUCH TRANSACTION WAS NOT AT
30 ARMS-LENGTH.

1 (4) WHERE THERE IS A TRANSFER OR RETENTION OF POSSESSION OR
2 CUSTODY, WHETHER IT BE TERMED A RENTAL, LEASE, SERVICE OR
3 OTHERWISE, OF TANGIBLE PERSONAL PROPERTY INCLUDING, BUT NOT
4 LIMITED TO LINENS, APRONS, MOTOR VEHICLES, TRAILERS, TIRES,
5 INDUSTRIAL OFFICE AND CONSTRUCTION EQUIPMENT, AND BUSINESS
6 MACHINES THE FULL CONSIDERATION PAID OR DELIVERED TO THE VENDOR
7 OR LESSOR SHALL BE CONSIDERED THE PURCHASE PRICE, EVEN THOUGH
8 SUCH CONSIDERATION BE SEPARATELY STATED AND BE DESIGNATED AS
9 PAYMENT FOR PROCESSING, LAUNDERING, SERVICE, MAINTENANCE,
10 INSURANCE, REPAIRS, DEPRECIATION OR OTHERWISE. WHERE THE VENDOR
11 OR LESSOR SUPPLIES OR PROVIDES AN EMPLOYEE TO OPERATE SUCH
12 TANGIBLE PERSONAL PROPERTY, THE VALUE OF THE LABOR THUS SUPPLIED
13 MAY BE EXCLUDED AND SHALL NOT BE CONSIDERED AS PART OF THE
14 PURCHASE PRICE IF SEPARATELY STATED. THERE SHALL ALSO BE
15 INCLUDED AS PART OF THE PURCHASE PRICE THE VALUE OF ANYTHING
16 PAID OR DELIVERED, OR PROMISED TO BE PAID OR DELIVERED BY A
17 LESSEE, WHETHER IT BE MONEY OR OTHERWISE, TO ANY PERSON OTHER
18 THAN THE VENDOR OR LESSOR BY REASON OF THE MAINTENANCE,
19 INSURANCE OR REPAIR OF THE TANGIBLE PERSONAL PROPERTY WHICH A
20 LESSEE HAS THE POSSESSION OR CUSTODY OF UNDER A RENTAL CONTRACT
21 OR LEASE ARRANGEMENT.

22 (5) WITH RESPECT TO THE TAX IMPOSED BY SUBSECTION (B) OF
23 SECTION 202 UPON ANY TANGIBLE PERSONAL PROPERTY ORIGINALLY
24 PURCHASED BY THE USER OF SUCH PROPERTY SIX MONTHS OR LONGER
25 PRIOR TO THE FIRST TAXABLE USE OF SUCH PROPERTY WITHIN THE
26 COMMONWEALTH, SUCH USER MAY ELECT TO PAY TAX ON A SUBSTITUTED
27 BASE DETERMINED BY CONSIDERING THE PURCHASE PRICE OF SUCH
28 PROPERTY FOR TAX PURPOSES TO BE EQUAL TO THE PREVAILING MARKET
29 PRICE OF SIMILAR TANGIBLE PERSONAL PROPERTY AT THE TIME AND
30 PLACE OF SUCH FIRST USE WITHIN THE COMMONWEALTH. SUCH ELECTION

1 MUST BE MADE AT THE TIME OF FILING A TAX RETURN WITH THE
2 DEPARTMENT AND REPORTING SUCH TAX LIABILITY AND PAYING THE
3 PROPER TAX DUE PLUS ALL ACCRUED PENALTIES AND INTEREST, IF THERE
4 BE ANY, WITHIN SIX MONTHS OF THE DUE DATE OF SUCH REPORT AND
5 PAYMENT, AS PROVIDED FOR BY SUBSECTIONS (A) AND (C) OF SECTION
6 217 OF THIS ARTICLE.

7 (6) THE PURCHASE PRICE OF EMPLOYMENT AGENCY SERVICES AND
8 HELP SUPPLY SERVICES SHALL BE THE SERVICE FEE PAID BY THE
9 PURCHASER TO THE VENDOR OR SUPPLYING ENTITY. THE TERM "SERVICE
10 FEE," AS USED IN THIS SUBCLAUSE, SHALL BE THE TOTAL CHARGE OR
11 FEE OF THE VENDOR OR SUPPLYING ENTITY MINUS THE COSTS OF THE
12 SUPPLIED EMPLOYEE WHICH COSTS ARE WAGES, SALARIES, BONUSES AND
13 COMMISSIONS, EMPLOYMENT BENEFITS, EXPENSE REIMBURSEMENTS AND
14 PAYROLL AND WITHHOLDING TAXES, TO THE EXTENT THAT THESE COSTS
15 ARE SPECIFICALLY ITEMIZED OR THAT THESE COSTS IN AGGREGATE ARE
16 STATED IN BILLINGS FROM THE VENDOR OR SUPPLYING ENTITY. TO THE
17 EXTENT THAT THESE COSTS ARE NOT ITEMIZED OR STATED ON THE
18 BILLINGS, THEN THE SERVICE FEE SHALL BE THE TOTAL CHARGE OR FEE
19 OF THE VENDOR OR SUPPLYING ENTITY.

