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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 76 Session of  
2013

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INTRODUCED BY ARGALL, FOLMER, SCHWANK, YUDICHAK, ALLOWAY,  
ERICKSON, FONTANA, MENSCH, WAUGH, SOLOBAY, RAFFERTY, BAKER,  
EICHELBERGER, BREWSTER, SMUCKER, BOSCOLA AND FERLO,  
MARCH 14, 2013

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REFERRED TO FINANCE, MARCH 14, 2013

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AN ACT

1 Providing for tax levies and information related to taxes;  
2 authorizing the imposition of a personal income tax or an  
3 earned income tax by a school district subject to voter  
4 approval; providing for imposition of and exclusions from a  
5 sales and use tax for the stabilization of education funding,  
6 for increase to the personal income tax, for certain  
7 licenses, for hotel occupancy tax, for procedure and  
8 administration of the tax, for expiration of authority to  
9 issue certain debt and for reporting by local government  
10 units of debt outstanding; establishing the Education  
11 Stabilization Fund; providing for disbursements from this  
12 fund; and repealing certain provisions of the Public School  
13 Code of 1949 and sales and use tax provisions of the Tax  
14 Reform Code of 1971.

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14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 CHAPTER 1

17 PRELIMINARY PROVISIONS

18 Section 101. Short title.

19 This act shall be known and may be cited as the Property Tax  
20 Independence Act.

21 Section 102. Definitions.

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

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

26 "Education Stabilization Fund." The Education Stabilization  
27 Fund established in section 1302.

28 "Fiscal year." The fiscal year of the Commonwealth beginning  
29 on July 1 and ending on June 30 of the immediately following  
30 calendar year.

1 "Governing body." The board of school directors of a school  
2 district, except that the term shall mean the city council of a  
3 city of the first class for purposes of the levy and collection  
4 of any tax in a school district of the first class.

5 "Internal Revenue Code of 1986." The Internal Revenue Code  
6 of 1986 (Public Law 99-514, 26 U.S.C. § 166).

7 "Local Tax Enabling Act." The act of December 31, 1965  
8 (P.L.1257, No.511), known as The Local Tax Enabling Act,

9 "Public School Code of 1949." The act of March 10, 1949  
10 (P.L.30, No.14), known as the Public School Code of 1949.

11 "School district." A school district of the first class,  
12 first class A, second class, third class or fourth class,  
13 including any independent school district. For purposes of the  
14 levy, assessment and collection of any tax in a school district  
15 of the first class, the term shall include the City Council.

16 "School per capita tax." The tax authorized pursuant to  
17 section 679 of the act of March 10, 1949 (P.L.30, No.14), known  
18 as the Public School Code of 1949,

19 "Secretary." The Secretary of Revenue of the Commonwealth.

20 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,  
21 No.2), known as the Tax Reform Code of 1971.

## 22 CHAPTER 3

### 23 TAXATION BY SCHOOL DISTRICTS

24 Section 301. Scope.

25 This chapter authorizes school districts to levy, assess and  
26 collect a tax on personal income or a tax on earned income and  
27 net profits as a means of abolishing property taxation by the  
28 school district.

29 Section 302. Definitions.

30 The words and phrases used in this chapter shall have the

1 same meanings given to them in the Tax Reform Code of 1971 or  
2 The Local Tax Enabling Act unless the context clearly indicates  
3 otherwise.

4 Section 303. Limitation.

5 Any tax imposed under this chapter shall be subject to the  
6 limitations set forth in Chapter 11.

7 Section 304. Preemption.

8 No act of the General Assembly shall vacate or preempt any  
9 resolution passed or adopted under the authority of this  
10 chapter, or any other act, providing authority for the  
11 imposition of a tax by a school district, unless the act of the  
12 General Assembly expressly vacates or preempts the authority to  
13 pass or adopt resolutions.

14 Section 305. General tax authorization.

15 (a) General rule.--A board of school directors may, by  
16 resolution, levy, assess and collect or provide for the levying,  
17 assessment and collection of a tax on personal income or a tax  
18 on earned income and net profits for general revenue purposes.

19 (b) Personal income tax.--

20 (1) A board of school directors may levy, assess and  
21 collect a tax on the personal income of resident individuals  
22 at a rate determined by the board of school directors.

23 (2) A school district which seeks to levy the tax  
24 authorized under paragraph (1) must comply with section 306.

25 (3) If a board of school directors seeks to impose a  
26 personal income tax under this subsection and the referendum  
27 under section 306 is approved by the electorate, the board of  
28 school directors shall have no authority to impose an earned  
29 income and net profits tax under subsection (c) or any other  
30 act.

1           (4) A personal income tax imposed under the authority of  
2 this section shall be levied by the school district on each  
3 of the classes of income specified in section 303 of the Tax  
4 Reform Code of 1971 and regulations under that section,  
5 provisions of which are incorporated by reference into this  
6 chapter.

7           (i) Notwithstanding the provisions of section 353(f)  
8 of the Tax Reform Code of 1971, the Department of Revenue  
9 may permit the proper officer or an authorized agent of a  
10 school district imposing a personal income tax pursuant  
11 to this chapter to inspect the tax returns of any  
12 taxpayer of the school district or may furnish to the  
13 officer or an authorized agent an abstract of the return  
14 of income of any current or former resident of the school  
15 district or supply information concerning any item of  
16 income contained in any tax return. The officer or  
17 authorized agent of the school district imposing a tax  
18 under this chapter shall be furnished the requested  
19 information upon payment to the Department of Revenue of  
20 the actual cost of providing the requested information.

21           (ii) (A) Except for official purposes or as  
22 provided by law, it shall be unlawful for any officer  
23 or authorized agent of a school district to do any of  
24 the following:

25                   (I) Disclose to any other individual or  
26                   entity the amount or source of income, profits,  
27                   losses, expenditures or any particular  
28                   information concerning income, profits, losses or  
29                   expenditures contained in any return.

30                   (II) Permit any other individual or entity

1 to view or examine any return or copy of a return  
2 or any book containing any abstract or  
3 particulars.

4 (III) Print, publish or publicize in any  
5 manner any return; any particular information  
6 contained in or concerning the return; any amount  
7 or source of income, profits, losses or  
8 expenditures in or concerning the return; or any  
9 particular information concerning income,  
10 profits, losses or expenditures contained in or  
11 relating to any return.

12 (B) Any officer or authorized agent of a school  
13 district that violates clause (A):

14 (I) May be fined not more than \$1,000 or  
15 imprisoned for not more than one year, or both.

16 (II) May be removed from office or  
17 discharged from employment.

18 (c) Earned income and net profits tax.--

19 (1) A board of school directors may levy, assess and  
20 collect a tax on earned income and net profits of resident  
21 individuals at a rate determined by the board of school  
22 directors.

23 (2) A school district which seeks to levy the tax  
24 authorized under paragraph (1) must comply with section 306.

25 (3) If a board of school directors seeks to impose a tax  
26 on earned income and net profits under this subsection and  
27 the referendum under section 306 is approved by the  
28 electorate, the board of school directors shall have no  
29 authority to impose a personal income tax under subsection

30 (b) or any other act.

1 Section 306. Referendum.

2 (a) General rule.--In order to levy a personal income tax or  
3 an earned income and net profits tax under this chapter, a  
4 governing body shall use the procedures set forth in subsections  
5 (b), (c), (d), (e), (f) and (g).

6 (b) Approved by electorate.--

7 (1) Subject to notice and public hearing requirements of  
8 subsection (g), a governing body may levy the personal income  
9 tax or earned income and net profits tax under this chapter  
10 only by obtaining the approval of the electorate of the  
11 affected school district in a public referendum at only the  
12 primary election preceding the fiscal year when the personal  
13 income tax or earned income and net profits tax will be  
14 initially imposed or the rate increased.

15 (2) The referendum question must state the initial rate  
16 of the proposed personal income tax or earned income and net  
17 profits tax, the purpose of the tax, the duration of the tax  
18 and the amount of revenue to be generated by the  
19 implementation of the tax.

20 (3) The question shall be in clear language that is  
21 readily understandable by a layperson. For the purpose of  
22 illustration, a referendum question may be framed as follows:

23 Do you favor paying a personal income tax of X% for  
24 the purpose of X, for X years, which will generate  
25 \$X?

26 Do you favor paying an earned income and net profits  
27 tax of X% for the purpose of X, for X years, which  
28 will generate \$X?

29 (4) A nonlegal interpretative statement must accompany  
30 the question in accordance with section 201.1 of the act of

1 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania  
2 Election Code, that includes the following:

3 (i) the initial rate of the personal income or  
4 earned income and net profits tax imposed under this  
5 chapter; and

6 (ii) the estimated revenues to be derived from the  
7 initial rate imposed under this chapter.

8 (c) School district located in more than one county.--In the  
9 event a school district is located in more than one county,  
10 petitions under this section shall be filed with the election  
11 officials of the county in which the administrative offices of  
12 the school district are located.

13 (d) Review and certification.--The election officials who  
14 receive a petition shall perform all administrative functions in  
15 reviewing and certifying the validity of the petition and  
16 conduct all necessary communications with the school district.

17 (e) Notification.--

18 (1) If the election officials of the county who receive  
19 the petition certify that it is sufficient under this section  
20 and determine that a question should be placed on the ballot,  
21 the decision shall be communicated to election officials in  
22 any other county in which the school district is also  
23 located.

24 (2) Election officials in the other county or counties  
25 shall cooperate with election officials of the county that  
26 receives the petition to ensure that an identical question is  
27 placed on the ballot at the same election throughout the  
28 entire school district.

29 (f) Certification of results.--Election officials from each  
30 county involved shall independently certify the results from

1 their county to the governing body.

2 (g) Adoption of resolution.--

3 (1) In order to levy the tax under this section, the  
4 governing body shall adopt a resolution which shall refer to  
5 this chapter prior to placing a question on the ballot.

6 (2) Prior to adopting a resolution imposing the tax  
7 authorized by this section, the governing body shall give  
8 public notice of its intent to adopt the resolution in the  
9 manner provided by The Local Tax Enabling Act and shall  
10 conduct at least two public hearings regarding the proposed  
11 adoption of the resolution. One public hearing shall be  
12 conducted during normal business hours and one public hearing  
13 shall be conducted during evening hours or on a weekend.

14 Section 307. Continuity of tax.

15 Every tax levied under this chapter shall continue in force  
16 on a fiscal year basis without annual reenactment unless the  
17 rate of the tax is subsequently changed or the duration placed  
18 on the referendum has expired.

19 Section 308. Collections.

20 Any income tax imposed under this chapter shall be subject to  
21 the provisions for collection and delinquency found in The Local  
22 Tax Enabling Act.

23 Section 309. Credits.

24 (a) Credit.--Except as set forth in subsection (b), the  
25 provisions of The Local Tax Enabling Act shall be applied by a  
26 board of school directors to determine any credits applicable to  
27 a tax imposed under this chapter.

28 (b) Limitation.--Payment of any tax on income to any state  
29 other than Pennsylvania or to any political subdivision located  
30 outside the boundaries of this Commonwealth by a resident of a

1 school district located in this Commonwealth shall not be  
2 credited to and allowed as a deduction from the liability of  
3 such person for any income tax imposed by the school district of  
4 residence pursuant to this chapter.

5 Section 310. Exemption and special provisions.

6 (a) Earned income and net profits tax.--A school district  
7 that imposes an earned income and net profits tax authorized  
8 under section 305(c) may exempt from the payment of that tax any  
9 person whose total income from all sources is less than \$12,000.

10 (b) Applicability to personal income tax.--Section 304 of  
11 the Tax Reform Code of 1971 shall apply to any personal income  
12 tax levied by a school district under section 305(b).

