

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 134 Session of
1997

INTRODUCED BY TRUE, SCHULER, PETTIT, THOMAS, VANCE, MANDERINO,
BARLEY, RUBLEY, JOSEPHS, BROWN, MILLER, EGOLF, HERSHEY,
ARMSTRONG, MASLAND, BEBKO-JONES, MUNDY, LAUGHLIN, YOUNGBLOOD,
MAITLAND, BOYES, STRITTMATTER, GEORGE, HENNESSEY, MARSICO,
WOJNAROSKI, WALKO, READSHAW, NAILOR, DALEY, GIGLIOTTI,
CHADWICK, FLEAGLE, HALUSKA, ZUG, CAPPABIANCA, MELIO, FICHTER,
SANTONI, KELLER, SAINATO, FARGO, MARKOSEK, FAIRCHILD, PESCI,
JAROLIN, LAWLESS, PLATTS, RYAN, PERZEL, E. Z. TAYLOR, STERN,
ROONEY, SHANER, OLASZ, BAKER, CURRY, BATTISTO, COY, McCALL,
LaGROTTA, STURLA, TRAVAGLIO, TANGRETTI, ADOLPH, JAMES, LEH,
HERMAN, LEVDANSKY, J. TAYLOR, COLAFELLA, CORNELL, STEELMAN,
BARD, FEESE, LUCYK, TRELLO, LEDERER, BROWNE, PETRARCA, WAUGH,
DeLUCA, D. W. SNYDER, C. WILLIAMS, CIVERA, ALLEN, DiGIROLAMO,
DENT, HUTCHINSON, WILT, RAMOS, L. I. COHEN, PHILLIPS, BARRAR,
WASHINGTON, ROHRER, FLICK, EACHUS, SCHRODER, SEYFERT,
BELARDI, AND ROSS JANUARY 29, 1997

SENATOR HART, FINANCE, IN SENATE, AS AMENDED, APRIL 15, 1997

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further providing for sales and use tax
11 definitions, for personal income tax definitions and for
12 special tax provisions on poverty; providing for income tax
13 refund checkoffs for breast and cervical cancer research;
14 further providing for realty transfer tax definitions, for
15 exclusions, FOR NEIGHBORHOOD ASSISTANCE TAX CREDITS AND FOR
16 INHERITANCE TAX; EXCLUDING CERTAIN COMPUTER SERVICES FROM
17 SALES AND USE TAX; FURTHER DEFINING "CLAIMANT" AND
18 "DEPENDENT"; FURTHER PROVIDING FOR SPECIAL TAX PROVISIONS FOR
19 POVERTY, FOR THE DETERMINATION OF CAPITAL STOCK VALUE AND FOR

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1 ALLOCATION OF CIGARETTE TAX RECEIPTS TO THE CHILDREN'S HEALTH
2 FUND; FURTHER DEFINING "COMPENSATION" FOR PERSONAL INCOME TAX
3 PURPOSES TO EXCLUDE CAFETERIA PLANS AND CERTAIN OTHER
4 BENEFITS; EXTENDING THE NEIGHBORHOOD ASSISTANCE TAX CREDIT TO
5 PERSONAL INCOME TAXES IMPOSED UNDER ARTICLE III; and making
6 repeals.

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

9 Section 1. Section 201(b), (c), (d), (f), (g), (k), (o) and
10 (jj) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
11 Reform Code of 1971, amended or added August 4, 1991 (P.L.97,
12 No.22), December 13, 1991 (P.L.373, No.40), June 16, 1994
13 (P.L.279, No.48) and June 30, 1995 (P.L.139, No.21), are amended
14 to read:

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

19 * * *

20 (b) "Maintaining a place of business in this Commonwealth."

21 (1) Having or maintaining within this Commonwealth, directly
22 or by a subsidiary, an office, distribution house, sales house,
23 warehouse, service enterprise or other place of business, or any
24 agent of general or restricted authority irrespective of whether
25 the place of business or agent is located here permanently or
26 temporarily or whether the person or subsidiary maintaining such
27 place of business or agent is authorized to do business within
28 this Commonwealth; or

29 (2) The engaging in any activity as a business within this
30 Commonwealth by any person, directly or by a subsidiary, in
31 connection with the lease, sale or delivery of tangible personal
32 property or the performance of services thereon for use, storage

1 or consumption or in connection with the sale or delivery for
2 use of the services described in subclauses (11) through (16)
3 and (18) of clause (k) of this section, including, but not
4 limited to, having, maintaining or using any office,
5 distribution house, sales house, warehouse or other place of
6 business, any stock of goods or any solicitor, salesman, agent
7 or representative under its authority, at its direction or with
8 its permission, regardless of whether the person or subsidiary
9 is authorized to do business in this Commonwealth.

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

18 (c) "Manufacture." The performance of manufacturing,
19 fabricating, compounding, processing or other operations,
20 engaged in as a business, which place any tangible personal
21 property in a form, composition or character different from that
22 in which it is acquired whether for sale or use by the
23 manufacturer, and shall include, but not be limited to--

24 (1) Every operation commencing with the first production
25 stage and ending with the completion of tangible personal
26 property having the physical qualities (including packaging, if
27 any, passing to the ultimate consumer) which it has when
28 transferred by the manufacturer to another;

29 (2) The publishing of books, newspapers, magazines and other
30 periodicals and printing;

1 (3) Refining, blasting, exploring, mining and quarrying for,
2 or otherwise extracting from the earth or from waste or stock
3 piles or from pits or banks any natural resources, minerals and
4 mineral aggregates including blast furnace slag;

5 (4) Building, rebuilding, repairing and making additions to,
6 or replacements in or upon vessels designed for commercial use
7 of registered tonnage of fifty tons or more when produced upon
8 special order of the purchaser, or when rebuilt, repaired or
9 enlarged, or when replacements are made upon order of, or for
10 the account of the owner;

11 (5) Research having as its objective the production of a new
12 or an improved (i) product or utility service, or (ii) method of
13 producing a product or utility service, but in either case not
14 including market research or research having as its objective
15 the improvement of administrative efficiency.

16 (6) Remanufacture for wholesale distribution by a
17 remanufacturer of motor vehicle parts from used parts acquired
18 in bulk by the remanufacturer using an assembly line process
19 which involves the complete disassembly of such parts and
20 integration of the components of such parts with other used or
21 new components of parts, including the salvaging, recycling or
22 reclaiming of used parts by the remanufacturer.

23 (7) Remanufacture or retrofit by a manufacturer or
24 remanufacturer of aircraft, armored vehicles, other defense-
25 related vehicles having a finished value of at least fifty
26 thousand dollars (\$50,000). Remanufacture or retrofit involves
27 the disassembly of such aircraft, vehicles, parts or components,
28 including electric or electronic components, the integration of
29 those parts and components with other used or new parts or
30 components, including the salvaging, recycling or reclaiming of

1 the used parts or components and the assembly of the new or used
2 aircraft, vehicles, parts or components. For purposes of this
3 clause, the following terms or phrases have the following
4 meanings:

5 (i) "aircraft" means fixed-wing aircraft, helicopters,
6 powered aircraft, tilt-rotor or tilt-wing aircraft, unmanned
7 aircraft and gliders;

8 (ii) "armored vehicles" means tanks, armed personnel
9 carriers and all other armed track or semitrack vehicles; or

10 (iii) "other defense-related vehicles" means trucks, truck-
11 tractors, trailers, jeeps and other utility vehicles, including
12 any unmanned vehicles.

13 The term "manufacture[,]" shall not include constructing,
14 altering, servicing, repairing or improving real estate or
15 repairing, servicing or installing tangible personal property,
16 nor the cooking[,], or freezing [or baking] of fruits,
17 vegetables, mushrooms, fish, seafood, meats[,], or poultry [or
18 bakery products].

19 * * *

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

22 (1) The filtering or heating of honey, the cooking[, baking]
23 or freezing of fruits, vegetables, mushrooms, fish, seafood,
24 meats[,], or poultry [or bakery products], when the person
25 engaged in such business packages such property in sealed
26 containers for wholesale distribution.

27 (1.1) The processing of vegetables by cleaning, cutting,
28 coring or chopping and treating to preserve, sterilize or purify
29 and substantially extend the useful shelf life of the
30 vegetables, when the person engaged in such activity packages

1 such property in sealed containers for wholesale distribution.

2 (2) The scouring, carbonizing, cording, combing, throwing,
3 twisting or winding of natural or synthetic fibers, or the
4 spinning, bleaching, dyeing, printing or finishing of yarns or
5 fabrics, when such activities are performed prior to sale to the
6 ultimate consumer.

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

10 (4) The rolling, drawing or extruding of ferrous and non-
11 ferrous metals.

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

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

17 (7) The production, processing and bottling of non-alcoholic
18 beverages for wholesale distribution.

19 (8) The operation of a saw mill or planing mill for the
20 production of lumber or lumber products for sale.

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

22 (10) The slaughtering and dressing of animals for meat to be
23 sold or to be used in preparing meat products for sale, and the
24 preparation of meat products including lard, tallow, grease,
25 cooking and inedible oils for wholesale distribution.

26 (11) The processing of used lubricating oils.

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

29 * * *

30 (f) "Purchase at retail."

1 (1) The acquisition for a consideration of the ownership,
2 custody or possession of tangible personal property other than
3 for resale by the person acquiring the same when such
4 acquisition is made for the purpose of consumption or use,
5 whether such acquisition shall be absolute or conditional, and
6 by whatsoever means the same shall have been effected.