20 (7) UNLESS THE VENDOR SEPARATELY STATES THAT PORTION OF THE
21 BILLING WHICH APPLIES TO PREMIUM CABLE SERVICE AS DEFINED IN
22 CLAUSE (LL) OF THIS SECTION, THE TOTAL BILL FOR THE PROVISION OF
23 ALL CABLE SERVICES SHALL BE THE PURCHASE PRICE.

24 * * *

25 (K) "SALE AT RETAIL."

26 (1) ANY TRANSFER, FOR A CONSIDERATION, OF THE OWNERSHIP,
27 CUSTODY OR POSSESSION OF TANGIBLE PERSONAL PROPERTY, INCLUDING
28 THE GRANT OF A LICENSE TO USE OR CONSUME WHETHER SUCH TRANSFER
29 BE ABSOLUTE OR CONDITIONAL AND BY WHATSOEVER MEANS THE SAME
30 SHALL HAVE BEEN EFFECTED.

1 (2) THE RENDITION OF THE SERVICE OF PRINTING OR IMPRINTING
2 OF TANGIBLE PERSONAL PROPERTY FOR A CONSIDERATION FOR PERSONS
3 WHO FURNISH, EITHER DIRECTLY OR INDIRECTLY THE MATERIALS USED IN
4 THE PRINTING OR IMPRINTING.

5 (3) THE RENDITION FOR A CONSIDERATION OF THE SERVICE OF--

6 (I) WASHING, CLEANING, WAXING, POLISHING OR LUBRICATING OF
7 MOTOR VEHICLES OF ANOTHER, WHETHER OR NOT ANY TANGIBLE PERSONAL
8 PROPERTY IS TRANSFERRED IN CONJUNCTION THEREWITH; AND

9 (II) INSPECTING MOTOR VEHICLES PURSUANT TO THE MANDATORY
10 REQUIREMENTS OF "THE VEHICLE CODE."

11 (4) THE RENDITION FOR A CONSIDERATION OF THE SERVICE OF
12 REPAIRING, ALTERING, MENDING, PRESSING, FITTING, DYEING,
13 LAUNDERING, DRYCLEANING OR CLEANING TANGIBLE PERSONAL PROPERTY
14 OTHER THAN WEARING APPAREL OR SHOES, OR APPLYING OR INSTALLING
15 TANGIBLE PERSONAL PROPERTY AS A REPAIR OR REPLACEMENT PART OF
16 OTHER TANGIBLE PERSONAL PROPERTY EXCEPT WEARING APPAREL OR SHOES
17 FOR A CONSIDERATION, WHETHER OR NOT THE SERVICES ARE PERFORMED
18 DIRECTLY OR BY ANY MEANS OTHER THAN BY COIN-OPERATED SELF-
19 SERVICE LAUNDRY EQUIPMENT FOR WEARING APPAREL OR HOUSEHOLD GOODS
20 AND WHETHER OR NOT ANY TANGIBLE PERSONAL PROPERTY IS TRANSFERRED
21 IN CONJUNCTION THEREWITH, EXCEPT SUCH SERVICES AS ARE RENDERED
22 IN THE CONSTRUCTION, RECONSTRUCTION, REMODELING, REPAIR OR
23 MAINTENANCE OF REAL ESTATE: PROVIDED, HOWEVER, THAT THIS
24 SUBCLAUSE SHALL NOT BE DEEMED TO IMPOSE TAX UPON SUCH SERVICES
25 IN THE PREPARATION FOR SALE OF NEW ITEMS WHICH ARE EXCLUDED FROM
26 THE TAX UNDER CLAUSE (26) OF SECTION 204, OR UPON DIAPER
27 SERVICE.

28 (8) ANY RETENTION OF POSSESSION, CUSTODY OR A LICENSE TO USE
29 OR CONSUME TANGIBLE PERSONAL PROPERTY OR ANY FURTHER OBTAINING
30 OF SERVICES DESCRIBED IN SUBCLAUSES (2), (3) AND (4) OF THIS