13 Section 311. Regulations.

14 A school district that imposes:

15 (1) an earned income and net profits tax authorized  
16 under section 305(c) shall be subject to the provisions of  
17 The Local Tax Enabling Act and may adopt procedures for the  
18 processing of claims for credits and exemptions under section  
19 309 and 310; or

20 (2) a personal income tax under section 305(b) shall be  
21 subject to all regulations adopted by the Department of  
22 Revenue in administering the tax due to the Commonwealth  
23 under Article III of the Tax Reform Code of 1971.

24 CHAPTER 4

25 EDUCATION TAX

26 Section 401. Education tax.

27 (a) General rule.--In addition to the tax collected under  
28 section 302 of the Tax Reform Code of 1971, the Commonwealth  
29 shall impose the tax set forth in subsection (c) in the same  
30 manner as the tax under the Tax Reform Code of 1971.

1 (b) Imposition of tax.--

2 (1) Every resident individual, estate or trust shall be  
3 subject to, and shall pay for the privilege of receiving each  
4 of the classes of income enumerated in section 303 of the Tax  
5 Reform Code of 1971, a tax upon each dollar of income  
6 received by that resident during that resident's taxable year  
7 at the rate of 1.27%.

8 (2) Every nonresident individual, estate or trust shall  
9 be subject to, and shall pay for the privilege of receiving  
10 each of the classes of income enumerated in section 303 of  
11 the Tax Reform Code of 1971 from sources within this  
12 Commonwealth, a tax upon each dollar of income received by  
13 that nonresident during that nonresident's taxable year at  
14 the rate of 1.27%.

15 (c) Deposit in Education Stabilization Fund.--All moneys  
16 collected under this section shall be deposited in the Education  
17 Stabilization Fund.

18 (d) Combination of tax forms.--The department shall  
19 incorporate the taxpayer reporting requirement for the  
20 implementation of this section into the forms utilized by the  
21 department under Article III of the Tax Reform Code of 1971.

22 (e) Definitions.--The words and phrases used in this section  
23 shall have the same meaning given to them in Article III of the  
24 Tax Reform Code of 1971.

25 CHAPTER 7

26 SALES AND USE TAX FOR THE

27 STABILIZATION OF EDUCATION FUNDING

28 SUBCHAPTER A

29 PRELIMINARY PROVISIONS

30 Section 701. Scope.

1 The tax provided for under this chapter shall be known as the  
2 Sales and Use Tax for the Stabilization of Education Funding,  
3 which shall be a replacement for the sales and use tax  
4 authorized under Article II of the Tax Reform Code of 1971 and  
5 that is repealed by this act.

6 Section 701.1. Definitions.

7 The following words and phrases when used in this chapter  
8 shall have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10 (a) "Soft drinks."

11 (1) All nonalcoholic beverages, whether carbonated or  
12 not, such as soda water, ginger ale, Coca Cola, lime cola,  
13 Pepsi Cola, Dr Pepper, fruit juice when plain or carbonated  
14 water, flavoring or syrup is added, carbonated water,  
15 orangeade, lemonade, root beer or any and all preparations,  
16 commonly referred to as soft drinks, of whatsoever kind, and  
17 are further described as including any and all beverages,  
18 commonly referred to as soft drinks, which are made with or  
19 without the use of any syrup.

20 (2) The term does not include natural fruit or vegetable  
21 juices or their concentrates, or noncarbonated fruit juice  
22 drinks containing not less than 25% by volume of natural  
23 fruit juices or of fruit juice which has been reconstituted  
24 to its original state, or natural concentrated fruit or  
25 vegetable juices reconstituted to their original state,  
26 whether any of the natural juices are frozen or unfrozen,  
27 sweetened or unsweetened, seasoned with salt or spice or  
28 unseasoned. The term also does not include coffee, coffee  
29 substitutes, tea, cocoa, natural fluid milk or noncarbonated  
30 drinks made from milk derivatives.

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

2 (1) Having, maintaining or using within this  
3 Commonwealth, either directly or through a subsidiary,  
4 representative or an agent, an office, distribution house,  
5 sales house, warehouse, service enterprise or other place of  
6 business; or any agent of general or restricted authority, or  
7 representative, irrespective of whether the place of  
8 business, representative or agent is located in this  
9 Commonwealth, permanently or temporarily, or whether the  
10 person or subsidiary maintaining the place of business,  
11 representative or agent is authorized to do business within  
12 this Commonwealth.

13 (2) Engaging in any activity as a business within this  
14 Commonwealth by any person, either directly or through a  
15 subsidiary, representative or an agent, in connection with  
16 the lease, sale or delivery of tangible personal property or  
17 the performance of services thereon for use, storage or  
18 consumption or in connection with the sale or delivery for  
19 use of the services described in subclauses (11) through (18)  
20 of clause (k) of this section, including, but not limited to,  
21 having, maintaining or using any office, distribution house,  
22 sales house, warehouse or other place of business, any stock  
23 of goods or any solicitor, canvasser, salesman,  
24 representative or agent under its authority, at its direction  
25 or with its permission, regardless of whether the person or  
26 subsidiary is authorized to do business in this Commonwealth.

27 (3) Regularly or substantially soliciting orders within  
28 this Commonwealth in connection with the lease, sale or  
29 delivery of tangible personal property to or the performance  
30 thereon of services or in connection with the sale or

1 delivery of the services described in subclauses (11) through  
2 (18) of clause (k) of this section for residents of this  
3 Commonwealth by means of catalogs or other advertising,  
4 whether the orders are accepted within or without this  
5 Commonwealth.

6 (3.1) Entering this Commonwealth by any person to  
7 provide assembly, service or repair of tangible personal  
8 property, either directly or through a subsidiary,  
9 representative or an agent.

10 (3.2) Delivering tangible personal property to locations  
11 within this Commonwealth if the delivery includes the  
12 unpacking, positioning, placing or assembling of the tangible  
13 personal property.

14 (3.3) Having any contact within this Commonwealth which  
15 would allow the Commonwealth to require a person to collect  
16 and remit tax under the Constitution of the United States.

17 (3.4) Providing a customer's mobile telecommunications  
18 service deemed to be provided by the customer's home service  
19 provider under the Mobile Telecommunications Sourcing Act (4  
20 U.S.C. § 116). For purposes of this clause, words and phrases  
21 used in this clause shall have the meanings given to them in  
22 the Mobile Telecommunications Sourcing Act.

23 (4) The term does not include:

24 (i) Owning or leasing of tangible or intangible  
25 property by a person who has contracted with an  
26 unaffiliated commercial printer for printing, provided  
27 that:

28 (A) the property is for use by the commercial  
29 printer; and

30 (B) the property is located at the Pennsylvania

1 premises of the commercial printer.

2 (ii) Visits by a person's employees or agents to the  
3 premises in this Commonwealth of an unaffiliated  
4 commercial printer with whom the person has contracted  
5 for printing in connection with said contract.

6 (b.1) "Service performed in this Commonwealth."

7 A service performed:

8 (1) completely in this Commonwealth;

9 (2) partially in this Commonwealth and partially outside  
10 this Commonwealth, when the recipient or user of the service  
11 is located in this Commonwealth; or

12 (3) partially in this Commonwealth and partially outside  
13 this Commonwealth, when the recipient or user of the service  
14 is not located in this Commonwealth, but only to the extent  
15 of those services actually performed in this Commonwealth.

16 The place of performance need not be determined if the recipient  
17 or user of the service is located in this Commonwealth.

18 A service performed partially in this Commonwealth and partially  
19 outside this Commonwealth shall be presumed to have been  
20 performed completely in this Commonwealth unless the taxpayer  
21 can show the place of performance by clear and convincing  
22 evidence. With respect to interstate telecommunications  
23 services, only services for interstate telecommunications which  
24 originate or are terminated in this Commonwealth and which are  
25 billed and charged to a service address in this Commonwealth  
26 shall be presumed to have been performed completely in this  
27 Commonwealth and shall be subject to tax.

28 (c) "Manufacture." The performance of manufacturing,  
29 fabricating, compounding, processing or other operations,  
30 engaged in as a business, which place any tangible personal

1 property in a form, composition or character different from that  
2 in which it is acquired whether for sale or use by the  
3 manufacturer, and shall include, but not be limited to:

4 (1) Every operation commencing with the first production  
5 stage and ending with the completion of tangible personal  
6 property having the physical qualities, including packaging,  
7 if any, passing to the ultimate consumer, which it has when  
8 transferred by the manufacturer to another. For purposes of  
9 this definition, "operation" includes clean rooms and their  
10 component systems, including: environmental control systems,  
11 antistatic vertical walls and manufacturing platforms and  
12 floors which are independent of the real estate; process  
13 piping systems; specialized lighting systems; deionized water  
14 systems; process vacuum and compressed air systems; process  
15 and specialty gases; and alarm or warning devices  
16 specifically designed to warn of threats to the integrity of  
17 the product or people. For purposes of this definition, a  
18 "clean room" is a location with a self-contained, sealed  
19 environment with a controlled, closed air system independent  
20 from the facility's general environmental control system.

21 (2) The publishing of books, newspapers, magazines and  
22 other periodicals and printing.

23 (3) Refining, blasting, exploring, mining and quarrying  
24 for, or otherwise extracting from the earth or from waste or  
25 stock piles or from pits or banks any natural resources,  
26 minerals and mineral aggregates including blast furnace slag.

27 (4) Building, rebuilding, repairing and making additions  
28 to, or replacements in or upon vessels designed for  
29 commercial use of registered tonnage of 50 tons or more when  
30 produced on special order of the purchaser, or when rebuilt,

1 repaired or enlarged, or when replacements are made upon  
2 order of or for the account of the owner.

3 (5) Research having as its objective the production of a  
4 new or an improved:

5 (i) product or utility service; or

6 (ii) method of producing a product or utility  
7 service,

8 but in either case not including market research or research  
9 having as its objective the improvement of administrative  
10 efficiency.

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

18 (7) Remanufacture or retrofit by a manufacturer or  
19 remanufacturer of aircraft, armored vehicles, other defense-  
20 related vehicles having a finished value of at least \$50,000.  
21 Remanufacture or retrofit involves the disassembly of such  
22 aircraft, vehicles, parts or components, including electric  
23 or electronic components, the integration of those parts and  
24 components with other used or new parts or components,  
25 including the salvaging, recycling or reclaiming of the used  
26 parts or components and the assembly of the new or used  
27 aircraft, vehicles, parts or components. The term does not  
28 include constructing, altering, servicing, repairing or  
29 improving real estate or repairing, servicing or installing  
30 tangible personal property, nor the cooking, freezing or

1 baking of fruits, vegetables, mushrooms, fish, seafood,  
2 meats, poultry or bakery products. For purposes of this  
3 clause, the following terms or phrases have the following  
4 meanings:

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

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

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

14 (c.1) "Blasting." The use of any combustible or explosive  
15 composition in the removal of material resources, minerals and  
16 mineral aggregates from the earth including the separation of  
17 the dirt, waste and refuse in which they are found.

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

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

25 (1.1) The processing of fruits or vegetables by  
26 cleaning, cutting, coring, peeling or chopping and treating  
27 to preserve, sterilize or purify and substantially extend the  
28 useful shelf life of the fruits or vegetables, when the  
29 person engaged in the activity packages the property in  
30 sealed containers for wholesale distribution.

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

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

10          (3.1) The blanking, shearing, leveling, slitting or  
11          burning of metals for sale to or use by a manufacturer or  
12          processor.

13          (4) The rolling, drawing or extruding of ferrous and  
14          nonferrous metals.

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

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

21          (7) The production, processing and bottling of  
22          nonalcoholic beverages for wholesale distribution.

23          (8) The operation of a saw mill or planing mill for the  
24          production of lumber or lumber products for sale. The  
25          operation of a saw mill or planing mill begins with the  
26          unloading by the operator of the saw mill or planing mill of  
27          logs, timber, pulpwood or other forms of wood material to be  
28          used in the saw mill or planing mill.

