

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 488 Session of
2007

INTRODUCED BY R. MILLER, BAKER, BASTIAN, CALTAGIRONE, CAPPELLI, CARROLL, CASORIO, CAUSER, CREIGHTON, DALLY, EVERETT, GEORGE, GIBBONS, GILLESPIE, GINGRICH, GOODMAN, GRUCELA, HARHAI, HENNESSEY, HERSHEY, HESS, HUTCHINSON, KAUFFMAN, M. KELLER, KOTIK, MACKERETH, MAHONEY, McILHATTAN, MENSCH, MICOZZIE, MILLARD, MUNDY, O'NEILL, PAYNE, PETRARCA, PETRONE, PHILLIPS, PYLE, RAPP, RAYMOND, READSHAW, REICHLEY, RUBLEY, SAYLOR, S. H. SMITH, SOLOBAY, SONNEY, STABACK, STAIRS, R. STEVENSON, SURRA, WATSON, YOUNGBLOOD, FABRIZIO, BOYD, DALEY, PEIFER, PICKETT, COX AND HORNAMAN, FEBRUARY 26, 2007

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 26, 2007

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 exclusions from sales tax
11 and for exemption certificates.

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

14 Section 1. Section 204(10) of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
16 April 23, 1998 (P.L.239, No.45), is amended to read:

17 Section 204. Exclusions from Tax.--The tax imposed by
18 section 202 shall not be imposed upon any of the following:

1 * * *

2 (10) The sale at retail to or use by (i) any charitable
3 organization, volunteer firemen's organization, volunteer
4 firefighters' relief association as defined in section 2 of the
5 act of June 11, 1968 (P.L.149, No.84), known as the "Volunteer
6 Firefighters' Relief Association Act," or nonprofit educational
7 institution, or (ii) a religious organization for religious
8 purposes of tangible personal property or services other than
9 pursuant to a construction contract: Provided, however, That the
10 exclusion of this clause shall not apply with respect to any
11 tangible personal property or services used in any unrelated
12 trade or business carried on by such organization or institution
13 or with respect to any materials, supplies and equipment used
14 and transferred to such organization or institution in the
15 construction, reconstruction, remodeling, renovation, repairs
16 and maintenance of any real estate structure, other than
17 building machinery and equipment, except materials and supplies
18 when purchased by such organizations or institutions for routine
19 maintenance and repairs.

20 * * *

21 Section 2. Section 237(c) of the act, amended July 1, 1985
22 (P.L.78, No.29), is amended to read:

23 Section 237. Collection of Tax.--* * *

24 (c) Exemption Certificates. If the tax does not apply to the
25 sale or lease of tangible personal property or services, the
26 purchaser or lessee shall furnish to the vendor a certificate
27 indicating that the sale is not legally subject to the tax. The
28 certificate shall be in substantially such form as the
29 department may, by regulation, prescribe. Where the tangible
30 personal property or service is of a type which is never subject

1 to the tax imposed or where the sale or lease is in interstate
2 commerce, such certificate need not be furnished. Where a series
3 of transactions are not subject to tax, a purchaser or user may
4 furnish the vendor with a single exemption certificate in
5 substantially such form and valid for such period of time as the
6 department may, by regulation, prescribe[.], provided that an
7 exemption certificate furnished to a volunteer firefighters'
8 relief association or volunteer firemen's organization shall be
9 considered permanent. The department shall provide all school
10 districts and intermediate units with a permanent tax exemption
11 number. An exemption certificate, which is complete and regular
12 and on its face discloses a valid basis of exemption if taken in
13 good faith, shall relieve the vendor from the liability imposed
14 by this section. An exemption certificate accepted by a vendor
15 from a natural person domiciled within this Commonwealth or any
16 association, fiduciary, partnership, corporation or other
17 entity, either authorized to do business within this
18 Commonwealth or having an established place of business within
19 this Commonwealth, in the ordinary course of the vendor's
20 business, which on its face discloses a valid basis of exemption
21 consistent with the activity of the purchaser and character of
22 the property or service being purchased or which is provided to
23 the vendor by a charitable, religious, educational, volunteer
24 firefighters' relief association or volunteer firemen's
25 organization and contains the organization's charitable
26 exemption number and which, in the case of any purchase costing
27 two hundred dollars (\$200) or more, is accompanied by a sworn
28 declaration on a form to be provided by the department of an
29 intended usage of the property or service which would render it
30 nontaxable, shall be presumed to be taken in good faith and the

1 burden of proving otherwise shall be on the Department of
2 Revenue.

3 * * *

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