1 CLAUSE PURSUANT TO A RENTAL OR SERVICE CONTRACT OR OTHER
2 ARRANGEMENT (OTHER THAN AS SECURITY).

3 THE TERM "SALE AT RETAIL" SHALL NOT INCLUDE (I) ANY SUCH
4 TRANSFER OF TANGIBLE PERSONAL PROPERTY OR RENDITION OF SERVICES
5 FOR THE PURPOSE OF RESALE, OR (II) SUCH RENDITION OF SERVICES OR
6 THE TRANSFER OF TANGIBLE PERSONAL PROPERTY INCLUDING, BUT NOT
7 LIMITED TO, MACHINERY AND EQUIPMENT AND PARTS THEREFOR AND
8 SUPPLIES TO BE USED OR CONSUMED BY THE PURCHASER DIRECTLY IN THE
9 OPERATIONS OF--

10 (A) THE MANUFACTURE OF TANGIBLE PERSONAL PROPERTY;

11 (B) FARMING, DAIRYING, AGRICULTURE, HORTICULTURE OR
12 FLORICULTURE WHEN ENGAGED IN AS A BUSINESS ENTERPRISE. THE TERM
13 "FARMING" SHALL INCLUDE THE PROPAGATION AND RAISING OF RANCH
14 RAISED FUR-BEARING ANIMALS AND THE PROPAGATION OF GAME BIRDS FOR
15 COMMERCIAL PURPOSES BY HOLDERS OF PROPAGATION PERMITS ISSUED
16 UNDER 34 PA.C.S. (RELATING TO GAME);

17 (C) THE PRODUCING, DELIVERING OR RENDERING OF A PUBLIC
18 UTILITY SERVICE, OR IN CONSTRUCTING, RECONSTRUCTING, REMODELING,
19 REPAIRING OR MAINTAINING THE FACILITIES WHICH ARE DIRECTLY USED
20 IN PRODUCING, DELIVERING OR RENDERING SUCH SERVICE;

21 (D) PROCESSING AS DEFINED IN CLAUSE (D) OF THIS SECTION.

22 THE EXCLUSIONS PROVIDED IN PARAGRAPHS (A), (B), (C) AND (D)
23 SHALL NOT APPLY TO ANY VEHICLE REQUIRED TO BE REGISTERED UNDER
24 THE VEHICLE CODE, EXCEPT THOSE VEHICLES USED DIRECTLY BY A
25 PUBLIC UTILITY ENGAGED IN BUSINESS AS A COMMON CARRIER; TO
26 MAINTENANCE FACILITIES; OR TO MATERIALS, SUPPLIES OR EQUIPMENT
27 TO BE USED OR CONSUMED IN THE CONSTRUCTION, RECONSTRUCTION,
28 REMODELING, REPAIR OR MAINTENANCE OF REAL ESTATE OTHER THAN
29 DIRECTLY USED MACHINERY, EQUIPMENT, PARTS OR FOUNDATIONS
30 THEREFOR THAT MAY BE AFFIXED TO SUCH REAL ESTATE.

1 THE EXCLUSIONS PROVIDED IN PARAGRAPHS (A), (B), (C) AND (D)
2 SHALL NOT APPLY TO TANGIBLE PERSONAL PROPERTY OR SERVICES TO BE
3 USED OR CONSUMED IN MANAGERIAL SALES OR OTHER NONOPERATIONAL
4 ACTIVITIES, NOR TO THE PURCHASE OR USE OF TANGIBLE PERSONAL
5 PROPERTY OR SERVICES BY ANY PERSON OTHER THAN THE PERSON
6 DIRECTLY USING THE SAME IN THE OPERATIONS DESCRIBED IN
7 PARAGRAPHS (A), (B), (C) AND (D) HEREIN.

8 THE EXCLUSION PROVIDED IN PARAGRAPH (C) SHALL NOT APPLY TO
9 (I) CONSTRUCTION MATERIALS, SUPPLIES OR EQUIPMENT USED TO
10 CONSTRUCT, RECONSTRUCT, REMODEL, REPAIR OR MAINTAIN FACILITIES
11 NOT USED DIRECTLY BY THE PURCHASER IN THE PRODUCTION, DELIVERING
12 OR RENDITION OF PUBLIC UTILITY SERVICE, (II) CONSTRUCTION
13 MATERIALS, SUPPLIES OR EQUIPMENT USED TO CONSTRUCT, RECONSTRUCT,
14 REMODEL, REPAIR OR MAINTAIN A BUILDING, ROAD OR SIMILAR
15 STRUCTURE, OR (III) TOOLS AND EQUIPMENT USED BUT NOT INSTALLED
16 IN THE MAINTENANCE OF FACILITIES USED DIRECTLY IN THE
17 PRODUCTION, DELIVERING OR RENDITION OF A PUBLIC UTILITY SERVICE.

18 THE EXCLUSIONS PROVIDED IN PARAGRAPHS (A), (B), (C) AND (D)
19 SHALL NOT APPLY TO THE SERVICES ENUMERATED IN CLAUSES (K)(11)
20 THROUGH (16) AND (18) AND (W) THROUGH (II) AND (KK), EXCEPT THAT
21 THE EXCLUSION PROVIDED IN THIS SUBCLAUSE FOR FARMING, DAIRYING
22 AND AGRICULTURE SHALL APPLY TO THE SERVICE ENUMERATED IN CLAUSE
23 (Z).