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

30          (9.1) The aging, stripping, conditioning, crushing and

1 blending of tobacco leaves for use as cigar filler or as  
2 components of smokeless tobacco products for sale to  
3 manufacturers of tobacco products.

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

8 (11) The processing of used lubricating oils.

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

11 (13) The cooking or baking of bread, pastries, cakes,  
12 cookies, muffins and donuts when the person engaged in the  
13 activity sells the items at retail at locations that do not  
14 constitute an establishment from which ready-to-eat food and  
15 beverages are sold. For purposes of this clause, a bakery, a  
16 pastry shop and a donut shop shall not be considered an  
17 establishment from which ready-to-eat food and beverages are  
18 sold.

19 (14) The cleaning and roasting and the blending,  
20 grinding or packaging for sale of coffee from green coffee  
21 beans or the production of coffee extract.

22 (15) The preparation of dry or liquid fertilizer for  
23 sale.

24 (16) The production, processing and packaging of ice for  
25 wholesale distribution.

26 (17) The producing of mobile telecommunications  
27 services.

28 (e) "Person." Any natural person, association, fiduciary,  
29 partnership, corporation or other entity, including the  
30 Commonwealth of Pennsylvania, its political subdivisions and

1 instrumentalities and public authorities. Whenever used in  
2 prescribing and imposing a penalty or imposing a fine or  
3 imprisonment, or both, the term as applied to an association,  
4 includes the members of the association and, as applied to a  
5 corporation, the officers of the corporation.

6 (f) "Purchase at retail."

7 (1) The acquisition for a consideration of the  
8 ownership, custody or possession of tangible personal  
9 property other than for resale by the person acquiring the  
10 same when the acquisition is made for the purpose of  
11 consumption or use, whether the acquisition is absolute or  
12 conditional, and by any means it is effected.

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

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

20 (4) A retention after March 7, 1956, of possession,  
21 custody or a license to use or consume pursuant to a rental  
22 contract or other lease arrangement (other than as security)  
23 other than for resale.

24 (5) The obtaining for a consideration of those services  
25 described in subclauses (11) through (18) of clause (k) of  
26 this section.

27 The term, with respect to liquor and malt or brewed beverages,  
28 includes the purchase of liquor from any Pennsylvania Liquor  
29 Store by any person for any purpose, and the purchase of malt or  
30 brewed beverages from a manufacturer of malt or brewed

1 beverages, distributor or importing distributor by any person  
2 for any purpose, except purchases from a manufacturer of malt or  
3 brewed beverages by a distributor or importing distributor or  
4 purchases from an importing distributor by a distributor within  
5 the meaning of the Liquor Code. The term does not include any  
6 purchase of malt or brewed beverages from a retail dispenser or  
7 any purchase of liquor or malt or brewed beverages from a person  
8 holding a retail liquor license within the meaning of and  
9 pursuant to the provisions of the Liquor Code, but includes any  
10 purchase or acquisition of liquor or malt or brewed beverages  
11 other than pursuant to the provisions of the Liquor Code.

12 (g) "Purchase price."

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

23 (2) The value of any tangible personal property actually  
24 taken in trade or exchange in lieu of the whole or any part  
25 of the purchase price shall be deducted from the purchase  
26 price. For the purpose of this clause, the amount allowed by  
27 reason of tangible personal property actually taken in trade  
28 or exchange shall be considered the value of such property.

29 (3) (i) In determining the purchase price on the sale  
30 or use of taxable tangible personal property or a service

1 where, because of affiliation of interests between the  
2 vendor and purchaser, or irrespective of any such  
3 affiliation, if for any other reason the purchase price  
4 declared by the vendor or taxpayer on the taxable sale or  
5 use of such tangible personal property or service is, in  
6 the opinion of the department, not indicative of the true  
7 value of the article or service or the fair price  
8 thereof, the department shall, pursuant to uniform and  
9 equitable rules, determine the amount of constructive  
10 purchase price on the basis of which the tax shall be  
11 computed and levied. The rules shall provide for a  
12 constructive amount of purchase price for each sale or  
13 use which would naturally and fairly be charged in an  
14 arms-length transaction in which the element of common  
15 interest between the vendor or purchaser is absent or, if  
16 no common interest exists, any other element causing a  
17 distortion of the price or value is likewise absent.

18 (ii) For the purpose of this clause where a taxable  
19 sale or purchase at retail transaction occurs between a  
20 parent and a subsidiary, affiliate or controlled  
21 corporation of such parent corporation, there shall be a  
22 rebuttable presumption, that because of the common  
23 interest, the transaction was not at arms-length.

24 (4) Where there is a transfer or retention of possession  
25 or custody, whether it is termed a rental, lease, service or  
26 otherwise, of tangible personal property including, but not  
27 limited to, linens, aprons, motor vehicles, trailers, tires,  
28 industrial office and construction equipment, and business  
29 machines the full consideration paid or delivered to the  
30 vendor or lessor shall be considered the purchase price, even

1       though the consideration is separately stated and designated  
2       as payment for processing, laundering, service, maintenance,  
3       insurance, repairs, depreciation or otherwise. Where the  
4       vendor or lessor supplies or provides an employee to operate  
5       the tangible personal property, the value of the labor  
6       supplied may be excluded and shall not be considered as part  
7       of the purchase price if separately stated. There shall also  
8       be included as part of the purchase price the value of  
9       anything paid or delivered, or promised to be paid or  
10      delivered by a lessee, whether money or otherwise, to any  
11      person other than the vendor or lessor by reason of the  
12      maintenance, insurance or repair of the tangible personal  
13      property which a lessee has the possession or custody of  
14      under a rental contract or lease arrangement.

15           (5) (i) With respect to the tax imposed by section  
16           702(a)(2), on any tangible personal property originally  
17           purchased by the user of the property six months or  
18           longer prior to the first taxable use of the property  
19           within this Commonwealth, the user may elect to pay tax  
20           on a substituted base determined by considering the  
21           purchase price of the property for tax purposes to be  
22           equal to the prevailing market price of similar tangible  
23           personal property at the time and place of the first use  
24           within this Commonwealth.

25           (ii) The election must be made at the time of filing  
26           a tax return with the department and reporting the tax  
27           liability and paying the proper tax due plus all accrued  
28           penalties and interest, if any, within six months of the  
29           due date of such report and payment, as provided for by  
30           section 717(a) and (c).

1           (6) The purchase price of employment agency services and  
2 help supply services shall be the service fee paid by the  
3 purchaser to the vendor or supplying entity. The term  
4 "service fee," as used in this subclause, means the total  
5 charge or fee of the vendor or supplying entity minus the  
6 costs of the supplied employee which costs are wages,  
7 salaries, bonuses and commissions, employment benefits,  
8 expense reimbursements and payroll and withholding taxes, to  
9 the extent that these costs are specifically itemized or that  
10 these costs in aggregate are stated in billings from the  
11 vendor or supplying entity. To the extent that these costs  
12 are not itemized or stated on the billings, then the service  
13 fee shall be the total charge or fee of the vendor or  
14 supplying entity.

15           (7) Unless the vendor separately states that portion of  
16 the billing which applies to premium cable service as defined  
17 in clause (11), the total bill for the provision of all cable  
18 services shall be the purchase price.

19           (8) The purchase price of prebuilt housing shall be 60%  
20 of the manufacturer's selling price, provided that a  
21 manufacturer of prebuilt housing who precollects tax from a  
22 prebuilt housing builder at the time of the sale to the  
23 prebuilt housing builder shall have the option to collect tax  
24 on 60% of the selling price or on 100% of the actual cost of  
25 the supplies and materials used in the manufacture of the  
26 prebuilt housing.

27           (h) "Purchaser." Any person who acquires, for a  
28 consideration, the ownership, custody or possession by sale,  
29 lease or otherwise of tangible personal property, or who obtains  
30 services in exchange for a purchase price but not including an

1 employer who obtains services from his employees in exchange for  
2 wages or salaries when such services are rendered in the  
3 ordinary scope of their employment.

4 (i) "Resale."

5 (1) Any transfer of ownership, custody or possession of  
6 tangible personal property for a consideration, including the  
7 grant of a license to use or consume and transactions where  
8 the possession of the property is transferred but where the  
9 transferor retains title only as security for payment of the  
10 selling price whether the transaction is designated as  
11 bailment lease, conditional sale or otherwise.

12 (2) The physical incorporation of tangible personal  
13 property as an ingredient or constituent into other tangible  
14 personal property, which is to be sold in the regular course  
15 of business or the performance of those services described in  
16 subclauses (2), (3) and (4) of clause (k) upon tangible  
17 personal property which is to be sold in the regular course  
18 of business or where the person incorporating the property  
19 has undertaken at the time of purchase to cause it to be  
20 transported in interstate commerce to a destination outside  
21 this Commonwealth. The term includes telecommunications  
22 services purchased by a cable operator or video programmer  
23 that are used to transport or deliver cable or video  
24 programming services which are sold in the regular course of  
25 business.

26 (3) The term also includes tangible personal property  
27 purchased or having a situs within this Commonwealth solely  
28 for the purpose of being processed, fabricated or  
29 manufactured into, attached to or incorporated into tangible  
30 personal property and thereafter transported outside this

1 Commonwealth for use exclusively outside this Commonwealth.

2 (4) The term does not include any sale of malt or brewed  
3 beverages by a retail dispenser, or any sale of liquor or  
4 malt or brewed beverages by a person holding a retail liquor  
5 license within the meaning of the act of April 12, 1951  
6 (P.L.90, No.21), known as the Liquor Code.

7 (5) The physical incorporation of tangible personal  
8 property as an ingredient or constituent in the construction  
9 of foundations for machinery or equipment the sale or use of  
10 which is excluded from tax under the provisions of paragraphs  
11 (A), (B), (C) and (D) of subclause (8) of clause (k) and  
12 subparagraphs (i), (ii), (iii) and (iv) of paragraph (B) of  
13 subclause (4) of clause (o), whether the foundations at the  
14 time of construction or transfer constitute tangible personal  
15 property or real estate.

16 (j) "Resident."

17 (1) Any natural person:

18 (i) who is domiciled in this Commonwealth; or  
19 (ii) who maintains a permanent place of abode within  
20 this Commonwealth and spends in the aggregate more than  
21 60 days of the year within this Commonwealth.

22 (2) Any corporation:

23 (i) incorporated under the laws of this  
24 Commonwealth;

25 (ii) authorized to do business or doing business  
26 within this Commonwealth; or

27 (iii) maintaining a place of business within this  
28 Commonwealth.

29 (3) Any association, fiduciary, partnership or other  
30 entity:

- 1 (i) domiciled in this Commonwealth;
- 2 (ii) authorized to do business or doing business
- 3 within this Commonwealth; or
- 4 (iii) maintaining a place of business within this
- 5 Commonwealth.

6 (k) "Sale at retail."

7 (1) Any transfer, for a consideration, of the ownership,

8 custody or possession of tangible personal property,

9 including the grant of a license to use or consume whether

10 the transfer is absolute or conditional and by any means the

11 transfer is effected.

12 (2) The rendition of the service of printing or

13 imprinting of tangible personal property for a consideration

14 for persons who furnish, either directly or indirectly, the

15 materials used in the printing or imprinting.

16 (3) The rendition for a consideration of the service of:

17 (i) washing, cleaning, waxing, polishing or

18 lubricating of motor vehicles of another, regardless of

19 whether any tangible personal property is transferred in

20 conjunction with the activity; and

21 (ii) inspecting motor vehicles pursuant to the

22 mandatory requirements of 75 Pa.C.S. (relating to

23 vehicles).