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

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

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

18 (5) The obtaining for a consideration of those services
19 described in subclauses (11) through (16) and (18) of clause (k)
20 of this section.

21 The term "purchase at retail" with respect to "liquor" and
22 "malt or brewed beverages" shall include the purchase of
23 "liquor" from any "Pennsylvania Liquor Store" by any person for
24 any purpose, and the purchase of "malt or brewed beverages" from
25 a "manufacturer of malt or brewed beverages," "distributor" or
26 "importing distributor" by any person for any purpose, except
27 purchases from a "manufacturer of malt or brewed beverages" by a
28 "distributor" or "importing distributor" or purchases from an
29 "importing distributor" by a "distributor" within the meaning of
30 the "Liquor Code." The term "purchase at retail" shall not

1 include any purchase of "malt or brewed beverages" from a
2 "retail dispenser" or any purchase of "liquor" or "malt or
3 brewed beverages" from a person holding a "retail liquor
4 license" within the meaning of and pursuant to the provisions of
5 the "Liquor Code," but shall include any purchase or acquisition
6 of "liquor" or "malt or brewed beverages" other than pursuant to
7 the provisions of the "Liquor Code."

8 (g) "Purchase price."

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

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

25 (3) In determining the purchase price on the sale or use of
26 taxable tangible personal property or a service described in
27 subclauses (11) through (16) and (18) of clause (k) of this
28 section where, because of affiliation of interests between the
29 vendor and purchaser, or irrespective of any such affiliation,
30 if for any other reason the purchase price declared by the

1 vendor or taxpayer on the taxable sale or use of such tangible
2 personal property or service is, in the opinion of the
3 department, not indicative of the true value of the article or
4 service or the fair price thereof, the department shall,
5 pursuant to uniform and equitable rules, determine the amount of
6 constructive purchase price upon the basis of which the tax
7 shall be computed and levied. Such rules shall provide for a
8 constructive amount of purchase price for each such sale or use
9 which would naturally and fairly be charged in an arms-length
10 transaction in which the element of common interest between the
11 vendor or purchaser is absent or if no common interest exists,
12 any other element causing a distortion of the price or value is
13 likewise absent. For the purpose of this clause where a taxable
14 sale or purchase at retail transaction occurs between a parent
15 and a subsidiary, affiliate or controlled corporation of such
16 parent corporation, there shall be a rebuttable presumption,
17 that because of such common interest such transaction was not at
18 arms-length.

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

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

10 (5) With respect to the tax imposed by subsection (b) of
11 section 202 upon any tangible personal property originally
12 purchased by the user of such property six months or longer
13 prior to the first taxable use of such property within the
14 Commonwealth, such user may elect to pay tax on a substituted
15 base determined by considering the purchase price of such
16 property for tax purposes to be equal to the prevailing market
17 price of similar tangible personal property at the time and
18 place of such first use within the Commonwealth. Such election
19 must be made at the time of filing a tax return with the
20 department and reporting such tax liability and paying the
21 proper tax due plus all accrued penalties and interest, if there
22 be any, within six months of the due date of such report and
23 payment, as provided for by subsections (a) and (c) of section
24 217 of this article.

25 (6) The purchase price of employment agency services and
26 help supply services shall be the service fee paid by the
27 purchaser to the vendor or supplying entity. The term "service
28 fee," as used in this subclause, shall be the total charge or
29 fee of the vendor or supplying entity minus the costs of the
30 supplied employee which costs are wages, salaries, bonuses and

1 commissions, employment benefits, expense reimbursements and
2 payroll and withholding taxes, to the extent that these costs
3 are specifically itemized or that these costs in aggregate are
4 stated in billings from the vendor or supplying entity. To the
5 extent that these costs are not itemized or stated on the
6 billings, then the service fee shall be the total charge or fee
7 of the vendor or supplying entity.

8 (7) Unless the vendor separately states that portion of the
9 billing which applies to premium cable service as defined in
10 clause (11) of this section, the total bill for the provision of
11 all cable services shall be the purchase price.

12 * * *

13 (k) "Sale at retail."

14 (1) Any transfer, for a consideration, of the ownership,
15 custody or possession of tangible personal property, including
16 the grant of a license to use or consume whether such transfer
17 be absolute or conditional and by whatsoever means the same
18 shall have been effected.

19 (2) The rendition of the service of printing or imprinting
20 of tangible personal property for a consideration for persons
21 who furnish, either directly or indirectly the materials used in
22 the printing or imprinting.

23 (3) The rendition for a consideration of the service of--

24 (i) Washing, cleaning, waxing, polishing or lubricating of
25 motor vehicles of another, whether or not any tangible personal
26 property is transferred in conjunction therewith; and

27 (ii) Inspecting motor vehicles pursuant to the mandatory
28 requirements of "The Vehicle Code."

29 (4) The rendition for a consideration of the service of
30 repairing, altering, mending, pressing, fitting, dyeing,

1 laundering, drycleaning or cleaning tangible personal property
2 other than wearing apparel or shoes, or applying or installing
3 tangible personal property as a repair or replacement part of
4 other tangible personal property except wearing apparel or shoes
5 for a consideration, whether or not the services are performed
6 directly or by any means other than by coin-operated self-
7 service laundry equipment for wearing apparel or household goods
8 and whether or not any tangible personal property is transferred
9 in conjunction therewith, except such services as are rendered
10 in the construction, reconstruction, remodeling, repair or
11 maintenance of real estate: Provided, however, That this
12 subclause shall not be deemed to impose tax upon such services
13 in the preparation for sale of new items which are excluded from
14 the tax under clause (26) of section 204, or upon diaper
15 service.

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

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

28 (A) The manufacture of tangible personal property;

29 (B) Farming, dairying, agriculture, horticulture or
30 floriculture when engaged in as a business enterprise. The term

1 "farming" shall include the propagation and raising of ranch
2 raised fur-bearing animals and the propagation of game birds for
3 commercial purposes by holders of propagation permits issued
4 under 34 Pa.C.S. (relating to game);

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

9 (D) Processing as defined in clause (d) of this section.

10 The exclusions provided in paragraphs (A), (B), (C) and (D)
11 shall not apply to any vehicle required to be registered under
12 The Vehicle Code, except those vehicles used directly by a
13 public utility engaged in business as a common carrier; to
14 maintenance facilities; or to materials, supplies or equipment
15 to be used or consumed in the construction, reconstruction,
16 remodeling, repair or maintenance of real estate other than
17 directly used machinery, equipment, parts or foundations
18 therefor that may be affixed to such real estate.

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

26 The exclusion provided in paragraph (C) shall not apply to
27 (i) construction materials, supplies or equipment used to
28 construct, reconstruct, remodel, repair or maintain facilities
29 not used directly by the purchaser in the production, delivering
30 or rendition of public utility service, (ii) construction

1 materials, supplies or equipment used to construct, reconstruct,
2 remodel, repair or maintain a building, road or similar
3 structure, or (iii) tools and equipment used but not installed
4 in the maintenance of facilities used directly in the
5 production, delivering or rendition of a public utility service.

6 The exclusions provided in paragraphs (A), (B), (C) and (D)
7 shall not apply to the services enumerated in clauses (k)(11)
8 through ~~(16) and~~ (18) and (w) through ~~(ii) and~~ (kk), except that <—
9 the exclusion provided in this subclause for farming, dairying
10 and agriculture shall apply to the service enumerated in clause
11 (z).

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

21 (10) The term "sale at retail" with respect to "liquor" and
22 "malt or brewed beverages" shall include the sale of "liquor" by
23 any "Pennsylvania liquor store" to any person for any purpose,
24 and the sale of "malt or brewed beverages" by a "manufacturer of
25 malt or brewed beverages," "distributor" or "importing
26 distributor" to any person for any purpose, except sales by a
27 "manufacturer of malt or brewed beverages" to a "distributor" or
28 "importing distributor" or sales by an "importing distributor"
29 to a "distributor" within the meaning of the "Liquor Code." The
30 term "sale at retail" shall not include any sale of "malt or

1 brewed beverages" by a "retail dispenser" or any sale of
2 "liquor" or "malt or brewed beverages" by a person holding a
3 "retail liquor license" within the meaning of and pursuant to
4 the provisions of the "Liquor Code," but shall include any sale
5 of "liquor" or "malt or brewed beverages" other than pursuant to
6 the provisions of the "Liquor Code."

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

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

10 (13) The rendition for a consideration of secretarial or
11 editing services.

12 (14) The rendition for a consideration of disinfecting or
13 pest control services, building maintenance or cleaning
14 services.

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

17 (16) The rendition for a consideration of computer
18 programming services; computer-integrated systems design
19 services; computer processing, data preparation or processing
20 services; information retrieval services; computer facilities
21 management services; or other computer-related services. At a
22 minimum, such services shall not include services that are part
23 of electronic fund transfers, electronic financial transactions
24 or services, banking or trust services, or management or
25 administrative services, including transfer agency, shareholder,
26 custodial and portfolio accounting services, provided directly
27 to any entity that duly qualifies to be taxed as a regulated
28 investment company or a real estate investment trust under the
29 provisions of the Internal Revenue Code of 1986 (Public Law 99-
30 514, 26 U.S.C. § 1 et seq.) or to an entity that provides such

1 services to an entity so qualifying.

2 [(17) The rendition for a consideration of lawn care
3 service.]

4 (18) The rendition for a consideration of self-storage
5 service.

6 * * *

7 (o) "Use."