24 (9) WHERE TANGIBLE PERSONAL PROPERTY OR SERVICES ARE
25 UTILIZED FOR PURPOSES CONSTITUTING A "SALE AT RETAIL" AND FOR
26 PURPOSES EXCLUDED FROM THE DEFINITION OF "SALE AT RETAIL," IT
27 SHALL BE PRESUMED THAT SUCH TANGIBLE PERSONAL PROPERTY OR
28 SERVICES ARE UTILIZED FOR PURPOSES CONSTITUTING A "SALE AT
29 RETAIL" AND SUBJECT TO TAX UNLESS THE USER THEREOF PROVES TO THE
30 DEPARTMENT THAT THE PREDOMINANT PURPOSES FOR WHICH SUCH TANGIBLE

1 PERSONAL PROPERTY OR SERVICES ARE UTILIZED DO NOT CONSTITUTE A
2 "SALE AT RETAIL."

3 (10) THE TERM "SALE AT RETAIL" WITH RESPECT TO "LIQUOR" AND
4 "MALT OR BREWED BEVERAGES" SHALL INCLUDE THE SALE OF "LIQUOR" BY
5 ANY "PENNSYLVANIA LIQUOR STORE" TO ANY PERSON FOR ANY PURPOSE,
6 AND THE SALE OF "MALT OR BREWED BEVERAGES" BY A "MANUFACTURER OF
7 MALT OR BREWED BEVERAGES," "DISTRIBUTOR" OR "IMPORTING
8 DISTRIBUTOR" TO ANY PERSON FOR ANY PURPOSE, EXCEPT SALES BY A
9 "MANUFACTURER OF MALT OR BREWED BEVERAGES" TO A "DISTRIBUTOR" OR
10 "IMPORTING DISTRIBUTOR" OR SALES BY AN "IMPORTING DISTRIBUTOR"
11 TO A "DISTRIBUTOR" WITHIN THE MEANING OF THE "LIQUOR CODE." THE
12 TERM "SALE AT RETAIL" SHALL NOT INCLUDE ANY SALE OF "MALT OR
13 BREWED BEVERAGES" BY A "RETAIL DISPENSER" OR ANY SALE OF
14 "LIQUOR" OR "MALT OR BREWED BEVERAGES" BY A PERSON HOLDING A
15 "RETAIL LIQUOR LICENSE" WITHIN THE MEANING OF AND PURSUANT TO
16 THE PROVISIONS OF THE "LIQUOR CODE," BUT SHALL INCLUDE ANY SALE
17 OF "LIQUOR" OR "MALT OR BREWED BEVERAGES" OTHER THAN PURSUANT TO
18 THE PROVISIONS OF THE "LIQUOR CODE."

19 (11) THE RENDITION FOR A CONSIDERATION OF LOBBYING SERVICES.

20 (12) THE RENDITION FOR A CONSIDERATION OF ADJUSTMENT
21 SERVICES, COLLECTION SERVICES OR CREDIT REPORTING SERVICES.

22 (13) THE RENDITION FOR A CONSIDERATION OF SECRETARIAL OR
23 EDITING SERVICES.

24 (14) THE RENDITION FOR A CONSIDERATION OF DISINFECTING OR
25 PEST CONTROL SERVICES, BUILDING MAINTENANCE OR CLEANING
26 SERVICES.

27 (15) THE RENDITION FOR A CONSIDERATION OF EMPLOYMENT AGENCY
28 SERVICES OR HELP SUPPLY SERVICES.

29 (16) THE RENDITION FOR A CONSIDERATION OF COMPUTER
30 PROGRAMMING SERVICES; COMPUTER-INTEGRATED SYSTEMS DESIGN

1 SERVICES; COMPUTER PROCESSING, DATA PREPARATION OR PROCESSING
2 SERVICES; INFORMATION RETRIEVAL SERVICES; COMPUTER FACILITIES
3 MANAGEMENT SERVICES; OR OTHER COMPUTER-RELATED SERVICES. AT A
4 MINIMUM, SUCH SERVICES SHALL NOT INCLUDE SERVICES THAT ARE PART
5 OF ELECTRONIC FUND TRANSFERS, ELECTRONIC FINANCIAL TRANSACTIONS
6 OR SERVICES, BANKING OR TRUST SERVICES, OR MANAGEMENT OR
7 ADMINISTRATIVE SERVICES, INCLUDING TRANSFER AGENCY, SHAREHOLDER,
8 CUSTODIAL AND PORTFOLIO ACCOUNTING SERVICES, PROVIDED DIRECTLY
9 TO ANY ENTITY THAT DULY QUALIFIES TO BE TAXED AS A REGULATED
10 INVESTMENT COMPANY OR A REAL ESTATE INVESTMENT TRUST UNDER THE
11 PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-
12 514, 26 U.S.C. § 1 ET SEQ.) OR TO AN ENTITY THAT PROVIDES SUCH
13 SERVICES TO AN ENTITY SO QUALIFYING.