24 (4) The rendition for a consideration of the service of

25 repairing, altering, mending, pressing, fitting, dyeing,

26 laundering, drycleaning or cleaning tangible personal

27 property other than wearing apparel or shoes, or applying or

28 installing tangible personal property as a repair or

29 replacement part of other tangible personal property other

30 than wearing apparel or shoes for a consideration, regardless

1 of whether the services are performed directly or by any  
2 means other than by coin-operated self-service laundry  
3 equipment for wearing apparel or household goods and whether  
4 or not any tangible personal property is transferred in  
5 conjunction with the activity, except such services as are  
6 rendered in the construction, reconstruction, remodeling,  
7 repair or maintenance of real estate.

8 (5) (Reserved).

9 (6) (Reserved).

10 (7) (Reserved).

11 (8) Any retention of possession, custody or a license to  
12 use or consume tangible personal property or any further  
13 obtaining of services described in subclauses (2), (3) and  
14 (4) of this clause pursuant to a rental or service contract  
15 or other arrangement (other than as security). The term does  
16 not include:

17 (i) any transfer of tangible personal property or  
18 rendition of services for the purpose of resale; or

19 (ii) the rendition of services or the transfer of  
20 tangible personal property, including, but not limited  
21 to, machinery and equipment and their parts and supplies  
22 to be used or consumed by the purchaser directly in the  
23 operations of:

24 (A) The manufacture of tangible personal  
25 property.

26 (B) Farming, dairying, agriculture, horticulture  
27 or floriculture when engaged in as a business  
28 enterprise. The term "farming" includes the  
29 propagation and raising of ranch raised fur-bearing  
30 animals and the propagation of game birds for

1 commercial purposes by holders of propagation permits  
2 issued under 34 Pa.C.S. (relating to game) and the  
3 propagation and raising of horses to be used  
4 exclusively for commercial racing activities.

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

10 (D) Processing as defined in clause (d). The  
11 exclusions provided in this paragraph or paragraph  
12 (A), (B) or (C) do not apply to any vehicle required  
13 registered under 75 Pa.C.S. (relating to vehicles),  
14 except those vehicles used directly by a public  
15 utility engaged in business as a common carrier; to  
16 maintenance facilities; or to materials, supplies or  
17 equipment to be used or consumed in the construction,  
18 reconstruction, remodeling, repair or maintenance of  
19 real estate other than directly used machinery,  
20 equipment, parts or foundations that may be affixed  
21 to such real estate. The exclusions provided in this  
22 paragraph or paragraph (A), (B) or (C) do not apply  
23 to tangible personal property or services to be used  
24 or consumed in managerial sales or other  
25 nonoperational activities, nor to the purchase or use  
26 of tangible personal property or services by any  
27 person other than the person directly using the same  
28 in the operations described in this paragraph or  
29 paragraph (A), (B) or (C).

30 The exclusion provided in paragraph (C) does not apply to:

1 (i) construction materials, supplies or equipment  
2 used to construct, reconstruct, remodel, repair or  
3 maintain facilities not used directly by the purchaser in  
4 the production, delivering or rendition of public utility  
5 service;

6 (ii) construction materials, supplies or equipment  
7 used to construct, reconstruct, remodel, repair or  
8 maintain a building, road or similar structure; or

9 (iii) tools and equipment used but not installed in  
10 the maintenance of facilities used directly in the  
11 production, delivering or rendition of a public utility  
12 service. The exclusions provided in paragraphs (A), (B),  
13 (C) and (D) do not apply to the services enumerated in  
14 clauses (k) (11) through (18) and (w) through (kk), except  
15 that the exclusion provided in this subclause for  
16 farming, dairying and agriculture shall apply to the  
17 service enumerated in clause (z).

18 (9) Where tangible personal property or services are  
19 utilized for purposes constituting a sale at retail and for  
20 purposes excluded from the definition of "sale at retail," it  
21 shall be presumed that the tangible personal property or  
22 services are utilized for purposes constituting a sale at  
23 retail and subject to tax unless the user proves to the  
24 department that the predominant purposes for which such  
25 tangible personal property or services are utilized do not  
26 constitute a sale at retail.

27 (10) The term, with respect to liquor and malt or brewed  
28 beverages, includes the sale of liquor by any Pennsylvania  
29 liquor store to any person for any purpose, and the sale of  
30 malt or brewed beverages by a manufacturer of malt or brewed

1 beverages, distributor or importing distributor to any person  
2 for any purpose, except sales by a manufacturer of malt or  
3 brewed beverages to a distributor or importing distributor or  
4 sales by an importing distributor to a distributor within the  
5 meaning of the act of April 12, 1951 (P.L.90, No.21), known  
6 as the Liquor Code. The term does not include any sale of  
7 malt or brewed beverages by a retail dispenser or any sale of  
8 liquor or malt or brewed beverages by a person holding a  
9 retail liquor license within the meaning of and pursuant to  
10 the provisions of the Liquor Code, but shall include any sale  
11 of liquor or malt or brewed beverages other than pursuant to  
12 the provisions of the Liquor Code.

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

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

17 (13) The rendition for a consideration of secretarial or  
18 editing services.

19 (14) The rendition for a consideration of disinfecting  
20 or pest control services, building maintenance or cleaning  
21 services.

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

24 (16) (Reserved).

25 (17) The rendition for a consideration of lawn care  
26 service.

27 (18) The rendition for a consideration of self-storage  
28 service.

29 (19) The rendition for a consideration of a mobile  
30 telecommunications service.

1           (20) Except as otherwise provided under section 704, the  
2 rendition for a consideration of any service when the primary  
3 objective of the purchaser is the receipt of any benefit of  
4 the service performed, as distinguished from the receipt of  
5 property. The following provisions shall apply:

6           (i) In determining what is a service, the intended  
7 use or stated objective of the contracting parties shall  
8 not necessarily be controlling.

9           (ii) Any service performed in this Commonwealth  
10 shall be subject to the tax imposed under this chapter  
11 unless specifically exempted in this chapter.

12           (iii) With respect to services performed in this  
13 Commonwealth for a recipient or user of the services  
14 located in another state in which the services, had they  
15 been performed in that state, would not be subject to a  
16 sales or use tax under the laws of that state, then no  
17 tax may be imposed under this chapter.

18           (iv) The tax on the sale or use of services shall  
19 become due at the time payment or other consideration is  
20 made for the portion of services actually paid.

21       (1) "Storage." Any keeping or retention of tangible  
22 personal property within this Commonwealth for any purpose  
23 including the interim keeping, retaining or exercising any right  
24 or power over such tangible personal property. This term is in  
25 no way limited to the provision of self-storage service.

26       (m) "Tangible personal property." Corporeal personal  
27 property including, but not limited to, goods, wares,  
28 merchandise, steam and natural and manufactured and bottled gas  
29 for non-residential use, electricity for non-residential use,  
30 prepaid telecommunications, premium cable or premium video

1 programming service, spirituous or vinous liquor and malt or  
2 brewed beverages and soft drinks, interstate telecommunications  
3 service originating or terminating in this Commonwealth and  
4 charged to a service address in this Commonwealth, intrastate  
5 telecommunications service with the exception of:

6 (1) Subscriber line charges and basic local telephone  
7 service for residential use.

8 (2) Charges for telephone calls paid for by inserting  
9 money into a telephone accepting direct deposits of money to  
10 operate, provided further, the service address of any  
11 intrastate telecommunications service is deemed to be within  
12 this Commonwealth or within a political subdivision,  
13 regardless of how or where billed or paid.

14 In the case of any interstate or intrastate telecommunications  
15 service, any charge paid through a credit or payment mechanism  
16 which does not relate to a service address, such as a bank,  
17 travel, credit or debit card, but not including prepaid  
18 telecommunications, is deemed attributable to the address of  
19 origination of the telecommunications service.

20 (n) "Taxpayer." Any person required to pay or collect the  
21 tax imposed by this chapter.

22 (o) "Use."

23 (1) The exercise of any right or power incidental to the  
24 ownership, custody or possession of tangible personal  
25 property and includes, but is not limited to, transportation,  
26 storage or consumption.

27 (2) The obtaining by a purchaser of the service of  
28 printing or imprinting of tangible personal property when the  
29 purchaser furnishes, either directly or indirectly, the  
30 articles used in the printing or imprinting.

1 (3) The obtaining by a purchaser of the services of:  
2 (i) washing, cleaning, waxing, polishing or  
3 lubricating of motor vehicles regardless of whether any  
4 tangible personal property is transferred to the  
5 purchaser in conjunction with the services; and

6 (ii) inspecting motor vehicles pursuant to the  
7 mandatory requirements of 75 Pa.C.S. (relating to  
8 vehicles).

9 (4) The obtaining by a purchaser of the service of  
10 repairing, altering, mending, pressing, fitting, dyeing,  
11 laundering, drycleaning or cleaning tangible personal  
12 property other than wearing apparel or shoes or applying or  
13 installing tangible personal property as a repair or  
14 replacement part of other tangible personal property,  
15 including, but not limited to, wearing apparel or shoes,  
16 regardless of whether the services are performed directly or  
17 by any means other than by means of coin-operated self-  
18 service laundry equipment for wearing apparel or household  
19 goods, and regardless of whether any tangible personal  
20 property is transferred to the purchaser in conjunction with  
21 the activity. The term "use" does not include:

22 (A) Any tangible personal property acquired and  
23 kept, retained or over which power is exercised  
24 within this Commonwealth on which the taxing of the  
25 storage, use or other consumption thereof is  
26 expressly prohibited by the Constitution of the  
27 United States or which is excluded from tax under  
28 other provisions of this chapter.

29 (B) The use or consumption of tangible personal  
30 property, including, but not limited to, machinery

1 and equipment and parts therefor, and supplies or the  
2 obtaining of the services described in subclauses  
3 (2), (3) and (4) of this clause directly in the  
4 operations of:

5 (i) The manufacture of tangible personal property.

6 (ii) Farming, dairying, agriculture, horticulture or  
7 floriculture when engaged in as a business enterprise.  
8 The term includes the propagation and raising of ranch-  
9 raised furbearing animals and the propagation of game  
10 birds for commercial purposes by holders of propagation  
11 permits issued under 34 Pa.C.S. (relating to game) and  
12 the propagation and raising of horses to be used  
13 exclusively for commercial racing activities.

14 (iii) The producing, delivering or rendering of a  
15 public utility service, or in constructing,  
16 reconstructing, remodeling, repairing or maintaining the  
17 facilities which are directly used in producing,  
18 delivering or rendering such service.

19 (iv) Processing as defined in subclause (d).  
20 The exclusions provided in subparagraphs (i), (ii), (iii)  
21 and (iv) do not apply to any vehicle required to be  
22 registered under 75 Pa.C.S. (relating to vehicles) except  
23 those vehicles directly used by a public utility engaged  
24 in the business as a common carrier; to maintenance  
25 facilities; or to materials, supplies or equipment to be  
26 used or consumed in the construction, reconstruction,  
27 remodeling, repair or maintenance of real estate other  
28 than directly used machinery, equipment, parts or  
29 foundations therefor that may be affixed to such real  
30 estate. The exclusions provided in subparagraphs (i),

1 (ii), (iii) and this subparagraph do not apply to  
2 tangible personal property or services to be used or  
3 consumed in managerial sales or other nonoperational  
4 activities, nor to the purchase or use of tangible  
5 personal property or services by any person other than  
6 the person directly using the same in the operations  
7 described in subparagraphs (i), (ii), (iii) and this  
8 subparagraph. The exclusion provided in subparagraph  
9 (iii) does not apply to:

10 (A) construction materials, supplies or  
11 equipment used to construct, reconstruct, remodel,  
12 repair or maintain facilities not used directly by  
13 the purchaser in the production, delivering or  
14 rendition of public utility service; or

15 (B) 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  
18 utility service.

19 The exclusion provided in subparagraphs (i), (ii), (iii)  
20 and this subparagraph does not apply to the services  
21 enumerated in clauses (9) through (16) and (w) through  
22 (kk), except that the exclusion provided in subparagraph  
23 (ii) for farming, dairying and agriculture shall apply to  
24 the service enumerated in clause (z).