8 (1) The exercise of any right or power incidental to the
9 ownership, custody or possession of tangible personal property
10 and shall include, but not be limited to transportation, storage
11 or consumption.

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

16 (3) The obtaining by a purchaser of the services of (i)
17 washing, cleaning, waxing, polishing or lubricating of motor
18 vehicles whether or not any tangible personal property is
19 transferred to the purchaser in conjunction with such services,
20 and (ii) inspecting motor vehicles pursuant to the mandatory
21 requirements of "The Vehicle Code."

22 (4) The obtaining by a purchaser of the service of
23 repairing, altering, mending, pressing, fitting, dyeing,
24 laundering, drycleaning or cleaning tangible personal property
25 other than wearing apparel or shoes or applying or installing
26 tangible personal property as a repair or replacement part of
27 other tangible personal property other than wearing apparel or
28 shoes, whether or not the services are performed directly or by
29 any means other than by means of coin-operated self-service
30 laundry equipment for wearing apparel or household goods, and

1 whether or not any tangible personal property is transferred to
2 the purchaser in conjunction therewith, except such services as
3 are obtained in the construction, reconstruction, remodeling,
4 repair or maintenance of real estate: Provided, however, That
5 this subclause shall not be deemed to impose tax upon such
6 services in the preparation for sale of new items which are
7 excluded from the tax under clause (26) of section 204, or upon
8 diaper service: And provided further, That the term "use" shall
9 not include--

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

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

21 (i) The manufacture of tangible personal property;

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

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

1 in producing, delivering or rendering such service;

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

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

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

27 The exclusion provided in subparagraphs (i), (ii), (iii) and
28 (iv) shall not apply to the services enumerated in clauses
29 (o)(9) through ~~(14) and~~ (16) and (w) through ~~(ii) and~~ (kk),
30 except that the exclusion provided in subparagraph (ii) for

<—

1 farming, dairying and agriculture shall apply to the service
2 enumerated in clause (z).

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

11 (6) The term "use" with respect to "liquor" and "malt or
12 brewed beverages" shall include the purchase of "liquor" from
13 any "Pennsylvania liquor store" by any person for any purpose
14 and the purchase of "malt or brewed beverages" from a
15 "manufacturer of malt or brewed beverages," "distributor" or
16 "importing distributor" by any person for any purpose, except
17 purchases from a "manufacturer of malt or brewed beverages" by a
18 "distributor" or "importing distributor," or purchases from an
19 "importing distributor" by a "distributor" within the meaning of
20 the "Liquor Code." The term "use" shall not include any purchase
21 of "malt or brewed beverages" from a "retail dispenser" or any
22 purchase of "liquor" or "malt or brewed beverages" from a person
23 holding a "retail liquor license" within the meaning of and
24 pursuant to the provisions of the "Liquor Code," but shall
25 include the exercise of any right or power incidental to the
26 ownership, custody or possession of "liquor" or "malt or brewed
27 beverages" obtained by the person exercising such right or power
28 in any manner other than pursuant to the provisions of the
29 "Liquor Code."

30 (7) The use of tangible personal property purchased at

1 retail upon which the services described in subclauses (2), (3)
2 and (4) of this clause have been performed shall be deemed to be
3 a use of said services by the person using said property.

4 (8) The term "use" shall not include the providing of a
5 motor vehicle to a nonprofit private or public school to be used
6 by such a school for the sole purpose of driver education.

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

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

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

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

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

16 (14) The obtaining by the purchaser of computer programming
17 services; computer-integrated systems design services; computer
18 processing, data preparation or processing services; information
19 retrieval services; computer facilities management services; or
20 other computer-related services. At a minimum, such services
21 shall not include services that are part of electronic fund
22 transfers, electronic financial transactions or services,
23 banking or trust services, or management or administrative
24 services, including transfer agency, shareholder, custodial and
25 portfolio accounting services, provided directly to any entity
26 that duly qualifies to be taxed as a regulated investment
27 company or a real estate investment trust under the provisions
28 of the Internal Revenue Code of 1986 (Public Law 99-514, 26
29 U.S.C. § 1 et seq.) or to an entity that provides such services
30 to an entity so qualifying.

1 [(15) The obtaining by the purchaser of lawn care service.]
2 (16) The obtaining by the purchaser of self-storage service.
3 * * *

4 [(jj) "Lawn care service." Providing services for lawn
5 upkeep, including, but not limited to, fertilizing, lawn mowing,
6 shrubbery trimming or other lawn treatment services.]
7 * * *

8 ~~Section 2. Section 301 introductory paragraph and (s.2) of~~ <—
9 ~~the act, amended or added August 31, 1971 (P.L.362, No.93) and~~
10 ~~December 23, 1983 (P.L.370, No.90), are amended to read:~~

11 SECTION 2. SECTION 204 OF THE ACT IS AMENDED BY ADDING A <—
12 CLAUSE TO READ:

13 SECTION 204. EXCLUSIONS FROM TAX.--THE TAX IMPOSED BY
14 SECTION 202 SHALL NOT BE IMPOSED UPON

15 * * *

16 (53) THE SALE AT RETAIL TO OR USE BY A HOTEL, AS THE WORD IS
17 DEFINED UNDER SECTION 209 OF THIS ARTICLE, OF COMPUTER
18 PROGRAMMING SERVICES, COMPUTER-INTEGRATED SYSTEMS DESIGN,
19 COMPUTER PROCESSING, DATA PREPARATION OR PROCESSING SERVICES,
20 INFORMATION RETRIEVAL SERVICES, COMPUTER FACILITIES MANAGEMENT
21 SERVICES, OR OTHER COMPUTER-RELATED SERVICES THAT WILL BE USED
22 TO MAKE ROOM RESERVATIONS.

23 SECTION 3. SECTION 301 INTRODUCTORY PARAGRAPH, (C.2), (D),
24 (E.1) AND (S.2) OF THE ACT, AMENDED OR ADDED AUGUST 31, 1971
25 (P.L.362, NO.93), DECEMBER 23, 1983 (P.L.370, NO.90), NOVEMBER
26 4, 1991 (P.L.97, NO.22), DECEMBER 13, 1991 (P.L.373, NO.40) AND
27 JUNE 30, 1995 (P.L.139, NO.21), ARE AMENDED TO READ:

28 Section 301. Definitions.--The following words, terms and
29 phrases when used in this article shall have the meaning
30 ascribed to them in this section except where the context

1 clearly indicates a different meaning. [Any] Unless specifically
2 provided otherwise, any reference in this article to the
3 Internal Revenue Code shall include the Internal Revenue Code of
4 1954, as amended to the date on which this article is effective:

5 * * *

6 (C.2) "CLAIMANT" MEANS A PERSON WHO IS SUBJECT TO THE TAX <—
7 IMPOSED UNDER THIS ARTICLE, IS NOT A DEPENDENT OF ANOTHER
8 [PERSON] TAXPAYER FOR PURPOSES OF SECTION 151 OF THE INTERNAL
9 REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 151), BUT
10 IS ENTITLED TO CLAIM AGAINST SUCH TAX THE POVERTY TAX PROVISIONS
11 AS PROVIDED BY THIS ACT.

12 (D) "COMPENSATION" MEANS AND SHALL INCLUDE SALARIES, WAGES,
13 COMMISSIONS, BONUSES AND INCENTIVE PAYMENTS WHETHER BASED ON
14 PROFITS OR OTHERWISE, FEES, TIPS AND SIMILAR REMUNERATION
15 RECEIVED FOR SERVICES RENDERED, WHETHER DIRECTLY OR THROUGH AN
16 AGENT, AND WHETHER IN CASH OR IN PROPERTY.

17 THE TERM "COMPENSATION" SHALL NOT MEAN OR INCLUDE: (I)
18 PERIODIC PAYMENTS FOR SICKNESS AND DISABILITY OTHER THAN REGULAR
19 WAGES RECEIVED DURING A PERIOD OF SICKNESS OR DISABILITY; OR
20 (II) DISABILITY, RETIREMENT OR OTHER PAYMENTS ARISING UNDER
21 WORKMEN'S COMPENSATION ACTS, OCCUPATIONAL DISEASE ACTS AND
22 SIMILAR LEGISLATION BY ANY GOVERNMENT; OR (III) PAYMENTS
23 COMMONLY RECOGNIZED AS OLD AGE OR RETIREMENT BENEFITS PAID TO
24 PERSONS RETIRED FROM SERVICE AFTER REACHING A SPECIFIC AGE OR
25 AFTER A STATED PERIOD OF EMPLOYMENT; OR (IV) PAYMENTS COMMONLY
26 KNOWN AS PUBLIC ASSISTANCE, OR UNEMPLOYMENT COMPENSATION
27 PAYMENTS BY ANY GOVERNMENTAL AGENCY; OR (V) PAYMENTS TO
28 REIMBURSE ACTUAL EXPENSES; OR (VI) PAYMENTS MADE BY EMPLOYERS OR
29 LABOR UNIONS [FOR], INCLUDING PAYMENTS MADE PURSUANT TO A
30 CAFETERIA PLAN QUALIFYING UNDER SECTION 125 OF THE INTERNAL

1 REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 125 ET
2 SEQ.), FOR EMPLOYE BENEFIT PROGRAMS COVERING HOSPITALIZATION,
3 SICKNESS, DISABILITY OR DEATH, SUPPLEMENTAL UNEMPLOYMENT
4 BENEFITS[,] OR STRIKE BENEFITS[, SOCIAL SECURITY AND
5 RETIREMENT]: PROVIDED, THAT THE PROGRAM DOES NOT DISCRIMINATE IN
6 FAVOR OF HIGHLY COMPENSATED INDIVIDUALS AS TO ELIGIBILITY TO
7 PARTICIPATE, PAYMENTS OR PROGRAM BENEFITS; OR (VII) ANY
8 COMPENSATION RECEIVED BY UNITED STATES SERVICEMEN SERVING IN A
9 COMBAT ZONE; OR (VIII) PAYMENTS RECEIVED BY A FOSTER PARENT FOR
10 IN-HOME CARE OF FOSTER CHILDREN FROM AN AGENCY OF THE
11 COMMONWEALTH OR A POLITICAL SUBDIVISION THEREOF OR AN
12 ORGANIZATION EXEMPT FROM FEDERAL TAX UNDER SECTION 501(C)(3) OF
13 THE INTERNAL REVENUE CODE OF 1954 WHICH IS LICENSED BY THE
14 COMMONWEALTH OR A POLITICAL SUBDIVISION THEREOF AS A PLACEMENT
15 AGENCY[.]; OR (IX) PAYMENTS MADE BY EMPLOYERS OR LABOR UNIONS
16 FOR EMPLOYE BENEFIT PROGRAMS COVERING SOCIAL SECURITY OR
17 RETIREMENT.