14 [(17) THE RENDITION FOR A CONSIDERATION OF LAWN CARE
15 SERVICE.]

16 (18) THE RENDITION FOR A CONSIDERATION OF SELF-STORAGE
17 SERVICE.

18 * * *

19 (O) "USE."

20 (1) THE EXERCISE OF ANY RIGHT OR POWER INCIDENTAL TO THE
21 OWNERSHIP, CUSTODY OR POSSESSION OF TANGIBLE PERSONAL PROPERTY
22 AND SHALL INCLUDE, BUT NOT BE LIMITED TO TRANSPORTATION, STORAGE
23 OR CONSUMPTION.

24 (2) THE OBTAINING BY A PURCHASER OF THE SERVICE OF PRINTING
25 OR IMPRINTING OF TANGIBLE PERSONAL PROPERTY WHEN SUCH PURCHASER
26 FURNISHES, EITHER DIRECTLY OR INDIRECTLY, THE ARTICLES USED IN
27 THE PRINTING OR IMPRINTING.

28 (3) THE OBTAINING BY A PURCHASER OF THE SERVICES OF (I)
29 WASHING, CLEANING, WAXING, POLISHING OR LUBRICATING OF MOTOR
30 VEHICLES WHETHER OR NOT ANY TANGIBLE PERSONAL PROPERTY IS

1 TRANSFERRED TO THE PURCHASER IN CONJUNCTION WITH SUCH SERVICES,
2 AND (II) INSPECTING MOTOR VEHICLES PURSUANT TO THE MANDATORY
3 REQUIREMENTS OF "THE VEHICLE CODE."

4 (4) THE OBTAINING BY A PURCHASER OF THE SERVICE OF
5 REPAIRING, ALTERING, MENDING, PRESSING, FITTING, DYEING,
6 LAUNDERING, DRYCLEANING OR CLEANING TANGIBLE PERSONAL PROPERTY
7 OTHER THAN WEARING APPAREL OR SHOES OR APPLYING OR INSTALLING
8 TANGIBLE PERSONAL PROPERTY AS A REPAIR OR REPLACEMENT PART OF
9 OTHER TANGIBLE PERSONAL PROPERTY OTHER THAN WEARING APPAREL OR
10 SHOES, WHETHER OR NOT THE SERVICES ARE PERFORMED DIRECTLY OR BY
11 ANY MEANS OTHER THAN BY MEANS OF COIN-OPERATED SELF-SERVICE
12 LAUNDRY EQUIPMENT FOR WEARING APPAREL OR HOUSEHOLD GOODS, AND
13 WHETHER OR NOT ANY TANGIBLE PERSONAL PROPERTY IS TRANSFERRED TO
14 THE PURCHASER IN CONJUNCTION THEREWITH, EXCEPT SUCH SERVICES AS
15 ARE OBTAINED IN THE CONSTRUCTION, RECONSTRUCTION, REMODELING,
16 REPAIR OR MAINTENANCE OF REAL ESTATE: PROVIDED, HOWEVER, THAT
17 THIS SUBCLAUSE SHALL NOT BE DEEMED TO IMPOSE TAX UPON SUCH
18 SERVICES IN THE PREPARATION FOR SALE OF NEW ITEMS WHICH ARE
19 EXCLUDED FROM THE TAX UNDER CLAUSE (26) OF SECTION 204, OR UPON
20 DIAPER SERVICE: AND PROVIDED FURTHER, THAT THE TERM "USE" SHALL
21 NOT INCLUDE--

22 (A) ANY TANGIBLE PERSONAL PROPERTY ACQUIRED AND KEPT,
23 RETAINED OR OVER WHICH POWER IS EXERCISED WITHIN THIS
24 COMMONWEALTH ON WHICH THE TAXING OF THE STORAGE, USE OR OTHER
25 CONSUMPTION THEREOF IS EXPRESSLY PROHIBITED BY THE CONSTITUTION
26 OF THE UNITED STATES OR WHICH IS EXCLUDED FROM TAX UNDER OTHER
27 PROVISIONS OF THIS ARTICLE.