25 (5) Where tangible personal property or services are  
26 utilized for purposes constituting a use, and for purposes  
27 excluded from the definition of "use," it shall be presumed  
28 that the property or services are utilized for purposes  
29 constituting a sale at retail and subject to tax unless the  
30 user proves to the department that the predominant purposes

1 for which the property or services are utilized do not  
2 constitute a sale at retail.

3 (6) The term, with respect to liquor and malt or brewed  
4 beverages, includes the purchase of liquor from any  
5 Pennsylvania Liquor Store by any person for any purpose and  
6 the purchase of malt or brewed beverages from a manufacturer  
7 of malt or brewed beverages, distributor or importing  
8 distributor by any person for any purpose, except purchases  
9 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 act of April 12, 1951 (P.L.90, No.21), known as the  
13 Liquor Code. The term does not include any purchase of malt  
14 or brewed beverages from a retail dispenser or any purchase  
15 of liquor or malt or brewed beverages from a person holding a  
16 retail liquor license within the meaning of and pursuant to  
17 the provisions of the Liquor Code, but includes the exercise  
18 of any right or power incidental to the ownership, custody or  
19 possession of liquor or malt or brewed beverages obtained by  
20 the person exercising the right or power in any manner other  
21 than pursuant to the provisions of the Liquor Code.

22 (7) The use of tangible personal property purchased at  
23 retail on which the services described in subclauses (2), (3)  
24 and (4) of this clause have been performed shall be deemed to  
25 be a use of said services by the person using the property.

26 (8) (Reserved).

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

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

30 (11) The obtaining by the purchaser of secretarial or

1 editing services.

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

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

7 (14) (Reserved).

8 (15) The obtaining by the purchaser of lawn care  
9 service.

10 (16) The obtaining by the purchaser of self-storage  
11 service.

12 (17) The obtaining by a construction contractor of  
13 tangible personal property or services provided to tangible  
14 personal property which will be used pursuant to a  
15 construction contract regardless of whether the tangible  
16 personal property or services are transferred.

17 (18) The obtaining of mobile telecommunications service  
18 by a customer.

19 (19) Except as otherwise provided under section 704, the  
20 obtaining by the purchaser of any service, not otherwise set  
21 forth in this definition, when the primary objective of the  
22 purchaser is the receipt of any benefit of the service  
23 performed, as distinguished from the receipt of property. The  
24 following provisions shall apply:

25 (i) In determining what is a service, the intended  
26 use or stated objective of the contracting parties shall  
27 not necessarily be controlling.

28 (ii) Any service performed in this Commonwealth  
29 shall be subject to the tax imposed under this chapter  
30 unless specifically exempted in this chapter.

1           (iii) With respect to services performed in this  
2 Commonwealth for a recipient or user of the services  
3 located in another state in which the services, had they  
4 been performed in that state, would not be subject to a  
5 sales or use tax under the laws of that state, then no  
6 tax may be imposed under this chapter.

7           (iv) The tax on the sale or use of services shall  
8 become due at the time payment or other consideration is  
9 made for the portion of services actually paid.

10       (p) "Vendor." Any person maintaining a place of business in  
11 this Commonwealth, selling or leasing tangible personal  
12 property, or rendering services, the sale or use of which is  
13 subject to the tax imposed by this chapter but not including any  
14 employee who in the ordinary scope of employment renders  
15 services to his employer in exchange for wages and salaries.

16       (q) (Reserved).

17       (r) "Gratuity." Any amount paid or remitted for services  
18 performed in conjunction with any sale of food or beverages, or  
19 hotel or motel accommodations which amount is in excess of the  
20 charges and the tax for such food, beverages or accommodations  
21 regardless of the method of billing or payment.

22       (s) "Commercial aircraft operator." A person, excluding a  
23 scheduled airline who engages in any or all of the following:  
24 charter of aircraft, leasing of aircraft, aircraft sales,  
25 aircraft rental, flight instruction, air freight or any other  
26 flight activities for compensation.

27       (t) "Transient vendor."

28           (1) Any person who:

29               (i) brings into this Commonwealth, by automobile,  
30 truck or other means of transportation, or purchases in

1           this Commonwealth tangible personal property the sale or  
2           use of which is subject to the tax imposed by this  
3           chapter or comes into this Commonwealth to perform  
4           services the sale or use of which is subject to the tax  
5           imposed by this chapter;

6           (ii) offers or intends to offer the tangible  
7           personal property or services for sale at retail within  
8           this Commonwealth; and

9           (iii) does not maintain an established office,  
10          distribution house, saleshouse, warehouse, service  
11          enterprise, residence from which business is conducted or  
12          other place of business within this Commonwealth.

13          (2) The term does not include a person who delivers  
14          tangible personal property within this Commonwealth pursuant  
15          to orders for the property which were solicited or placed by  
16          mail or other means.

17          (3) The term does not include a person who handcrafts  
18          items for sale at special events, including, but not limited  
19          to, fairs, carnivals, art and craft shows and other festivals  
20          and celebrations within this Commonwealth.

21          (u) "Promoter." A person who either, directly or  
22          indirectly, rents, leases or otherwise operates or grants  
23          permission to any person to use space at a show for the display  
24          for sale or for the sale of tangible personal property or  
25          services subject to tax under section 702.

26          (v) "Show." An event, the primary purpose of which involves  
27          the display or exhibition of any tangible personal property or  
28          services for sale, including, but not limited to, a flea market,  
29          antique show, coin show, stamp show, comic book show, hobby  
30          show, automobile show, fair or any similar show, whether held

1 regularly or of a temporary nature, at which more than one  
2 vendor displays for sale or sells tangible personal property or  
3 services subject to tax under section 702.

4 (w) "Lobbying services." Providing the services of a  
5 lobbyist, as defined in the definition of "lobbyist" in 65  
6 Pa.C.S. Ch. 13 (relating to lobby regulation and disclosure).

7 (x) "Adjustment services, collection services or credit  
8 reporting services." Providing collection or adjustments of  
9 accounts receivable or mercantile or consumer credit reporting,  
10 including, but not limited to, services of the type provided by  
11 adjustment bureaus or collection agencies, consumer or  
12 mercantile credit reporting bureaus, credit bureaus or agencies,  
13 credit clearinghouses or credit investigation services. The term  
14 does not include providing credit card service with collection  
15 by a central agency, providing debt counseling or adjustment  
16 services to individuals or billing or collection services  
17 provided by local exchange telephone companies.

18 (y) "Secretarial or editing services." Providing services  
19 which include, but are not limited to, editing, letter writing,  
20 proofreading, resume writing, typing or word processing. The  
21 term does not include court reporting and stenographic services.

22 (z) "Disinfecting or pest control services." Providing  
23 disinfecting, termite control, insect control, rodent control or  
24 other pest control services. The term includes, but is not  
25 limited to, deodorant servicing of rest rooms, washroom  
26 sanitation service, rest room cleaning service, extermination  
27 service or fumigating service. As used in this clause, the term  
28 "fumigating service" does not include the fumigation of  
29 agricultural commodities or containers used for agricultural  
30 commodities. As used in this clause, the term "insect control"

1 does not include the gypsy moth control spraying of trees which  
2 are harvested for commercial purposes.

3 (aa) "Building maintenance or cleaning services." Providing  
4 services which include, but are not limited to, janitorial, maid  
5 or housekeeping service, office or interior building cleaning or  
6 maintenance service, window cleaning service, floor waxing  
7 service, lighting maintenance service such as bulb replacement,  
8 cleaning, chimney cleaning service, acoustical tile cleaning  
9 service, venetian blind cleaning, cleaning and maintenance of  
10 telephone booths or cleaning and degreasing of service stations.  
11 The term does not include: repairs on buildings and other  
12 structures; the maintenance or repair of boilers, furnaces and  
13 residential air conditioning equipment or their parts; the  
14 painting, wallpapering or applying other like coverings to  
15 interior walls, ceilings or floors; or the exterior painting of  
16 buildings.

17 (bb) "Employment agency services." Providing employment  
18 services to a prospective employer or employee other than  
19 employment services provided by theatrical employment agencies  
20 and motion picture casting bureaus. The term includes, but is  
21 not limited to, services of the type provided by employment  
22 agencies, executive placing services and labor contractor  
23 employment agencies other than farm labor.

24 (cc) "Help supply services." Providing temporary or  
25 continuing help where the help supplied is on the payroll of the  
26 supplying person or entity, but is under the supervision of the  
27 individual or business to which help is furnished. The term  
28 includes, but is not limited to, service of a type provided by  
29 labor and manpower pools, employee leasing services, office help  
30 supply services, temporary help services, usher services,

1 modeling services or fashion show model supply services. The  
2 term does not include: providing farm labor services or human  
3 health-related services, including nursing, home health care and  
4 personal care. As used in this clause, "personal care" shall  
5 include providing at least one of the following types of  
6 assistance to persons with limited ability for self-care:

7 (1) dressing, bathing or feeding;

8 (2) supervising self-administered medication;

9 (3) transferring a person to or from a bed or  
10 wheelchair; or

11 (4) routine housekeeping chores when provided in  
12 conjunction with and supplied by the same provider of the  
13 assistance listed in subclause (1), (2) or (3).

14 (dd) (Reserved).

15 (ee) (Reserved).

16 (ff) (Reserved).

17 (gg) (Reserved).

18 (hh) (Reserved).

19 (ii) (Reserved).

20 (jj) "Lawn care service." Providing services for lawn  
21 upkeep, including, but not limited to, fertilizing, lawn mowing,  
22 shrubbery trimming or other lawn treatment services.

23 (kk) "Self-storage service." Providing a building, a room  
24 in a building or a secured area within a building with separate  
25 access provided for each purchaser of self-storage service,  
26 primarily for the purpose of storing personal property. The term  
27 does not include service involving:

28 (1) safe deposit boxes by financial institutions;

29 (2) storage in refrigerator or freezer units;

30 (3) storage in commercial warehouses;

1 (4) facilities for goods distribution; and  
2 (5) lockers in airports, bus stations, museums and other  
3 public places.

4 (11) "Cable or video programming service." Cable television  
5 services, video programming services, community antenna  
6 television services or any other distribution of television,  
7 video, audio or radio services which is transmitted with or  
8 without the use of wires to purchasers.

9 If a purchaser receives or agrees to receive cable or video  
10 programming service, then the following charges are included in  
11 the purchase price: charges for installation or repair of any  
12 cable or video programming service, upgrade to include  
13 additional premium cable or premium video programming service,  
14 downgrade to exclude all or some premium cable or premium video  
15 programming service, additional cable outlets in excess of ten  
16 or any other charge or fee related to cable or video programming  
17 services. The term does not apply to: transmissions by public  
18 television, public radio services or official Federal, State or  
19 local government cable services; local origination programming  
20 which provides a variety of public service programs unique to  
21 the community, programming which provides coverage of public  
22 affairs issues which are presented without commentary or  
23 analysis, including United States Congressional proceedings, or  
24 programming which is substantially related to religious  
25 subjects; or subscriber charges for access to a video dial tone  
26 system or charges by a common carrier to a video programmer for  
27 the transport of video programming.

28 (mm) (Reserved).

29 (nn) "Construction contract." A written or oral contract or  
30 agreement for the construction, reconstruction, remodeling,

1 renovation or repair of real estate or a real estate structure.  
2 The term shall not apply to services which are taxable under  
3 clauses (k) (14) and (17) and (o) (12) and (15).

4 (oo) "Construction contractor." A person who performs an  
5 activity pursuant to a construction contract, including a  
6 subcontractor.