18 * * *

19 (E.1) "DEPENDENT" MEANS A [SPOUSE OR CHILD WHO DERIVES MORE
20 THAN ONE-HALF OF HIS TOTAL SUPPORT DURING THE ENTIRE TAXABLE
21 YEAR FROM A CLAIMANT ENTITLED TO CLAIM THE POVERTY EXEMPTION.
22 ANY PERSON WHO IS A DEPENDENT PURSUANT TO THE PROVISIONS OF THE
23 INTERNAL REVENUE CODE DURING A TAXABLE YEAR SHALL PRIMA FACIE BE
24 DEEMED A DEPENDENT FOR PURPOSES OF THIS ACT.] CHILD WHO IS THE
25 DEPENDENT OF A CLAIMANT FOR PURPOSES OF SECTION 151 OF THE
26 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §
27 151).

28 * * *

29 (s.2) "Small corporation" means any corporation which has a
30 valid election in effect under subchapter S of Chapter 1 of the

[Internal Revenue Code of 1954, as amended as of January 1,
1983] Internal Revenue Code of 1986, as amended by the act of
August 20, 1996, (Public Law 104-188), and which does not have
passive investment income in excess of twenty-five per cent of
its gross receipts. For purposes of this clause, "passive
investment income" means gross receipts derived from royalties,
rents, dividends, interest, annuities and sales or exchanges of
stock or securities (gross receipts from such sales or exchanges
being taken into account only to the extent of gains therefrom).

* * *

~~Section 3. Section 304(d)(1) of the act, amended June 16,~~ <—
~~1994 (P.L.279, No.48), is amended to read:~~

SECTION 4. SECTION 304(D) OF THE ACT, AMENDED DECEMBER 13, <—
1991 (P.L.373, NO.40) AND JUNE 16, 1994 (P.L.279, NO.48), IS
AMENDED TO READ:

Section 304. Special Tax Provisions for Poverty.--* * *

(d) Any claim for special tax provisions hereunder shall be
determined in accordance with the following:

(1) If the poverty income of the claimant during an entire
taxable year is [six thousand three hundred dollars (\$6,300)]
seven thousand three hundred dollars (\$7,300) or less, OR, IN <—
THE CASE OF A MARRIED CLAIMANT, IF THE JOINT POVERTY INCOME OF
THE CLAIMANT AND THE CLAIMANT'S SPOUSE DURING AN ENTIRE TAXABLE
YEAR IS FOURTEEN THOUSAND SIX HUNDRED DOLLARS (\$14,600) OR LESS,
the claimant shall be entitled to a refund or forgiveness of any
moneys which have been paid over to (or would except for the
provisions of this act be payable to) the Commonwealth under the
provisions of this article, with an additional income allowance
of [three thousand dollars (\$3,000)] four thousand dollars
(\$4,000) for the first additional dependent and an additional

1 income allowance of [three thousand dollars (\$3,000)] four
2 thousand dollars (\$4,000) for each additional dependent of the
3 claimant. FOR PURPOSES OF THIS SUBSECTION, A CLAIMANT SHALL NOT <—
4 BE CONSIDERED TO BE MARRIED IF:

5 (I) THE CLAIMANT AND THE CLAIMANT'S SPOUSE FILE SEPARATE
6 RETURNS; AND

7 (II) THE CLAIMANT AND THE CLAIMANT'S SPOUSE LIVE APART AT
8 ALL TIMES DURING THE LAST SIX MONTHS OF THE TAXABLE YEAR OR ARE
9 SEPARATED PURSUANT TO A WRITTEN SEPARATION AGREEMENT.

10 (2) IF THE POVERTY INCOME OF THE CLAIMANT DURING AN ENTIRE
11 TAXABLE YEAR DOES NOT EXCEED THE POVERTY INCOME LIMITATIONS
12 PRESCRIBED BY CLAUSE (1) BY MORE THAN THE DOLLAR CATEGORY
13 CONTAINED IN SUBCLAUSES (I), (II), (III), (IV), (V), (VI),
14 (VII), (VIII) OR (IX) OF THIS CLAUSE, THE CLAIMANT SHALL BE
15 ENTITLED TO A REFUND OR FORGIVENESS BASED ON THE PER CENTAGE
16 PRESCRIBED IN SUCH SUBCLAUSES OF ANY MONEYS WHICH HAVE BEEN PAID
17 OVER TO (OR WOULD EXCEPT FOR THE PROVISIONS HEREIN BE PAYABLE
18 TO) THE COMMONWEALTH UNDER THIS ARTICLE:

19 (I) NINETY PER CENT IF NOT IN EXCESS OF ONE HUNDRED DOLLARS
20 (\$100).

21 (II) EIGHTY PER CENT IF NOT IN EXCESS OF TWO HUNDRED DOLLARS
22 (\$200).

23 (III) SEVENTY PER CENT IF NOT IN EXCESS OF THREE HUNDRED
24 DOLLARS (\$300).

25 (IV) SIXTY PER CENT IF NOT IN EXCESS OF FOUR HUNDRED DOLLARS
26 (\$400).

27 (V) FIFTY PER CENT IF NOT IN EXCESS OF FIVE HUNDRED DOLLARS
28 (\$500).

29 (VI) FORTY PER CENT IF NOT IN EXCESS OF SIX HUNDRED DOLLARS
30 (\$600).

(VII) THIRTY PER CENT IF NOT IN EXCESS OF SEVEN HUNDRED DOLLARS (\$700).

(VIII) TWENTY PER CENT IF NOT IN EXCESS OF EIGHT HUNDRED DOLLARS (\$800).

(IX) TEN PER CENT IF NOT IN EXCESS OF NINE HUNDRED DOLLARS (\$900).

(3) IF AN INDIVIDUAL HAS A TAXABLE YEAR OF LESS THAN TWELVE MONTHS, THE POVERTY INCOME THEREOF SHALL BE ANNUALIZED IN SUCH MANNER AS THE DEPARTMENT MAY PRESCRIBE.

* * *

Section 4 5. Article III of the act is amended by adding a part to read:

PART VI-A

CONTRIBUTIONS OF REFUNDS BY CHECKOFF

Section 315.1. Definitions.--The following words, terms and phrases, when used in this part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

"Individual income tax." The tax imposed under this article.

Section 315.2. Contributions to Breast and Cervical Cancer Research.--(a) The department shall provide a space on the face of the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount desired to be utilized for breast and cervical cancer research in the Department of Health.

(b) The amount so designated on the individual income tax return form shall be deducted from the tax refund to which the individual is entitled and shall not constitute a charge against 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 315.3. Contributions for Wild Resource
26 Conservation.--(a) The department shall provide a space on the
27 face of the Pennsylvania individual income tax return form
28 whereby an individual may voluntarily designate a contribution
29 of any amount desired, to the Wild Resource Conservation Fund
30 established under section 5 of the act of June 23, 1982

1 (P.L.597, No.170), known as the "Wild Resource Conservation
2 Act."

3 (b) The amount so designated by an individual on the income
4 tax return form shall be deducted from the tax refund to which
5 such individual is entitled and shall not constitute a charge
6 against the income tax revenues due the Commonwealth.

7 (c) The department shall determine annually the total amount
8 designated pursuant to this section and shall report such amount
9 to the State Treasurer, who shall transfer such amount from the
10 General Fund to the Wild Resource Conservation Fund for use as
11 provided in the "Wild Resource Conservation Act." The department
12 shall be reimbursed from the fund for any administrative costs
13 incurred above and beyond the cost savings it realizes as a
14 result of individual total refund designations.

15 (d) The department shall provide adequate information
16 concerning the Wild Resource Conservation Fund in its
17 instructions which accompany State income tax return forms,
18 which shall include the listing of an address, furnished to it
19 by the Wild Resource Conservation Board, to which contributions
20 may be sent by those taxpayers wishing to contribute to said
21 fund but who do not receive refunds.

22 (e) This section shall apply to taxable years beginning on
23 or after January 1, 1997.

24 Section 315.4. Contributions for Organ Donation Awareness.--

25 (a) The department shall provide a space on the face of the
26 Pennsylvania individual income tax return form ~~for the 1997 tax~~ <—
27 ~~year and the 2000 tax year~~ whereby an individual may voluntarily
28 designate a contribution of any amount desired to the Organ
29 Donation Awareness Trust Fund established under 20 Pa.C.S. §
30 8622 (relating to Organ Donation Awareness Trust Fund).