28 (B) THE USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY,
29 INCLUDING BUT NOT LIMITED TO MACHINERY AND EQUIPMENT AND PARTS
30 THEREFOR, AND SUPPLIES OR THE OBTAINING OF THE SERVICES

1 DESCRIBED IN SUBCLAUSES (2), (3) AND (4) OF THIS CLAUSE DIRECTLY
2 IN THE OPERATIONS OF--

3 (I) THE MANUFACTURE OF TANGIBLE PERSONAL PROPERTY;

4 (II) FARMING, DAIRYING, AGRICULTURE, HORTICULTURE OR
5 FLORICULTURE WHEN ENGAGED IN AS A BUSINESS ENTERPRISE. THE TERM
6 "FARMING" SHALL INCLUDE THE PROPAGATION AND RAISING OF RANCH-
7 RAISED FURBEARING ANIMALS AND THE PROPAGATION OF GAME BIRDS FOR
8 COMMERCIAL PURPOSES BY HOLDERS OF PROPAGATION PERMITS ISSUED
9 UNDER 34 PA.C.S. (RELATING TO GAME);

10 (III) THE PRODUCING, DELIVERING OR RENDERING OF A PUBLIC
11 UTILITY SERVICE, OR IN CONSTRUCTING, RECONSTRUCTING, REMODELING,
12 REPAIRING OR MAINTAINING THE FACILITIES WHICH ARE DIRECTLY USED
13 IN PRODUCING, DELIVERING OR RENDERING SUCH SERVICE;

14 (IV) PROCESSING AS DEFINED IN SUBCLAUSE (D) OF THIS SECTION.

15 THE EXCLUSIONS PROVIDED IN SUBPARAGRAPHS (I), (II), (III) AND
16 (IV) SHALL NOT APPLY TO ANY VEHICLE REQUIRED TO BE REGISTERED
17 UNDER THE VEHICLE CODE EXCEPT THOSE VEHICLES DIRECTLY USED BY A
18 PUBLIC UTILITY ENGAGED IN THE BUSINESS AS A COMMON CARRIER; TO
19 MAINTENANCE FACILITIES; OR TO MATERIALS, SUPPLIES OR EQUIPMENT
20 TO BE USED OR CONSUMED IN THE CONSTRUCTION, RECONSTRUCTION,
21 REMODELING, REPAIR OR MAINTENANCE OF REAL ESTATE OTHER THAN
22 DIRECTLY USED MACHINERY, EQUIPMENT, PARTS OR FOUNDATIONS
23 THEREFOR THAT MAY BE AFFIXED TO SUCH REAL ESTATE. THE EXCLUSIONS
24 PROVIDED IN SUBPARAGRAPHS (I), (II), (III) AND (IV) SHALL NOT
25 APPLY TO TANGIBLE PERSONAL PROPERTY OR SERVICES TO BE USED OR
26 CONSUMED IN MANAGERIAL SALES OR OTHER NONOPERATIONAL ACTIVITIES,
27 NOR TO THE PURCHASE OR USE OF TANGIBLE PERSONAL PROPERTY OR
28 SERVICES BY ANY PERSON OTHER THAN THE PERSON DIRECTLY USING THE
29 SAME IN THE OPERATIONS DESCRIBED IN SUBPARAGRAPHS (I), (II),
30 (III) AND (IV).

1 THE EXCLUSION PROVIDED IN SUBPARAGRAPH (III) SHALL NOT APPLY
2 TO (A) CONSTRUCTION MATERIALS, SUPPLIES OR EQUIPMENT USED TO
3 CONSTRUCT, RECONSTRUCT, REMODEL, REPAIR OR MAINTAIN FACILITIES
4 NOT USED DIRECTLY BY THE PURCHASER IN THE PRODUCTION, DELIVERING
5 OR RENDITION OF PUBLIC UTILITY SERVICE OR (B) TOOLS AND
6 EQUIPMENT USED BUT NOT INSTALLED IN THE MAINTENANCE OF
7 FACILITIES USED DIRECTLY IN THE PRODUCTION, DELIVERING OR
8 RENDITION OF A PUBLIC UTILITY SERVICE.

9 THE EXCLUSION PROVIDED IN SUBPARAGRAPHS (I), (II), (III) AND
10 (IV) SHALL NOT APPLY TO THE SERVICES ENUMERATED IN CLAUSES
11 (O)(9) THROUGH (14) AND (16) AND (W) THROUGH (II) AND (KK),
12 EXCEPT THAT THE EXCLUSION PROVIDED IN SUBPARAGRAPH (II) FOR
13 FARMING, DAIRYING AND AGRICULTURE SHALL APPLY TO THE SERVICE
14 ENUMERATED IN CLAUSE (Z).

15 (5) WHERE TANGIBLE PERSONAL PROPERTY OR SERVICES ARE
16 UTILIZED FOR PURPOSES CONSTITUTING A "USE," AS HEREIN DEFINED,
17 AND FOR PURPOSES EXCLUDED FROM THE DEFINITION OF "USE," IT SHALL
18 BE PRESUMED THAT SUCH PROPERTY OR SERVICES ARE UTILIZED FOR
19 PURPOSES CONSTITUTING A "SALE AT RETAIL" AND SUBJECT TO TAX
20 UNLESS THE USER THEREOF PROVES TO THE DEPARTMENT THAT THE
21 PREDOMINANT PURPOSES FOR WHICH SUCH PROPERTY OR SERVICES ARE
22 UTILIZED DO NOT CONSTITUTE A "SALE AT RETAIL."