7 (pp) "Building machinery and equipment." Generation  
8 equipment, storage equipment, conditioning equipment,  
9 distribution equipment and termination equipment, limited to the  
10 following:

11 (1) air conditioning limited to heating, cooling,  
12 purification, humidification, dehumidification and  
13 ventilation;

14 (2) electrical;

15 (3) plumbing;

16 (4) communications limited to voice, video, data, sound,  
17 master clock and noise abatement;

18 (5) alarms limited to fire, security and detection;

19 (6) control system limited to energy management, traffic  
20 and parking lot and building access;

21 (7) medical system limited to diagnosis and treatment  
22 equipment, medical gas, nurse call and doctor paging;

23 (8) laboratory system;

24 (9) cathodic protection system; or

25 (10) furniture, cabinetry and kitchen equipment.

26 The term includes boilers, chillers, air cleaners, humidifiers,  
27 fans, switchgear, pumps, telephones, speakers, horns, motion  
28 detectors, dampers, actuators, grills, registers, traffic  
29 signals, sensors, card access devices, guardrails, medial  
30 devices, floor troughs and grates and laundry equipment,

1 together with integral coverings and enclosures, regardless of  
2 whether: the item constitutes a fixture or is otherwise affixed  
3 to the real estate; damage would be done to the item or its  
4 surroundings on removal; or the item is physically located  
5 within a real estate structure. The term does not include  
6 guardrail posts, pipes, fittings, pipe supports and hangers,  
7 valves, underground tanks, wire, conduit, receptacle and  
8 junction boxes, insulation, ductwork and coverings.

9 (qq) "Real estate structure." A structure or item purchased  
10 by a construction contractor pursuant to a construction contract  
11 with:

12 (1) a charitable organization, a volunteer firemen's  
13 organization, a nonprofit educational institution or a  
14 religious organization for religious purposes and which  
15 qualifies as an institution of purely public charity under  
16 the act of November 26, 1997 (P.L.508, No.55), known as the  
17 Institutions of Purely Public Charity Act;

18 (2) the United States; or

19 (3) the Commonwealth, its instrumentalities or political  
20 subdivisions.

21 The term includes building machinery and equipment; developed or  
22 undeveloped land; streets; roads; highways; parking lots;  
23 stadiums and stadium seating; recreational courts; sidewalks;  
24 foundations; structural supports; walls; floors; ceilings;  
25 roofs; doors; canopies; millwork; elevators; windows and  
26 external window coverings; outdoor advertising boards or signs;  
27 airport runways; bridges; dams; dikes; traffic control devices,  
28 including traffic signs; satellite dishes; antennas; guardrail  
29 posts; pipes; fittings; pipe supports and hangers; valves;  
30 underground tanks; wire; conduit; receptacle and junction boxes;

1 insulation; ductwork and coverings; and any structure or item  
2 similar to any of the foregoing, regardless of whether the  
3 structure or item constitutes a fixture or is affixed to the  
4 real estate; or damage would be done to the structure or item or  
5 its surroundings on removal.

6 (rr) "Telecommunications service." Any one-way transmission  
7 or any two-way, interactive transmission of sounds, signals or  
8 other intelligence converted to like form which effects or is  
9 intended to effect meaningful communications by electronic or  
10 electromagnetic means via wire, cable, satellite, light waves,  
11 microwaves, radio waves or other transmission media. The term  
12 includes all types of telecommunication transmissions, local,  
13 toll, wide-area or any other type of telephone service; private  
14 line service; telegraph service; radio repeater service;  
15 wireless communication service; personal communications system  
16 service; cellular telecommunication service; specialized mobile  
17 radio service; stationary two-way radio service; and paging  
18 service. The term does not include any of the following:

19 (1) Subscriber charges for access to a video dial tone  
20 system.

21 (2) Charges to video programmers for the transport of  
22 video programming.

23 (3) Charges for access to the Internet. Access to the  
24 Internet does not include any of the following:

25 (i) The transport over the Internet or any  
26 proprietary network using the Internet protocol of  
27 telephone calls, facsimile transmissions or other  
28 telecommunications traffic to or from end users on the  
29 public switched telephone network if the signal sent from  
30 or received by an end user is not in an Internet

1 protocol.

2 (ii) Telecommunication services purchased by an  
3 Internet service provider to deliver access to the  
4 Internet to its customers.

5 (4) Mobile telecommunications services.

6 (ss) "Internet." The international nonproprietary computer  
7 network of both Federal and non-Federal interoperable packet  
8 switched data networks.

9 (tt) "Commercial racing activities." Any of the following:

10 (1) Thoroughbred and harness racing at which pari-mutuel  
11 wagering is conducted under the act of December 17, 1981  
12 (P.L.435, No.135), known as the Race Horse Industry Reform  
13 Act.

14 (2) Fair racing sanctioned by the State Harness Racing  
15 Commission.

16 (uu) "Prepaid telecommunications." A tangible item  
17 containing a prepaid authorization number that can be used  
18 solely to obtain telecommunications service, including any  
19 renewal or increases in the prepaid amount.

20 (vv) "Prebuilt housing." Either of the following:

21 (1) Manufactured housing, including mobile homes, which  
22 bears a label as required by and referred to in the act of  
23 November 17, 1982 (P.L.676, No.192), known as the  
24 Manufactured Housing Construction and Safety Standards  
25 Authorization Act.

26 (2) Industrialized housing as defined in the act of May  
27 11, 1972 (P.L.286, No.70), known as the Industrialized  
28 Housing Act.

29 (ww) "Used prebuilt housing." Prebuilt housing that was  
30 previously subject to a sale to a prebuilt housing purchaser.

1 (xx) "Prebuilt housing builder." A person who makes a  
2 prebuilt housing sale to a prebuilt housing purchaser.

3 (yy) "Prebuilt housing sale." A sale of prebuilt housing to  
4 a prebuilt housing purchaser, including a sale to a landlord,  
5 without regard to whether the person making the sale is  
6 responsible for installing the prebuilt housing or whether the  
7 prebuilt housing becomes a real estate structure upon  
8 installation. Temporary installation by a prebuilt housing  
9 builder for display purposes of a unit held for resale shall not  
10 be considered occupancy for residential purposes.

11 (zz) "Prebuilt housing purchaser." A person who purchases  
12 prebuilt housing in a transaction and who intends to occupy the  
13 unit for residential purposes in this Commonwealth.

14 (aaa) "Mobile telecommunications service." Mobile  
15 telecommunications service as that term is defined in the Mobile  
16 Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. §  
17 116 et seq.).

18 (bbb) "Fiscal Code." The act of April 9, 1929 (P.L.343,  
19 No.176), known as The Fiscal Code.

20 (ccc) "Prepaid mobile telecommunications service." Mobile  
21 telecommunications service which is paid for in advance and  
22 which enables the origination of calls using an access number,  
23 authorization code or both, regardless of whether manually or  
24 electronically dialed, if the remaining amount of units of the  
25 prepaid mobile telecommunications service is known by the  
26 service provider of the prepaid mobile telecommunications  
27 service on a continuous basis. The term does not include the  
28 advance purchase of mobile telecommunications service if the  
29 purchase is pursuant to a service contract between the service  
30 provider and customer and if the service contract requires the

1 customer to make periodic payments to maintain the mobile  
2 telecommunications service.

3 (ddd) "Call center." The physical location in this  
4 Commonwealth:

- 5 (1) where at least 150 employees are employed to  
6 initiate or answer telephone calls;
- 7 (2) where there are at least 200 telephone lines; and
- 8 (3) which utilizes an automated call distribution system  
9 for customer telephone calls in one or more of the following  
10 activities:
  - 11 (i) customer service and support;
  - 12 (ii) technical assistance;
  - 13 (iii) help desk service;
  - 14 (iv) providing information;
  - 15 (v) conducting surveys;
  - 16 (vi) revenue collections; or
  - 17 (vii) receiving orders or reservations.

18 For purposes of this clause, a physical location may include  
19 multiple buildings utilized by a taxpayer located within this  
20 Commonwealth.

21 (eee) "Dental services." The general and usual services  
22 rendered and care administered by doctors of dental medicine or  
23 doctors of dental surgery, as defined in the act of May 1, 1933  
24 (P.L.216, No.76), known as The Dental Law.

25 (fff) "Physician services." The general and usual services  
26 rendered and care administered by medical doctors, as defined in  
27 the act of December 20, 1985 (P.L.457, No.112), known as the  
28 Medical Practice Act of 1985, or doctors of osteopathy, as  
29 defined in the act of October 5, 1978 (P.L.1109, No.261), known  
30 as the Osteopathic Medical Practice Act.

1 (ggg) "Clothing." All vesture, wearing apparel, raiments,  
2 garments, footwear and other articles of clothing, including  
3 clothing patterns and items that are to be a component part of  
4 clothing, worn or carried on or about the human body including,  
5 but not limited to, all accessories, ornamental wear, formal day  
6 or evening apparel and articles made of fur on the hide or pelt  
7 or any material imitative of fur and articles of which such fur,  
8 real, imitation or synthetic, is the component material of chief  
9 value and sporting goods and clothing not normally used or worn  
10 when not engaged in sports.

11 (hhh) "Food and beverages." All food and beverages for  
12 human consumption, including, but not limited to:

13 (1) Soft drinks.

14 (2) Malt and brewed beverages and spiritous and vinous  
15 liquors.

16 (3) Food or beverages, whether sold for consumption on  
17 or off the premises of on a take-out or to go basis or  
18 delivered to the purchaser or consumer, when purchased:

19 (i) from persons engaged in the business of  
20 catering; or

21 (ii) from persons engaged in the business of  
22 operating establishments from which ready-to-eat food and  
23 beverages are sold, including, but not limited to,  
24 restaurants, cafes, lunch counters, private and social  
25 clubs, taverns, dining cars, hotels, night clubs, fast  
26 food operations, pizzerias, fairs, carnivals, lunch  
27 carts, ice cream stands, snack bars, cafeterias, employee  
28 cafeterias, theaters, stadiums, arenas, amusement parks,  
29 carryout shops, coffee shops and other establishments  
30 whether mobile or immobile.

1 For purposes of this clause, a bakery, a pastry shop, a donut  
2 shop, a delicatessen, a grocery store, a supermarket, a farmer's  
3 market, a convenience store or a vending machine shall not be  
4 considered an establishment from which food or beverages ready  
5 to eat are sold except for the sale of meals, sandwiches, food  
6 from salad bars, hand-dipped or hand-served ice-based products  
7 including ice cream and yogurt, hot soup, hot pizza and other  
8 hot food items, brewed coffee and hot beverages. For purposes of  
9 this subclause, beverages shall not include malt and brewed  
10 beverages and spiritous and vinous liquors but shall include  
11 soft drinks.

12 SUBCHAPTER B

13 SALES AND USE TAX

14 Section 702. Imposition of tax.

15 (a) Tax on certain sales at retail and uses of tangible  
16 personal property and services.--

17 (1) There is hereby imposed on each separate sale at  
18 retail of tangible personal property or services in this  
19 Commonwealth a tax of 7% of the purchase price, which tax  
20 shall be collected by the vendor from the purchaser, and  
21 shall be paid over to the Commonwealth as provided in this  
22 chapter.

23 (2) There is hereby imposed on the use in this  
24 Commonwealth of tangible personal property purchased at  
25 retail and on those services purchased at retail a tax of 7%  
26 of the purchase price, which tax shall be paid to the  
27 Commonwealth by the person who makes such use as provided  
28 under this chapter, except that the tax shall not be paid to  
29 the Commonwealth by the person where the person has paid the  
30 tax imposed by paragraph (1) or has paid the tax imposed by

1 this subsection to the vendor with respect to the use.

2 (b) (Reserved).

3 (c) Telecommunications service.--

4 (1) Notwithstanding any other provisions of this  
5 chapter, the tax with respect to telecommunications service  
6 within the meaning of "tangible personal property" in section  
7 701 shall be computed at the rate of 7% on the total amount  
8 charged to customers for the services, irrespective of  
9 whether such charge is based on a flat rate or on a message  
10 unit charge.

11 (2) A telecommunications service provider shall have no  
12 responsibility or liability to the Commonwealth for billing,  
13 collecting or remitting taxes that apply to services,  
14 products or other commerce sold over telecommunications lines  
15 by third-party vendors.