1 (b) The amount so designated by an individual on the
2 Pennsylvania individual income tax return form shall be deducted
3 from the tax refund to which the individual is entitled and
4 shall not constitute a charge against the income tax revenues
5 due the Commonwealth.

6 (c) The department shall annually determine the total amount
7 designated pursuant to this section and shall report that amount
8 to the State Treasurer who shall transfer that amount to the
9 Organ Donation Awareness Trust Fund.

10 (d) The department shall, in all taxable years following the
11 effective date of this section, provide on its forms or in its
12 instructions which accompany Pennsylvania individual income tax
13 return forms adequate information concerning the Organ Donation
14 Awareness Trust Fund which shall include the listing of an
15 address, furnished to it by the Organ Donation Advisory
16 Committee, to which contributions may be sent by those taxpayers
17 wishing to contribute to the fund but who do not receive
18 refunds.

19 (e) This section shall apply to taxable years beginning on
20 or after January 1, 1997.

21 Section 315.5. Contributions for Olympics.--(a) The
22 department shall provide a space on the face of the Pennsylvania
23 individual income tax return form whereby an individual may
24 voluntarily designate a contribution of any amount desired to
25 the United States Olympic Committee, Pennsylvania Division.

26 (b) The amount so designated by an individual on the income
27 tax return form shall be deducted from the tax refund to which
28 such individual is entitled and shall not constitute a charge
29 against the income tax revenues due the Commonwealth.

30 (c) The department shall determine annually the total amount

designated pursuant to this section, less reasonable administrative costs, and shall report such amount to the State Treasurer, who shall transfer such amount from the General Fund to the United States Olympic Committee, Pennsylvania Division.

Section 315.6. Contributions to Korea/Vietnam Memorial National Education Center.--(a) For tax years 1997, 1998, 1999 and 2000, the department shall provide a space on the face of the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount from the individual's tax refund to KVM.

(b) The amount designated by an individual on the Pennsylvania individual income tax return form shall be deducted from the tax refund to which such individual is entitled and shall not constitute a charge against the income tax revenues due the Commonwealth.

(c) The department shall determine annually the total amount designated by individual taxpayers under this section and shall report the amount to the State Treasurer who shall prepare the appropriate documentation and transfer the designated amount from the General Fund to KVM for use as provided in section 2507(b) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(d) The department shall provide adequate information regarding the center and its purposes in its instructions for tax years 1997, 1998, 1999 and 2000 which accompany Pennsylvania individual income tax return forms to include the address of KVM to which contributions may be sent by taxpayers who wish to make additional contributions to the center.

(e) This subsection shall apply solely to taxable years 1997, 1998, 1999 and 2000.

1 SECTION 6. THE DEFINITION OF "CAPITAL STOCK VALUE" IN
2 SECTION 601 OF THE ACT, AMENDED JUNE 30, 1995 (P.L.139, NO.21),
3 IS AMENDED TO READ:

4 SECTION 601. DEFINITIONS AND REPORTS.--(A) THE FOLLOWING
5 WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE VI SHALL HAVE
6 THE MEANING ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE
7 CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

8 * * *

9 "CAPITAL STOCK VALUE." THE AMOUNT COMPUTED PURSUANT TO THE
10 FOLLOWING FORMULA: THE PRODUCT OF ONE-HALF TIMES THE SUM OF THE
11 AVERAGE NET INCOME CAPITALIZED AT THE RATE OF NINE AND ONE-HALF
12 PER CENT PLUS SEVENTY-FIVE PER CENT OF NET WORTH, FROM WHICH
13 PRODUCT SHALL BE SUBTRACTED SEVENTY-FIVE PER CENT OF NET WORTH,
14 FROM WHICH PRODUCT SHALL BE SUBTRACTED [ONE HUNDRED THOUSAND
15 DOLLARS (\$100,000)] ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS
16 (\$125,000), THE ALGEBRAIC EQUIVALENT OF WHICH IS

17 (.5 X (AVERAGE NET INCOME/.095 + (.75)
18 (NET WORTH))) - [\$100,000] \$125,000

19 Section ~~5~~ 7. Section 1101-C of the act is amended by adding <—
20 definitions to read:

21 Section 1101-C. Definitions.--The following words when used
22 in this article shall have the meanings ascribed to them in this
23 section:

24 * * *

25 "Living trust." Any trust, other than a business trust,
26 intended as a will substitute by the settlor which becomes
27 effective during the lifetime of the settlor, but from which
28 trust distributions cannot be made to any beneficiaries other
29 than the settlor prior to the death of the settlor.

30 * * *

1 "Ordinary trust." Any trust, other than a business trust or
2 a living trust, which takes effect during the lifetime of the
3 settlor and for which the trustees of the trust take title to
4 property primarily for the purpose of protecting, managing or
5 conserving it until distribution to the named beneficiaries of
6 the trust. An ordinary trust does not include a trust that has
7 an objective to carry on business and divide gains nor does it
8 either expressly or impliedly have any of the following
9 features: the treatment of beneficiaries as associates, the
10 treatment of the interests in the trust as personal property,
11 the free transferability of beneficial interests in the trust,
12 centralized management by the trustee or the beneficiaries, or
13 continuity of life.

14 * * *

15 Section 6 8. Section 1102-C.3(8) and (9) of the act, added <—
16 July 2, 1986 (P.L.318, No.77), are amended and the section is
17 amended by adding clauses to read:

18 Section 1102-C.3. Excluded Transactions.--The tax imposed by
19 section 1102-C shall not be imposed upon:

20 * * *

21 (8) A transfer for no or nominal actual consideration to a
22 trustee of an ordinary trust where the transfer of the same
23 property would be exempt if the transfer was made directly from
24 the grantor to all of the possible beneficiaries that are
25 entitled to receive the property or proceeds from the sale of
26 the property under the trust, whether or not such beneficiaries
27 are contingent or specifically named. A trust clause which
28 identifies the contingent beneficiaries by reference to the
29 heirs of the trust settlor as determined by the laws of the
30 intestate succession shall not disqualify a transfer from the

1 exclusion provided by this clause. No such exemption shall be
2 granted unless the recorder of deeds is presented with a copy of
3 the trust instrument that clearly identifies the grantor and all
4 possible beneficiaries.

5 (8.1) A transfer for no or nominal actual consideration to a
6 trustee of a living trust from the settlor of the living trust.
7 No such exemption shall be granted unless the recorder of deed
8 is presented with a copy of the living trust instrument.

9 (9) A transfer for no or nominal actual consideration from a
10 trustee [to a beneficiary of an ordinary trust.] of an ordinary
11 trust to a specifically named beneficiary that is entitled to
12 receive the property under the recorded trust instrument or to a
13 contingent beneficiary where the transfer of the same property
14 would be exempt if the transfer was made by the grantor of the
15 property into the trust to that beneficiary. However, any
16 transfer of real estate from a living trust during the settlor's
17 lifetime shall be considered for the purposes of this article as
18 if such transfer were made directly from the settlor to the
19 grantee.

20 (9.1) A transfer for no or nominal actual consideration from
21 a trustee of a living trust after the death of the settlor of
22 the trust or from a trustee of a trust created pursuant to the
23 will of a decedent to a beneficiary to whom the property is
24 devised or bequeathed.

25 (9.2) A transfer for no or nominal actual consideration from
26 the trustee of a living trust to the settlor of the living trust
27 if such property was originally conveyed to the trustee by the
28 settlor.

29 * * *

30 SECTION 9. SECTION 1296 OF THE ACT, AMENDED AUGUST 4, 1991

<—

1 (P.L.97, NO.22), IS AMENDED TO READ:

2 SECTION 1296. DISPOSITION OF CERTAIN FUNDS.--ALL CIGARETTE
3 TAX REVENUES COLLECTED BY THE DEPARTMENT OF REVENUE UNDER THIS
4 ARTICLE AND HERETOFORE PAID INTO THE PARENT REIMBURSEMENT FUND
5 IN ACCORDANCE WITH THE ACT OF AUGUST 27, 1971 (P.L.358, NO.92),
6 KNOWN AS THE "PARENT REIMBURSEMENT ACT FOR NONPUBLIC EDUCATION,"
7 SHALL BE TRANSFERRED INTO THE GENERAL FUND. BEGINNING JULY 1,
8 1993, TWO THIRTY-FIRSTS OF CIGARETTE TAX RECEIPTS SHALL BE
9 TRANSFERRED INTO THE AGRICULTURAL CONSERVATION EASEMENT PURCHASE
10 FUND, AND BEGINNING [JULY 1, 1992, TWO THIRTY-FIRSTS] JANUARY 1,
11 1997, THREE THIRTY-FIRSTS OF CIGARETTE TAX RECEIPTS SHALL BE
12 PAID INTO A RESTRICTED ACCOUNT TO BE KNOWN AS THE CHILDREN'S
13 HEALTH FUND FOR HEALTH CARE FOR INDIGENT CHILDREN, AND THE
14 REMAINDER SHALL BE PAID INTO THE GENERAL FUND. MONEYS IN THE
15 CHILDREN'S HEALTH FUND SHALL NOT BE EXPENDED UNTIL THE ENACTMENT
16 OF LEGISLATION TO IMPLEMENT A PROGRAM OF EXPANDED ACCESS TO
17 HEALTH CARE FOR CHILDREN. THE TRANSFERS REQUIRED BY THIS SECTION
18 SHALL BE MADE BY JULY 15 FOR THE PRECEDING SIX MONTHS AND BY
19 JANUARY 15 FOR THE PRECEDING SIX MONTHS.