23 (6) THE TERM "USE" WITH RESPECT TO "LIQUOR" AND "MALT OR
24 BREWED BEVERAGES" SHALL INCLUDE THE PURCHASE OF "LIQUOR" FROM
25 ANY "PENNSYLVANIA LIQUOR STORE" BY ANY PERSON FOR ANY PURPOSE
26 AND THE PURCHASE OF "MALT OR BREWED BEVERAGES" FROM A
27 "MANUFACTURER OF MALT OR BREWED BEVERAGES," "DISTRIBUTOR" OR
28 "IMPORTING DISTRIBUTOR" BY ANY PERSON FOR ANY PURPOSE, EXCEPT
29 PURCHASES FROM A "MANUFACTURER OF MALT OR BREWED BEVERAGES" BY A
30 "DISTRIBUTOR" OR "IMPORTING DISTRIBUTOR," OR PURCHASES FROM AN

1 "IMPORTING DISTRIBUTOR" BY A "DISTRIBUTOR" WITHIN THE MEANING OF
2 THE "LIQUOR CODE." THE TERM "USE" SHALL NOT INCLUDE ANY PURCHASE
3 OF "MALT OR BREWED BEVERAGES" FROM A "RETAIL DISPENSER" OR ANY
4 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 SHALL
7 INCLUDE THE EXERCISE OF ANY RIGHT OR POWER INCIDENTAL TO THE
8 OWNERSHIP, CUSTODY OR POSSESSION OF "LIQUOR" OR "MALT OR BREWED
9 BEVERAGES" OBTAINED BY THE PERSON EXERCISING SUCH RIGHT OR POWER
10 IN ANY MANNER OTHER THAN PURSUANT TO THE PROVISIONS OF THE
11 "LIQUOR CODE."

12 (7) THE USE OF TANGIBLE PERSONAL PROPERTY PURCHASED AT
13 RETAIL UPON WHICH THE SERVICES DESCRIBED IN SUBCLAUSES (2), (3)
14 AND (4) OF THIS CLAUSE HAVE BEEN PERFORMED SHALL BE DEEMED TO BE
15 A USE OF SAID SERVICES BY THE PERSON USING SAID PROPERTY.

16 (8) THE TERM "USE" SHALL NOT INCLUDE THE PROVIDING OF A
17 MOTOR VEHICLE TO A NONPROFIT PRIVATE OR PUBLIC SCHOOL TO BE USED
18 BY SUCH A SCHOOL FOR THE SOLE PURPOSE OF DRIVER EDUCATION.

19 (9) THE OBTAINING BY THE PURCHASER OF LOBBYING SERVICES.

20 (10) THE OBTAINING BY THE PURCHASER OF ADJUSTMENT SERVICES,
21 COLLECTION SERVICES OR CREDIT REPORTING SERVICES.

22 (11) THE OBTAINING BY THE PURCHASER OF SECRETARIAL OR
23 EDITING SERVICES.

24 (12) THE OBTAINING BY THE PURCHASER OF DISINFECTING OR PEST
25 CONTROL SERVICES, BUILDING MAINTENANCE OR CLEANING SERVICES.

26 (13) THE OBTAINING BY THE PURCHASER OF EMPLOYMENT AGENCY
27 SERVICES OR HELP SUPPLY SERVICES.

28 (14) THE OBTAINING BY THE PURCHASER OF COMPUTER PROGRAMMING
29 SERVICES; COMPUTER-INTEGRATED SYSTEMS DESIGN SERVICES; COMPUTER
30 PROCESSING, DATA PREPARATION OR PROCESSING SERVICES; INFORMATION

1 RETRIEVAL SERVICES; COMPUTER FACILITIES MANAGEMENT SERVICES; OR
2 OTHER COMPUTER-RELATED SERVICES. AT A MINIMUM, SUCH SERVICES
3 SHALL NOT INCLUDE SERVICES THAT ARE PART OF ELECTRONIC FUND
4 TRANSFERS, ELECTRONIC FINANCIAL TRANSACTIONS OR SERVICES,
5 BANKING OR TRUST SERVICES, OR MANAGEMENT OR ADMINISTRATIVE
6 SERVICES, INCLUDING TRANSFER AGENCY, SHAREHOLDER, CUSTODIAL AND
7 PORTFOLIO ACCOUNTING SERVICES, PROVIDED DIRECTLY TO ANY ENTITY
8 THAT DULY QUALIFIES TO BE TAXED AS A REGULATED INVESTMENT
9 COMPANY OR A REAL ESTATE INVESTMENT TRUST UNDER THE PROVISIONS
10 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26
11 U.S.C. § 1 ET SEQ.) OR TO AN ENTITY THAT PROVIDES SUCH SERVICES
12 TO AN ENTITY SO QUALIFYING.