16 (3) To prevent actual multistate taxation of interstate  
17 telecommunications service, any taxpayer, on proof that the  
18 taxpayer has paid a similar tax to another state on the same  
19 interstate telecommunications service, shall be allowed a  
20 credit against the tax imposed by this section on the same  
21 interstate telecommunications service to the extent of the  
22 amount of the tax properly due and paid to the other state.

23 (d) Coin-operated vending machines.--Notwithstanding any  
24 other provisions of this chapter, the sale or use of food and  
25 beverages dispensed by means of coin-operated vending machines  
26 shall be taxed at the rate of 7% of the receipts collected from  
27 any coin-operated vending machine which dispenses food and  
28 beverages that were previously taxable.

29 (e) Prepaid telecommunications.--

30 (1) Notwithstanding any provisions of this chapter, the

1 sale or use of prepaid telecommunications evidenced by the  
2 transfer of tangible personal property shall be subject to  
3 the tax imposed by subsection (a).

4 (2) The sale or use of prepaid telecommunications not  
5 evidenced by the transfer of tangible personal property shall  
6 be subject to the tax imposed by subsection (a) and shall be  
7 deemed to occur at the purchaser's billing address.

8 (3) (i) Notwithstanding paragraph (2), the sale or use  
9 of prepaid telecommunications service not evidenced by  
10 the transfer of tangible personal property shall be taxed  
11 at the rate of 7% of the receipts collected on each sale  
12 if the service provider elects to collect the tax imposed  
13 by this chapter on receipts of each sale.

14 (ii) The service provider shall notify the  
15 department of its election and shall collect the tax on  
16 receipts of each sale until the service provider notifies  
17 the department otherwise.

18 (e.1) Prepaid mobile telecommunications service.--

19 (1) Notwithstanding any other provision of this chapter,  
20 the sale or use of prepaid mobile telecommunications service  
21 evidenced by the transfer of tangible personal property shall  
22 be subject to the tax imposed by subsection (a).

23 (2) The sale or use of prepaid mobile telecommunications  
24 service not evidenced by the transfer of tangible personal  
25 property shall be subject to the tax imposed by subsection  
26 (a) and shall be deemed to occur at the purchaser's billing  
27 address or the location associated with the mobile telephone  
28 number or the point of sale, whichever is applicable.

29 (3) (i) Notwithstanding paragraph (2), the sale or use  
30 of prepaid mobile telecommunications service not

1 evidenced by the transfer of tangible personal property  
2 shall be taxed at the rate of 7% of the receipts  
3 collected on each sale if the service provider elects to  
4 collect the tax imposed by this chapter on receipts of  
5 each sale.

6 (ii) The service provider shall notify the  
7 department of its election and shall collect the tax on  
8 receipts of each sale until the service provider notifies  
9 the department otherwise.

10 (f) Prebuilt housing.--

11 (1) Notwithstanding any other provision of this chapter,  
12 tax with respect to sales of prebuilt housing shall be  
13 imposed on the prebuilt housing builder at the time of the  
14 prebuilt housing sale within this Commonwealth and shall be  
15 paid and reported by the prebuilt housing builder to the  
16 department in the time and manner provided in this chapter.

17 (2) A manufacturer of prebuilt housing may, at its  
18 option, precollect the tax from the prebuilt housing builder  
19 at the time of sale to the prebuilt housing builder.

20 (3) In any case where prebuilt housing is purchased and  
21 the tax is not paid by the prebuilt housing builder or  
22 precollected by the manufacturer, the prebuilt housing  
23 purchaser shall remit tax directly to the department if the  
24 prebuilt housing is used in this Commonwealth without regard  
25 to whether the prebuilt housing becomes a real estate  
26 structure.

27 (g) Home service providers.--

28 (1) Notwithstanding any other provisions of this chapter  
29 and in accordance with the Mobile Telecommunications Sourcing  
30 Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or

1 use of mobile telecommunications services which are deemed to  
2 be provided to a customer by a home service provider under 4  
3 U.S.C. § 117 (relating to sourcing rules) shall be subject to  
4 the tax of 7% of the purchase price, which tax shall be  
5 collected by the home service provider from the customer, and  
6 shall be paid over to the Commonwealth as provided in this  
7 chapter if the customer's place of primary use is located  
8 within this Commonwealth, regardless of where the mobile  
9 telecommunications services originate, terminate or pass  
10 through.

11 (2) For purposes of this subsection, words and phrases  
12 used in this subsection shall have the same meanings given to  
13 them in the Mobile Telecommunications Sourcing Act.

14 Section 703. Computation of tax.

15 (a) Table to be published.--Within 60 days of the effective  
16 date of this section, the department shall prepare and publish  
17 as a notice in the Pennsylvania Bulletin a table setting forth  
18 the amount of tax imposed under section 702 for purchase prices  
19 that are less than \$1.

20 (b) Deposit into Education Stabilization Fund.--The tax  
21 collected under section 702 shall be deposited into the  
22 Education Stabilization Fund.

23 SUBCHAPTER C

24 EXCLUSIONS FROM SALES AND USE TAX

25 Section 704. Exclusions from tax.

26 The tax imposed by section 702 shall not be imposed upon any  
27 of the following:

28 (1) The sale at retail or use of tangible personal  
29 property (other than motor vehicles, trailers, semi-trailers,  
30 motor boats, aircraft or other similar tangible personal

1 property required under either Federal law or laws of this  
2 Commonwealth to be registered or licensed) or services sold  
3 by or purchased from a person not a vendor in an isolated  
4 transaction or sold by or purchased from a person who is a  
5 vendor but is not a vendor with respect to the tangible  
6 personal property or services sold or purchased in such  
7 transaction, provided that inventory and stock in trade so  
8 sold or purchased shall not be excluded from the tax by the  
9 provisions of this subsection.

10 (2) The use of tangible personal property purchased by a  
11 nonresident person outside of, and brought into this  
12 Commonwealth for use therein for a period not to exceed seven  
13 days, or for any period of time when such nonresident is a  
14 tourist or vacationer and, in either case not consumed within  
15 the Commonwealth.

16 (3) (i) The use of tangible personal property purchased  
17 outside this Commonwealth for use outside this  
18 Commonwealth by a then nonresident natural person or a  
19 business entity not actually doing business within this  
20 Commonwealth, who later brings the tangible personal  
21 property into this Commonwealth in connection with the  
22 person's or entity's establishment of a permanent  
23 business or residence in this Commonwealth, provided that  
24 the property was purchased more than six months prior to  
25 the date it was first brought into this Commonwealth or  
26 prior to the establishment of the business or residence,  
27 whichever first occurs.

28 (ii) This paragraph shall not apply to tangible  
29 personal property temporarily brought into this  
30 Commonwealth for the performance of contracts for the

1 construction, reconstruction, remodeling, repairing and  
2 maintenance of real estate.

3 (4) (Reserved).

4 (5) The sale at retail or use of steam, natural and  
5 manufactured and bottled gas, fuel oil or electricity when  
6 purchased directly by the user solely for the user's own  
7 residential use.

8 (6) (Reserved).

9 (7) (Reserved).

10 (8) (Reserved).

11 (9) (Reserved).

12 (10) (i) The sale at retail to or use by any charitable  
13 organization, volunteer firefighters' organization or  
14 nonprofit educational institution or a religious  
15 organization for religious purposes of tangible personal  
16 property or services other than pursuant to a  
17 construction contract.

18 (ii) This paragraph shall not apply with respect to  
19 any tangible personal property or services used in any  
20 unrelated trade or business carried on by the  
21 organization or institution or with respect to any  
22 materials, supplies and equipment used and transferred to  
23 the organization or institution in the construction,  
24 reconstruction, remodeling, renovation, repairs and  
25 maintenance of any real estate structure, other than  
26 building machinery and equipment, except materials and  
27 supplies when purchased by the organization or  
28 institution for routine maintenance and repairs.

29 (11) The sale at retail, or use of gasoline and other  
30 motor fuels, the sales of which are otherwise subject to

1 excise taxes under 75 Pa.C.S. Ch. 90 (relating to liquid  
2 fuels and fuels tax).

3 (12) (i) The sale at retail to, or use by the United  
4 States, this Commonwealth or its instrumentalities or  
5 political subdivisions, nonpublic schools, charter  
6 schools, cyber charter schools or vocational schools of  
7 tangible personal property or services.

8 (ii) This paragraph includes the sale at retail to a  
9 supervisor of a home education program of tangible  
10 personal property or services used exclusively for the  
11 home education program.

12 (iii) As used in this paragraph, the terms  
13 "nonpublic school," "charter school," "cyber charter  
14 school," "vocational school," "supervisor" and "home  
15 education program" shall have the meanings given to them  
16 in the Public School Code of 1949.

17 (13) The sale at retail, or use of wrapping paper,  
18 wrapping twine, bags, cartons, tape, rope, labels,  
19 nonreturnable containers and all other wrapping supplies,  
20 when such use is incidental to the delivery of any personal  
21 property, except that any charge for wrapping or packaging  
22 shall be subject to tax at the rate imposed by section 702.

23 (14) Sale at retail or use of vessels designed for  
24 commercial use of registered tonnage of 50 tons or more when  
25 produced by the builders thereof upon special order of the  
26 purchaser.

27 (15) Sale at retail of tangible personal property or  
28 services used or consumed in building, rebuilding, repairing  
29 and making additions to or replacements in and upon vessels  
30 designed for commercial use of registered tonnage of 50 tons

1 or more upon special order of the purchaser, or when rebuilt,  
2 repaired or enlarged, or when replacements are made upon  
3 order of or for the account of the owner.

4 (16) The sale at retail or use of tangible personal  
5 property or services to be used or consumed for ship cleaning  
6 or maintenance or as fuel, supplies, ships' equipment, ships'  
7 stores or sea stores on vessels designed for commercial use  
8 of registered tonnage of 50 tons or more to be operated  
9 principally outside the limits of this Commonwealth.

10 (17) The sale at retail or use of prescription  
11 medicines, drugs or medical supplies, crutches and  
12 wheelchairs for the use of persons with disabilities and  
13 invalids, artificial limbs, artificial eyes and artificial  
14 hearing devices when designed to be worn on the person of the  
15 purchaser or user, false teeth and materials used by a  
16 dentist in dental treatment, eyeglasses when especially  
17 designed or prescribed by an ophthalmologist, oculist or  
18 optometrist for the personal use of the owner or purchaser  
19 and artificial braces and supports designed solely for the  
20 use of persons with disabilities or any other therapeutic,  
21 prosthetic or artificial device designed for the use of a  
22 particular individual to correct or alleviate a physical  
23 incapacity, including, but not limited to, hospital beds,  
24 iron lungs and kidney machines.

25 (18) The sale at retail or use of coal.

26 (19) (Reserved).

27 (20) (Reserved).

28 (21) (Reserved).

29 (22) (Reserved).

30 (23) (Reserved).

1           (24) The sale at retail or use of motor vehicles,  
2 trailers and semitrailers, or bodies attached to the chassis  
3 thereof, sold to a nonresident of this Commonwealth to be  
4 used outside this Commonwealth and which are registered in a  
5 state other than this Commonwealth within 20 days after  
6 delivery to the vendee.

7           (25) The sale at retail or use of water.

8           (26) The sale at retail or use of all vesture, wearing  
9 apparel, raiments, garments, footwear and other articles of  
10 clothing with a purchase price of less than \$50, including  
11 clothing patterns and items that are to be a component part  
12 of clothing, worn or carried on or about the human body but  
13 all accessories, ornamental wear, formal day or evening  
14 apparel and articles made of fur on the hide or pelt or any  
15 material imitative of fur and articles of which such fur,  
16 real, imitation or synthetic, is the component material of  
17 chief value, but only if such value is more than three times  
18 the value of the next most valuable component material, and  
19 sporting goods and clothing not normally used or worn when  
20 not engaged in sports shall not be excluded from the tax.