20 SECTION 10. THE DEFINITION OF "BUSINESS FIRM" IN SECTION
21 1902-A OF THE ACT, AMENDED JULY 1, 1994 (P.L.413, NO.67), IS
22 AMENDED TO READ:

23 SECTION 1902-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
24 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS
25 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
26 CLEARLY INDICATES A DIFFERENT MEANING:

27 "BUSINESS FIRM." ANY BUSINESS ENTITY AUTHORIZED TO DO
28 BUSINESS IN THIS COMMONWEALTH AND SUBJECT TO TAXES IMPOSED BY
29 ARTICLE IV, VI, VII, VII-A, VIII, VIII-A, IX, X OR XV OF THIS
30 ACT. THE TERM ALSO INCLUDES BUSINESSES OPERATING AS S

CORPORATIONS, SOLE PROPRIETORSHIPS OR PARTNERSHIPS WHICH ARE
SUBJECT TO TAXES IMPOSED UNDER ARTICLE III OF THIS ACT.

* * *

SECTION 11. SECTION 1902-A OF THE ACT, AMENDED OR ADDED JUNE
16, 1994 (P.L.279, NO.48) AND JULY 1, 1994 (P.L.413, NO.67), IS
AMENDED TO READ:

SECTION 1902-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS
ASCRIED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
CLEARLY INDICATES A DIFFERENT MEANING:

"BUSINESS FIRM." ANY BUSINESS ENTITY AUTHORIZED TO DO
BUSINESS IN THIS COMMONWEALTH AND SUBJECT TO TAXES IMPOSED BY
ARTICLE III, IV, VI, VII, VII-A, VIII, VIII-A, IX, X OR XV OF
THIS ACT.

"COMMUNITY SERVICES." ANY TYPE OF COUNSELING AND ADVICE,
EMERGENCY ASSISTANCE, ENERGY ASSISTANCE OR MEDICAL CARE
FURNISHED TO INDIVIDUALS OR GROUPS IN AN IMPOVERISHED AREA. THE
TERM INCLUDES FOOD ASSISTANCE AND NUTRITION SERVICES OFFERED BY
ORGANIZATIONS SUCH AS FOOD BANKS.

"COMPREHENSIVE SERVICE PLAN." A STRATEGY DEVELOPED JOINTLY
BY A NEIGHBORHOOD ORGANIZATION AND A SPONSORING BUSINESS FIRM OR
PRIVATE COMPANY FOR THE STABILIZATION AND IMPROVEMENT OF AN
IMPOVERISHED AREA WITHIN AN URBAN NEIGHBORHOOD OR RURAL
COMMUNITY.

"COMPREHENSIVE SERVICE PROJECT." ANY ACTIVITY CONDUCTED
JOINTLY BY A NEIGHBORHOOD ORGANIZATION AND A SPONSORING BUSINESS
FIRM WHICH IMPLEMENTS A COMPREHENSIVE SERVICE PLAN.

"CRIME PREVENTION." ANY ACTIVITY WHICH AIDS IN THE REDUCTION
OF CRIME IN AN IMPOVERISHED AREA.

"EDUCATION." ANY TYPE OF SCHOLASTIC INSTRUCTION OR

1 SCHOLARSHIP ASSISTANCE TO AN INDIVIDUAL WHO RESIDES IN AN
2 IMPOVERISHED AREA THAT ENABLES [HIM TO PREPARE HIMSELF] THAT
3 INDIVIDUAL TO PREPARE FOR BETTER LIFE OPPORTUNITIES.

4 "ENTERPRISE ZONES." SPECIFIC LOCATIONS WITH IDENTIFIABLE
5 BOUNDARIES WITHIN IMPOVERISHED AREAS WHICH ARE DESIGNATED AS
6 ENTERPRISE ZONES BY THE [SECRETARY OF COMMUNITY AFFAIRS]
7 SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT.

8 "IMPOVERISHED AREA." ANY AREA IN THIS COMMONWEALTH WHICH IS
9 CERTIFIED AS SUCH BY THE [DEPARTMENT OF COMMUNITY AFFAIRS]
10 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT AND THE
11 CERTIFICATION IS APPROVED BY THE GOVERNOR. SUCH CERTIFICATION
12 SHALL BE MADE ON THE BASIS OF FEDERAL CENSUS STUDIES AND CURRENT
13 INDICES OF SOCIAL AND ECONOMIC CONDITIONS.

14 "JOB TRAINING." ANY TYPE OF INSTRUCTION TO AN INDIVIDUAL WHO
15 RESIDES IN AN IMPOVERISHED AREA THAT ENABLES [HIM] THAT
16 INDIVIDUAL TO ACQUIRE VOCATIONAL SKILLS SO THAT [HE] THE
17 INDIVIDUAL CAN BECOME EMPLOYABLE OR BE ABLE TO SEEK A HIGHER
18 GRADE OF EMPLOYMENT.

19 "NEIGHBORHOOD ASSISTANCE." FURNISHING FINANCIAL ASSISTANCE,
20 LABOR, MATERIAL AND TECHNICAL ADVICE TO AID IN THE PHYSICAL
21 IMPROVEMENT OF ANY PART OR ALL OF AN IMPOVERISHED AREA.

22 "NEIGHBORHOOD ORGANIZATION." ANY ORGANIZATION PERFORMING
23 COMMUNITY SERVICES, OFFERING NEIGHBORHOOD ASSISTANCE OR
24 PROVIDING JOB TRAINING, EDUCATION OR CRIME PREVENTION IN AN
25 IMPOVERISHED AREA, HOLDING A RULING FROM THE INTERNAL REVENUE
26 SERVICE OF THE UNITED STATES DEPARTMENT OF THE TREASURY THAT THE
27 ORGANIZATION IS EXEMPT FROM INCOME TAXATION UNDER THE PROVISIONS
28 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26
29 U.S.C. § 1 ET SEQ.) AND APPROVED BY THE DEPARTMENT OF COMMUNITY
30 AFFAIRS.

1 "PRIVATE COMPANY." ANY AGRICULTURAL, INDUSTRIAL,
2 MANUFACTURING OR RESEARCH AND DEVELOPMENT ENTERPRISE AS DEFINED
3 IN SECTION 3 OF THE ACT OF MAY 17, 1956 (1955 P.L.1609, NO.537),
4 KNOWN AS THE "PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY
5 ACT," OR ANY COMMERCIAL ENTERPRISE AS DEFINED IN SECTION 3 OF
6 THE ACT OF AUGUST 23, 1967 (P.L.251, NO.102), KNOWN AS THE
7 "ECONOMIC DEVELOPMENT FINANCING LAW."

8 "QUALIFIED INVESTMENTS." ANY INVESTMENTS MADE BY A PRIVATE
9 COMPANY WHICH PROMOTE COMMUNITY ECONOMIC DEVELOPMENT PURSUANT TO
10 A PLAN WHICH HAS BEEN DEVELOPED IN COOPERATION WITH AND APPROVED
11 BY A NEIGHBORHOOD ORGANIZATION OPERATING PURSUANT TO A PLAN FOR
12 THE ADMINISTRATION OF TAX CREDITS APPROVED BY THE [DEPARTMENT OF
13 COMMUNITY AFFAIRS] DEPARTMENT OF COMMUNITY AND ECONOMIC
14 DEVELOPMENT.

15 "SECRETARY." THE SECRETARY OF COMMUNITY AND ECONOMIC
16 DEVELOPMENT OF THE COMMONWEALTH.

17 SECTION 12. SECTIONS 1904-A AND 1905-A OF THE ACT, AMENDED
18 JUNE 30, 1995 (P.L.139, NO.21), ARE AMENDED TO READ:

19 SECTION 1904-A. TAX CREDIT.--(A) ANY BUSINESS FIRM WHICH
20 ENGAGES OR CONTRIBUTES TO A NEIGHBORHOOD ORGANIZATION WHICH
21 ENGAGES IN THE ACTIVITIES OF PROVIDING NEIGHBORHOOD ASSISTANCE,
22 JOB TRAINING OR EDUCATION FOR INDIVIDUALS, COMMUNITY SERVICES OR
23 CRIME PREVENTION IN AN IMPOVERISHED AREA OR PRIVATE COMPANY
24 WHICH MAKES QUALIFIED INVESTMENT TO REHABILITATE, EXPAND OR
25 IMPROVE BUILDINGS OR LAND LOCATED WITHIN PORTIONS OF
26 IMPOVERISHED AREAS WHICH HAVE BEEN DESIGNATED AS ENTERPRISE
27 ZONES SHALL RECEIVE A TAX CREDIT AS PROVIDED IN SECTION 1905-A
28 IF THE [SECRETARY OF COMMUNITY AFFAIRS] SECRETARY ANNUALLY
29 APPROVES THE PROPOSAL OF SUCH BUSINESS FIRM OR PRIVATE COMPANY.
30 THE PROPOSAL SHALL SET FORTH THE PROGRAM TO BE CONDUCTED, THE

1 IMPOVERISHED AREA SELECTED, THE ESTIMATED AMOUNT TO BE INVESTED
2 IN THE PROGRAM AND THE PLANS FOR IMPLEMENTING THE PROGRAM.

