

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2755 Session of
2006

INTRODUCED BY ELLIS, BAKER, BEYER, CALTAGIRONE, CRAHALLA,
DENLINGER, FLICK, HUTCHINSON, W. KELLER, MAHER, McILHATTAN,
QUIGLEY, RAPP, REICHLEY, ROSS, SAYLOR, SHAPIRO, R. STEVENSON,
J. TAYLOR, TURZAI AND WILT, JUNE 13, 2006

REFERRED TO COMMITTEE ON FINANCE, JUNE 13, 2006

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, in sales and use tax, for the
11 definition of "tangible personal property."

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

14 Section 1. Section 201(m) of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended May
16 24, 2000 (P.L.106, No.23), is amended to read:

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

21 * * *

(m) "Tangible personal property."

(1) Corporeal personal property including, but not limited to, goods, wares, merchandise, steam and natural and manufactured and bottled gas for non-residential use, electricity for non-residential use, prepaid telecommunications, premium cable or premium video programming service, spirituous or vinous liquor and malt or brewed beverages and soft drinks, interstate telecommunications service originating or terminating in the Commonwealth and charged to a service address in this Commonwealth, intrastate telecommunications service with the exception of (i) subscriber line charges and basic local telephone service for residential use and (ii) charges for telephone calls paid for by inserting money into a telephone accepting direct deposits of money to operate, provided further, the service address of any intrastate telecommunications service is deemed to be within this Commonwealth or within a political subdivision, regardless of how or where billed or paid. In the case of any such interstate or intrastate telecommunications service, any charge paid through a credit or payment mechanism which does not relate to a service address, such as a bank, travel, credit or debit card, but not including prepaid telecommunications, is deemed attributable to the address of origination of the telecommunications service. The term shall not include (i) computer software, other than prewritten computer software delivered to the purchaser by tangible storage media and (ii) digital products delivered electronically, including computer software, music, video, reading materials or ring tones.

(2) For the purposes of this clause, the following words and phrases shall have the meanings given to them in this subclause:

1 "Computer software." A set of coded instructions designed to
2 cause a computer or automatic data processing equipment to
3 perform a task.

4 "Delivered electronically." Delivered to the purchaser by
5 means other than tangible storage media.

6 "Prewritten computer software." The term shall have the same
7 meaning as "computer software," including prewritten upgrades,
8 which is not designed and developed by the author or other
9 creator to the specifications of a specific purchaser. The
10 combining of two or more prewritten computer software programs
11 or prewritten portions of the program does not cause the
12 combination to be other than prewritten computer software. The
13 term includes software designed and developed by the author or
14 other creator to the specifications of a specific purchaser when
15 it is sold to a person other than the specific purchaser. Where
16 a person modifies or enhances computer software of which the
17 person is not the author or creator, the person shall be deemed
18 to be the author or creator only of the person's modifications
19 or enhancements. Prewritten computer software or a prewritten
20 portion of prewritten computer software that is modified or
21 enhanced to any degree, where the modification or enhancement is
22 designed and developed to the specifications of a specific
23 purchaser, remains prewritten computer software except that
24 where there is a reasonable, separately stated charge, invoice
25 or other statement of the price given to the purchaser for the
26 modification or enhancement, the modification or enhancement
27 shall not constitute prewritten computer software.

28 * * *

29 Section 2. This act shall take effect immediately.