13 [(15) THE OBTAINING BY THE PURCHASER OF LAWN CARE SERVICE.]

14 (16) THE OBTAINING BY THE PURCHASER OF SELF-STORAGE SERVICE.

15 * * *

16 [(JJ) "LAWN CARE SERVICE." PROVIDING SERVICES FOR LAWN
17 UPKEEP, INCLUDING, BUT NOT LIMITED TO, FERTILIZING, LAWN MOWING,
18 SHRUBBERY TRIMMING OR OTHER LAWN TREATMENT SERVICES.]

19 * * *

20 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

21 SECTION 315.1. SPACE ON FORM FOR CONTRIBUTIONS TO BREAST AND
22 CERVICAL CANCER RESEARCH.--(A) THE DEPARTMENT SHALL PROVIDE A
23 SPACE ON THE FACE OF THE INDIVIDUAL INCOME TAX RETURN FORM
24 WHEREBY AN INDIVIDUAL MAY VOLUNTARILY DESIGNATE A CONTRIBUTION
25 OF ANY AMOUNT DESIRED TO BE UTILIZED FOR BREAST AND CERVICAL
26 CANCER RESEARCH IN THE DEPARTMENT OF HEALTH.

27 (B) THE AMOUNT SO DESIGNATED ON THE INDIVIDUAL INCOME TAX
28 RETURN FORM SHALL BE DEDUCTED FROM THE TAX REFUND TO WHICH THE
29 INDIVIDUAL IS ENTITLED AND SHALL NOT CONSTITUTE A CHARGE AGAINST
30 THE INCOME TAX REVENUES DUE TO THE COMMONWEALTH.

1 (C) THE DEPARTMENT SHALL DETERMINE ANNUALLY THE TOTAL AMOUNT
2 DESIGNATED UNDER THIS SECTION, LESS REASONABLE ADMINISTRATIVE
3 COSTS, AND SHALL REPORT THE AMOUNT TO THE STATE TREASURER, WHO
4 SHALL TRANSFER THE AMOUNT FROM THE GENERAL FUND TO THE
5 PENNSYLVANIA CANCER CONTROL, PREVENTION AND RESEARCH ADVISORY
6 BOARD WITHIN THE DEPARTMENT OF HEALTH.

7 (D) THE DEPARTMENT SHALL PROVIDE ADEQUATE INFORMATION
8 CONCERNING THE CHECKOFF FOR BREAST AND CERVICAL CANCER RESEARCH
9 IN ITS INSTRUCTIONS WHICH ACCOMPANY STATE INCOME TAX RETURN
10 FORMS. THE INFORMATION CONCERNING THE CHECKOFF SHALL INCLUDE THE
11 LISTING OF AN ADDRESS FURNISHED BY THE DEPARTMENT OF HEALTH, TO
12 WHICH CONTRIBUTIONS MAY BE SENT BY TAXPAYERS WISHING TO
13 CONTRIBUTE TO THIS EFFORT, BUT WHO DO NOT RECEIVE REFUNDS.
14 ADDITIONALLY, THE DEPARTMENT OF HEALTH SHALL BE CHARGED WITH THE
15 DUTY TO CONDUCT A PUBLIC INFORMATION CAMPAIGN ON THE
16 AVAILABILITY OF THIS OPPORTUNITY TO PENNSYLVANIA TAXPAYERS.

17 (E) THE DEPARTMENT OF HEALTH SHALL REPORT ANNUALLY TO THE
18 RESPECTIVE COMMITTEES OF THE SENATE AND THE HOUSE OF
19 REPRESENTATIVES WHICH HAVE JURISDICTION OVER HEALTH MATTERS ON
20 THE AMOUNT RECEIVED VIA THE CHECKOFF PLAN AND HOW THE FUNDS WERE
21 UTILIZED.

22 (F) THE GENERAL ASSEMBLY MAY, FROM TIME TO TIME, APPROPRIATE
23 FUNDS FOR BREAST AND CERVICAL CANCER RESEARCH WITHIN THE
24 DEPARTMENT OF HEALTH.

25 SECTION 3. SECTION 12 OF THE ACT OF JUNE 23, 1982 (P.L.597,
26 NO.170), KNOWN AS THE WILD RESOURCE CONSERVATION ACT, IS
27 REPEALED INsofar AS IT IS INCONSISTENT WITH THIS ACT.

28 SECTION 4. THE ADDITION OF SECTION 315.1 OF THE ACT SHALL
29 APPLY TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 1996.

30 SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.