3 (B) THE [SECRETARY OF COMMUNITY AFFAIRS] SECRETARY IS HEREBY
4 AUTHORIZED TO PROMULGATE RULES AND REGULATIONS FOR THE APPROVAL
5 OR DISAPPROVAL OF SUCH PROPOSALS BY BUSINESS FIRMS OR PRIVATE
6 COMPANIES AND PROVIDE A LISTING OF ALL APPLICATIONS RECEIVED AND
7 THEIR DISPOSITION IN EACH FISCAL YEAR TO THE GENERAL ASSEMBLY BY
8 OCTOBER 1 OF THE FOLLOWING FISCAL YEAR.

9 (C) THE TOTAL AMOUNT OF TAX CREDIT GRANTED FOR PROGRAMS
10 APPROVED UNDER THIS ACT SHALL NOT EXCEED [SIXTEEN MILLION SEVEN
11 HUNDRED FIFTY THOUSAND DOLLARS (\$16,750,000)] TWENTY MILLION
12 SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$20,750,000) OF TAX CREDIT
13 IN ANY FISCAL YEAR, SUBJECT TO THE FOLLOWING:

14 (1) [TWO MILLION DOLLARS (\$2,000,000)] FIVE MILLION DOLLARS
15 (\$5,000,000) OF THE TOTAL AMOUNT OF TAX CREDIT SHALL BE
16 ALLOCATED FOR COMPREHENSIVE SERVICE PROJECTS, BUT THE SECRETARY
17 OF COMMUNITY AFFAIRS MAY REALLOCATE ANY UNUSED PORTION OF THE
18 [TWO MILLION DOLLARS (\$2,000,000)] FIVE MILLION DOLLARS
19 (\$5,000,000) FOR ANY OTHER PROGRAM AUTHORIZED BY THIS ACT IF
20 INSUFFICIENT APPLICATIONS ARE MADE FOR COMPREHENSIVE SERVICE
21 PROJECTS; AND

22 (2) [FOUR MILLION DOLLARS (\$4,000,000)] SEVEN MILLION
23 DOLLARS (\$7,000,000) OF THE TOTAL AMOUNT OF TAX CREDIT SHALL BE
24 SET ASIDE EXCLUSIVELY FOR PRIVATE COMPANIES WHICH MAKE QUALIFIED
25 INVESTMENTS TO REHABILITATE, EXPAND OR IMPROVE BUILDINGS OR LAND
26 WHICH PROMOTE COMMUNITY ECONOMIC DEVELOPMENT AND WHICH OCCUR IN
27 PORTIONS OF IMPOVERISHED AREAS WHICH HAVE BEEN DESIGNATED AS
28 ENTERPRISE ZONES.

29 SECTION 1905-A. GRANT OF TAX CREDIT.--THE DEPARTMENT OF
30 REVENUE SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER

1 ARTICLE III, IV, VI, VII, VII-A, VIII, VIII-A, IX, X OR XV OF
2 THIS ACT, OR ANY TAX SUBSTITUTED IN LIEU THEREOF IN AN AMOUNT
3 WHICH SHALL NOT EXCEED FIFTY PER CENT OF THE TOTAL AMOUNT
4 INVESTED DURING THE TAXABLE YEAR BY THE BUSINESS FIRM OR TWENTY
5 PER CENT OF QUALIFIED INVESTMENTS BY A PRIVATE COMPANY IN
6 PROGRAMS APPROVED PURSUANT TO SECTION 1904-A OF THIS ACT:
7 PROVIDED, THAT A TAX CREDIT OF UP TO SEVENTY PER CENT OF THE
8 TOTAL AMOUNT INVESTED DURING THE TAXABLE YEAR BY A BUSINESS FIRM
9 OR UP TO THIRTY PER CENT OF THE AMOUNT OF QUALIFIED INVESTMENTS
10 BY A PRIVATE COMPANY MAY BE ALLOWED FOR INVESTMENT IN PROGRAMS
11 WHERE ACTIVITIES FALL WITHIN THE SCOPE OF SPECIAL PROGRAM
12 PRIORITIES AS DEFINED WITH THE APPROVAL OF THE GOVERNOR IN
13 REGULATIONS PROMULGATED BY THE [SECRETARY OF THE DEPARTMENT OF
14 COMMUNITY AFFAIRS] SECRETARY. REGULATIONS ESTABLISHING SPECIAL
15 PROGRAM PRIORITIES ARE TO BE PROMULGATED DURING THE FIRST MONTH
16 OF EACH FISCAL YEAR AND AT SUCH TIMES DURING THE YEAR AS THE
17 PUBLIC INTEREST DICTATES. SUCH CREDIT SHALL NOT EXCEED [TWO
18 HUNDRED FIFTY THOUSAND DOLLARS (\$250,000)] FIVE HUNDRED THOUSAND
19 DOLLARS (\$500,000) ANNUALLY, EXCEPT IN THE CASE OF COMPREHENSIVE
20 SERVICE PROJECTS WHICH SHALL BE ALLOWED AN ADDITIONAL CREDIT
21 EQUAL TO SEVENTY PER CENT OF THE QUALIFYING INVESTMENTS MADE IN
22 COMPREHENSIVE SERVICE PROJECTS; HOWEVER, SUCH ADDITIONAL CREDIT
23 SHALL NOT EXCEED ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS
24 (\$175,000) ANNUALLY. NO TAX CREDIT SHALL BE GRANTED TO ANY BANK,
25 BANK AND TRUST COMPANY, INSURANCE COMPANY, TRUST COMPANY,
26 NATIONAL BANK, SAVINGS ASSOCIATION, MUTUAL SAVINGS BANK OR
27 BUILDING AND LOAN ASSOCIATION FOR ACTIVITIES THAT ARE A PART OF
28 ITS NORMAL COURSE OF BUSINESS. ANY TAX CREDIT NOT USED IN THE
29 PERIOD THE INVESTMENT WAS MADE MAY BE CARRIED OVER FOR THE NEXT
30 [FIVE] TEN SUCCEEDING CALENDAR OR FISCAL YEARS UNTIL THE FULL

1 CREDIT HAS BEEN ALLOWED. THE TOTAL AMOUNT OF ALL TAX CREDITS
2 ALLOWED PURSUANT TO THIS ACT SHALL NOT EXCEED [SIXTEEN MILLION
3 SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$16,750,000)] TWENTY
4 MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$20,750,000) IN
5 ANY ONE FISCAL YEAR.

6 SECTION 13. SECTION 1906-A OF THE ACT, ADDED JUNE 16, 1994
7 (P.L.279, NO.48), IS AMENDED TO READ:

8 SECTION 1906-A. DECISION IN WRITING.--THE DECISION OF THE
9 [SECRETARY OF COMMUNITY AFFAIRS] SECRETARY TO APPROVE OR
10 DISAPPROVE A PROPOSAL PURSUANT TO SECTION 1904-A OF THIS ACT
11 SHALL BE IN WRITING, AND, IF IT APPROVES THE PROPOSAL, IT SHALL
12 STATE THE MAXIMUM CREDIT ALLOWABLE TO THE BUSINESS FIRM. A COPY
13 OF THE DECISION OF THE [SECRETARY OF COMMUNITY AFFAIRS]
14 SECRETARY SHALL BE TRANSMITTED TO THE GOVERNOR AND TO THE
15 SECRETARY OF REVENUE.

16 SECTION 14. SECTION 2116 OF THE ACT, AMENDED OR ADDED AUGUST
17 4, 1991 (P.L.97, NO.22), JUNE 16, 1994 (P.L.279, NO.48) AND JUNE
18 30, 1995 (P.L.139, NO.21), IS AMENDED TO READ:

19 SECTION 2116. INHERITANCE TAX.--(A) (1) [INHERITANCE]
20 EXCEPT AS PROVIDED IN SUBSECTION (G), INHERITANCE TAX UPON THE
21 TRANSFER OF PROPERTY PASSING TO OR FOR THE USE OF ANY OF THE
22 FOLLOWING SHALL BE AT THE RATE OF SIX PER CENT:

23 (I) GRANDFATHER, GRANDMOTHER, FATHER, MOTHER AND LINEAL
24 DESCENDANTS; OR

25 (II) WIFE OR WIDOW AND HUSBAND OR WIDOWER OF A CHILD.

26 (1.1) [INHERITANCE] EXCEPT AS PROVIDED IN SUBSECTION (G),
27 INHERITANCE TAX UPON THE TRANSFER OF PROPERTY PASSING TO OR FOR
28 THE USE OF A HUSBAND OR WIFE SHALL BE:

29 (I) AT THE RATE OF THREE PER CENT FOR ESTATES OF DECEDENTS
30 DYING ON OR AFTER JULY 1, 1994, AND BEFORE JANUARY 1, 1995.

(II) AT THE RATE OF ZERO PER CENT FOR ESTATES OF DECEDENTS DYING ON OR AFTER JANUARY 1, 1995.

(2) [INHERITANCE] EXCEPT AS PROVIDED IN SUBSECTION (G), INHERITANCE TAX UPON THE TRANSFER OF PROPERTY PASSING TO OR FOR THE USE OF ALL PERSONS OTHER THAN THOSE DESIGNATED IN SUBCLAUSE (1) OR (1.1) OR EXEMPT UNDER SECTION 2111(M) SHALL BE AT THE RATE OF FIFTEEN PER CENT.

(3) WHEN PROPERTY PASSES TO OR FOR THE USE OF A HUSBAND AND WIFE WITH RIGHT OF SURVIVORSHIP, ONE OF WHOM IS TAXABLE AT A RATE LOWER THAN THE OTHER, THE LOWER RATE OF TAX SHALL BE APPLIED TO THE ENTIRE INTEREST.

(B) (1) WHEN THE DECEDENT WAS A RESIDENT, THE TAX SHALL BE COMPUTED UPON THE VALUE OF THE PROPERTY, IN EXCESS OF THE DEDUCTIONS SPECIFIED IN PART VI, AT THE RATES IN EFFECT AT THE TRANSFEROR'S DEATH.

(2) WHEN THE DECEDENT WAS A NONRESIDENT, THE TAX SHALL BE COMPUTED UPON THE VALUE OF REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY HAVING ITS SITUS IN THIS COMMONWEALTH, IN EXCESS OF UNPAID PROPERTY TAXES ASSESSED ON THE PROPERTY AND ANY INDEBTEDNESS FOR WHICH IT IS LIENED, MORTGAGED OR PLEDGED, AT THE RATES IN EFFECT AT THE TRANSFEROR'S DEATH. THE PERSON LIABLE TO MAKE THE RETURN UNDER SECTION 2136 MAY ELECT TO HAVE THE TAX COMPUTED AS IF THE DECEDENT WAS A RESIDENT AND HIS ENTIRE ESTATE WAS PROPERTY HAVING ITS SITUS IN THIS COMMONWEALTH, AND THE TAX DUE SHALL BE THE AMOUNT WHICH BEARS THE SAME RATIO TO THE TAX THUS COMPUTED AS THE REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY LOCATED IN THIS COMMONWEALTH BEARS TO THE ENTIRE ESTATE OF THE DECEDENT.

(B.1) THE INHERITANCE TAX DUE UPON THE TRANSFER OF PROPERTY PASSING TO OR FOR THE USE OF A HUSBAND OR WIFE SHALL BE THE

1 LESSER OF THE TAX IMPOSED UNDER SUBSECTION (A)(1.1) OR THE TAX
2 DUE AFTER THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER SECTION
3 2112.

4 (C) WHEN ANY PERSON ENTITLED TO A DISTRIBUTIVE SHARE OF AN
5 ESTATE, WHETHER UNDER AN INTER VIVOS TRUST, A WILL OR THE
6 INTTESTATE LAW, RENOUNCES HIS RIGHT TO RECEIVE THE DISTRIBUTIVE
7 SHARE RECEIVING THEREFOR NO CONSIDERATION, OR EXERCISES HIS
8 ELECTIVE RIGHTS UNDER 20 PA.C.S. CH. 22 (RELATING TO ELECTIVE
9 SHARE OF SURVIVING SPOUSE) RECEIVING THEREFOR NO CONSIDERATION
10 OTHER THAN THE INTEREST IN ASSETS PASSING TO HIM AS THE ELECTING
11 SPOUSE, THE TAX SHALL BE COMPUTED AS THOUGH THE PERSONS WHO
12 BENEFIT BY SUCH RENUNCIATION OR ELECTION WERE ORIGINALLY
13 DESIGNATED TO BE THE DISTRIBUTEES, CONDITIONED UPON AN
14 ADJUDICATION OR DECREE OF DISTRIBUTION EXPRESSLY CONFIRMING
15 DISTRIBUTION TO SUCH DISTRIBUTEES. THE RENUNCIATION SHALL BE
16 MADE WITHIN NINE MONTHS AFTER THE DEATH OF THE DECEDENT OR, IN
17 THE CASE OF A SURVIVING SPOUSE, WITHIN THE TIME FOR ELECTION AND
18 ANY EXTENSION THEREOF UNDER 20 PA.C.S. § 2210(B) (RELATING TO
19 PROCEDURE FOR ELECTION; TIME LIMIT). NOTICE OF THE FILING OF THE
20 ACCOUNT AND OF ITS CALL FOR AUDIT OR CONFIRMATION SHALL INCLUDE
21 NOTICE OF THE RENUNCIATION OR ELECTION TO THE DEPARTMENT. WHEN
22 AN UNCONDITIONAL VESTING OF A FUTURE INTEREST DOES NOT OCCUR AT
23 THE DECEDENT'S DEATH, THE RENUNCIATION SPECIFIED IN THIS
24 SUBSECTION OF THE FUTURE INTEREST MAY BE MADE WITHIN THREE
25 MONTHS AFTER THE OCCURRENCE OF THE EVENT OR CONTINGENCY WHICH
26 RESOLVES THE VESTING OF THE INTEREST IN POSSESSION AND
27 ENJOYMENT.

28 (D) IN CASE OF A COMPROMISE OF A DISPUTE REGARDING RIGHTS
29 AND INTERESTS OF TRANSFEREES, MADE IN GOOD FAITH, THE TAX SHALL
30 BE COMPUTED AS THOUGH THE PERSONS SO RECEIVING DISTRIBUTION WERE

1 ORIGINALLY ENTITLED TO IT AS TRANSFEREES OF THE PROPERTY
2 RECEIVED IN THE COMPROMISE, CONDITIONED UPON AN ADJUDICATION OR
3 DECREE OF DISTRIBUTION EXPRESSLY CONFIRMING DISTRIBUTION TO SUCH
4 DISTRIBUTEES. NOTICE OF THE FILING OF THE ACCOUNT AND OF ITS
5 CALL FOR AUDIT OR CONFIRMATION SHALL INCLUDE NOTICE TO THE
6 DEPARTMENT.

7 (E) IF THE RATE OF TAX WHICH WILL BE APPLICABLE WHEN AN
8 INTEREST VESTS IN POSSESSION AND ENJOYMENT CANNOT BE ESTABLISHED
9 WITH CERTAINTY, THE DEPARTMENT, AFTER CONSIDERATION OF RELEVANT
10 ACTUARIAL FACTORS, VALUATIONS AND OTHER PERTINENT CIRCUMSTANCES,
11 MAY ENTER INTO AN AGREEMENT WITH THE PERSON RESPONSIBLE FOR
12 PAYMENT TO ESTABLISH A SPECIFIED AMOUNT OF TAX WHICH, WHEN PAID
13 WITHIN SIXTY DAYS AFTER THE AGREEMENT, SHALL CONSTITUTE FULL
14 PAYMENT OF ALL TAX OTHERWISE DUE UPON SUCH TRANSFER. RIGHTS OF
15 WITHDRAWAL OF A SURVIVING SPOUSE NOT EXERCISED WITHIN NINE
16 MONTHS OF THE TRANSFEROR'S DEATH SHALL BE IGNORED IN MAKING SUCH
17 CALCULATIONS.

18 (F) PROPERTY SUBJECT TO A POWER OF APPOINTMENT, WHETHER OR
19 NOT THE POWER IS EXERCISED AND NOTWITHSTANDING ANY BLENDING OF
20 THE PROPERTY WITH THE PROPERTY OF THE DONEE, SHALL BE TAXED ONLY
21 AS PART OF THE ESTATE OF THE DONOR.

22 (G) THE FIRST ONE HUNDRED THOUSAND DOLLARS (\$100,000) OF THE
23 TAXABLE VALUE OF PROPERTY SOLELY OWNED BY THE DECEDENT THAT IS
24 TRANSFERRED IS EXEMPT FROM THE TAX IMPOSED UNDER SUBSECTION
25 (A)(1), (1.1) OR (2).

26 Section 7 15. (a) The following acts and parts of acts are <—
27 repealed:

28 Sections 2506 and 2507(a) of the act of April 9, 1929
29 (P.L.177, No.175), known as The Administrative Code of 1929.

30 Section 4 of the act of June 23, 1982 (P.L.597, No.170),

1 known as the Wild Resource Conservation Act.

2 20 Pa.C.S. § 8618.

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

6 Section 8 16. This act shall apply as follows: <—

7 (1) The following provisions shall apply to taxable
8 years beginning on or after January 1, 1997:

9 (i) The amendment of section 301 introductory
10 paragraph, (C.2), (E.1) and (s.2) of the act. <—

11 (ii) The amendment of section ~~304(d)(1)~~ 304(D) of <—
12 the act.

13 (iii) The addition of Part VI-A of Article III of
14 the act.

15 ~~(iv) Section 7 of this act.~~ <—

16 (IV) THE AMENDMENT OF THE DEFINITION OF "CAPITAL <—
17 STOCK VALUE" IN SECTION 601 OF THE ACT.

18 (V) SECTION 15 OF THIS ACT.

19 (2) The amendment of ~~section 201(c) and (d)~~ SECTIONS <—
20 201(C), (D), (K)(8) AND (O)(4), 204, 1902-A, 1904-A, 1905-A
21 AND 1906-A of the act shall apply on and after July 1, 1997.

22 (3) THE AMENDMENT OF SECTION 301(D) OF THE ACT SHALL <—
23 APPLY TO TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 1998.

24 ~~(3)~~ (4) The amendment of sections 1101-C and 1102-C.3 of <—
25 the act shall apply to any document made, executed,
26 delivered, accepted or presented for recording after the
27 effective date of this act.

28 ~~Section 9. This act shall take effect immediately.~~ <—

29 SECTION 17. THE AMENDMENT OF SECTIONS 1296, 1902-A AND 1905- <—
30 A OF THE ACT SHALL BE RETROACTIVE TO JANUARY 1, 1997.

1 SECTION 18. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

2 (1) THE AMENDMENT OR ADDITION OF SECTIONS 201(B), (C),
3 (D), (F), (G), (K), (O) AND (JJ) AND 204(53) OF THE ACT SHALL
4 TAKE EFFECT JULY 1, 1997.

5 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
6 IMMEDIATELY.