21           (27) (Reserved).

22           (28) (Reserved).

23           (29) The sale at retail or use of food and beverages  
24 that are federally approved items for the Women, Infants and  
25 Children Program under section 17 of the Child Nutrition Act  
26 of 1966 (Public Law 89-642, 42 U.S.C. § 1786).

27           (30) (i) The sale at retail or use of any printed or  
28 other form of advertising materials regardless of where  
29 or by whom the advertising material was produced.

30           (ii) This paragraph shall not include the sale at

1 retail or use of mail order catalogs and direct mail  
2 advertising literature or materials, including electoral  
3 literature or materials, such as envelopes, address  
4 labels and a one-time license to use a list of names and  
5 mailing addresses for each delivery of direct mail  
6 advertising literature or materials, including electoral  
7 literature or materials, through the United States Postal  
8 Service.

9 (31) (Reserved).

10 (32) (Reserved).

11 (33) (Reserved).

12 (34) (Reserved).

13 (35) (Reserved).

14 (36) The sale at retail or use of rail transportation  
15 equipment used in the movement of personalty.

16 (37) (Reserved).

17 (38) (Reserved).

18 (39) The sale at retail or use of fish feed purchased by  
19 or on behalf of sportsmen's clubs, fish cooperatives or  
20 nurseries approved by the Pennsylvania Fish Commission.

21 (40) The sale at retail of supplies and materials to  
22 tourist promotion agencies, which receive grants from the  
23 Commonwealth, for distribution to the public as promotional  
24 material or the use of such supplies and materials by said  
25 agencies for said purposes.

26 (41) (Reserved).

27 (42) The sale or use of brook trout (*salvelinus*  
28 *fontinalis*), brown trout (*Salmo trutta*) or rainbow trout  
29 (*Salmo gairdneri*).

30 (43) The sale at retail or use of buses to be used

1 exclusively for the transportation of children for school  
2 purposes.

3 (44) The sale at retail or use of firewood.

4 (45) (Reserved).

5 (46) The sale at retail or use of tangible personal  
6 property purchased in accordance with the Food Stamp Act of  
7 1977, as amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029).

8 (47) (Reserved).

9 (48) (Reserved).

10 (49) (i) The sale at retail or use of food and  
11 beverages by nonprofit associations which support sports  
12 programs.

13 (ii) The following words and phrases when used in  
14 this paragraph shall have the meanings given to them in  
15 this subparagraph unless the context clearly indicates  
16 otherwise:

17 "Nonprofit association." An entity which is  
18 organized as a nonprofit corporation or nonprofit  
19 unincorporated association under the laws of this  
20 Commonwealth or the United States or any entity which is  
21 authorized to do business in this Commonwealth as a  
22 nonprofit corporation or unincorporated association under  
23 the laws of this Commonwealth, including, but not limited  
24 to, youth or athletic associations, volunteer fire,  
25 ambulance, religious, charitable, fraternal, veterans,  
26 civic, or any separately chartered auxiliary of the  
27 foregoing, if organized and operated on a nonprofit  
28 basis.

29 "Sports program." Baseball, softball, football,  
30 basketball, soccer and any other competitive sport

1           formally recognized as a sport by the United States  
2           Olympic Committee as specified by and under the  
3           jurisdiction of the Amateur Sports Act of 1978 (Public  
4           Law 95-606, 36 U.S.C. Ch. 2205), the Amateur Athletic  
5           Union or the National Collegiate Athletic Association.  
6           The term shall be limited to a program or that portion of  
7           a program that is organized for recreational purposes and  
8           whose activities are substantially for such purposes and  
9           which is primarily for participants who are 18 years of  
10          age or younger or whose 19th birthday occurs during the  
11          year of participation or the competitive season,  
12          whichever is longer. There shall, however, be no age  
13          limitation for programs operated for persons with  
14          physical handicaps or persons with mental retardation.

15                 "Support." The funds raised from sales are used to  
16                 pay the expenses of a sports program or the nonprofit  
17                 association sells the food and beverages at a location  
18                 where a sports program is being conducted under this  
19                 chapter or the Tax Reform Code of 1971.

20                 (50) (Reserved).

21                 (51) The sale at retail or use of interior office  
22                 building cleaning services but only as relates to the costs  
23                 of the supplied employee, which costs are wages, salaries,  
24                 bonuses and commissions, employment benefits, expense  
25                 reimbursements and payroll and withholding taxes, to the  
26                 extent that these costs are specifically itemized or that  
27                 these costs in aggregate are stated in billings from the  
28                 vendor or supplying entity.

29                 (52) (Reserved).

30                 (53) (Reserved).

1 (54) (Reserved).

2 (55) (Reserved).

3 (56) The sale at retail or use of tangible personal  
4 property or services used, transferred or consumed in  
5 installing or repairing equipment or devices designed to  
6 assist persons in ascending or descending a stairway when:

7 (i) The equipment or devices are used by a person  
8 who, by virtue of a physical disability, is unable to  
9 ascend or descend stairs without the aid of such  
10 equipment or device.

11 (ii) The equipment or device is installed or used in  
12 the person's place of residence.

13 (iii) A physician has certified the physical  
14 disability of the person in whose residence the equipment  
15 or device is installed or used.

16 (57) The sale at retail to or use by a construction  
17 contractor of building machinery and equipment and services  
18 thereto that are:

19 (i) transferred pursuant to a construction contract  
20 for any charitable organization, volunteer firemen's  
21 organization, nonprofit educational institution or  
22 religious organization for religious purposes, provided  
23 that the building machinery and equipment and services  
24 thereto are not used in any unrelated trade or business;  
25 or

26 (ii) transferred to the United States or the  
27 Commonwealth or its instrumentalities or political  
28 subdivisions.

29 (58) (Reserved).

30 (59) The sale at retail or use of molds and related mold

1 equipment used directly and predominantly in the manufacture  
2 of products, regardless of whether the person that holds  
3 title to the equipment manufactures a product.

4 (60) (Reserved).

5 (61) (Reserved).

6 (62) The sale at retail or use of tangible personal  
7 property or services which are directly used in farming,  
8 dairying or agriculture when engaged in as a business  
9 enterprise, regardless of whether the sale is made to the  
10 person directly engaged in the business enterprise or to a  
11 person contracting with the person directly engaged in the  
12 business enterprise for the production of food.

13 (63) (Reserved).

14 (64) The sale at retail to or use by a construction  
15 contractor, employed by a public school district pursuant to  
16 a construction contract, of any materials and building  
17 supplies which, during construction or reconstruction, are  
18 made part of any public school building utilized for  
19 instructional classroom education within this Commonwealth,  
20 if the construction or reconstruction:

21 (i) is necessitated by a disaster emergency, as  
22 defined in 35 Pa.C.S. § 7102 (relating to definitions);

23 and

24 (ii) takes place during the period when there is a  
25 declaration of disaster emergency under 35 Pa.C.S. §  
26 7301(c) (relating to general authority of Governor).

27 (65) (Reserved).

28 (66) The sale at retail or use of copies of an official  
29 document sold by a government agency or a court. For the  
30 purposes of this paragraph, the following terms or phrases

1 shall have the following meanings:

2 (i) "court" includes:

3 (A) an appellate court as defined in 42 Pa.C.S.  
4 § 102 (relating to definitions);

5 (B) A court of common pleas as defined in 42  
6 Pa.C.S. § 102; or

7 (C) the minor judiciary as defined in 42 Pa.C.S.  
8 § 102;

9 (ii) "government agency" means an agency as defined  
10 in section 102 of the act of February 14, 2008 (P.L.6,  
11 No.3), known as the Right-to-Know Law; and

12 (iii) "official document" means a record as defined  
13 in section 102 of the Right-to-Know Law. The term shall  
14 include notes of court testimony, deposition transcripts,  
15 driving records, accident reports, birth and death  
16 certificates, deeds, divorce decrees and other similar  
17 documents.

18 (67) The sale at retail or use of repair or replacement  
19 parts, including the installation of those parts, exclusively  
20 for use in helicopters and similar rotorcraft or in  
21 overhauling or rebuilding of helicopters and similar  
22 rotorcraft or helicopters and similar rotorcraft components.

23 (68) The sale at retail or use of helicopters and  
24 similar rotorcraft.

25 (69) The sale at retail or use of goods or services that  
26 are part of a Medicare Part B transaction.

27 (70) The sale at retail or use of transportation of  
28 persons provided or funded by the Federal, State or local  
29 government.

30 (71) The sale at retail of insurance premiums.

1           (72) The sale at retail, between an owner of real  
2 property and a financial institution, of a mortgage.

3           (73) An investment or gain on an investment, including,  
4 but not limited to, bank deposits, stocks and bonds,  
5 including any commissions, maintenance costs and other  
6 charges, which commissions, maintenance costs and other  
7 charges related to the making of such investment or a gain  
8 thereon.

9           (74) The rental of real property.

10          (75) The sale at retail of tuition.

11          (76) The sale at retail of any of the following  
12 business, professional or technical services performed by a  
13 business and rendered to another business:

14           (i) Legal services.

15           (ii) Architectural, engineering and related  
16 services.

17           (iii) Accounting, auditing and bookkeeping services.

18           (iv) Specialized design services.

19           (v) Advertising, public relations and related  
20 services.

21           (vi) Services to building and dwellings.

22           (vii) Scientific, environmental and technical  
23 consulting services.

24           (viii) Scientific research and development services.

25           (ix) Information services.

26           (x) Administrative services.

27           (xi) Custom programming, design and data processing  
28 services.

29           (xii) Parking lot and garage services.

30          (77) The sale at retail of legal services relating to

1 domestic relations matters or criminal matters.

2 (78) The sale at retail of services rendered as part of  
3 a transfer of an interest in real property.

4 (79) The sale at retail to or use by a person of legal  
5 services rendered by an attorney where the payment is made  
6 pursuant to a contingency fee based upon a percentage of the  
7 amount recovered with respect to a legal claim or dispute.

8 (80) The sale at retail to or use by a person of the  
9 services rendered by or under the supervision of a licensed  
10 real estate broker, associate broker or salesperson in  
11 connection with any aspect of the sale, lease or acquisition  
12 of any interest in real property.

13 (81) The sale at retail, or the use of motion picture  
14 film rented or licensed from a distributor for the purpose of  
15 commercial exhibition.

16 (82) The sale at retail or use of services performed by  
17 minors under 18 years of age and not on behalf of another  
18 person.

19 (83) The sale at retail or use of services performed by  
20 any person to the extent that the recipient or user of such  
21 services receives those services free of charge.

22 (84) The sale at retail or use of services provided by  
23 employees to their employers in exchange for wages and  
24 salaries when such services are rendered in the ordinary  
25 course of employment.

26 (85) The sale at retail or use of services performed for  
27 resale in the ordinary course of business of the purchaser or  
28 user of such services.

29 (86) The sale at retail or use of services that are  
30 otherwise taxable that are an integral, inseparable part of

1 the services that are to be sold or used and that are  
2 taxable.

3 (87) (Reserved).

4 (88) The sale at retail of medical goods or services by  
5 a hospital, as defined in the act of December 20, 1985  
6 (P.L.457, No.112), known as the Medical Practice Act of 1985.

7 (89) The sale at retail of medical or dental services,  
8 including charges for office visits.

9 Section 705. Alternate imposition of tax.

10 (a) General rule.--If any person actively and principally  
11 engaged in the business of selling new or used motor vehicles,  
12 trailers or semitrailers, and registered with the department in  
13 the "dealer's class," acquires a motor vehicle, trailer or  
14 semitrailer for the purpose of resale, and prior to such resale,  
15 uses the motor vehicle, trailer or semitrailer for a taxable use  
16 under this chapter or the Tax Reform Code of 1971, the person  
17 may pay a tax equal to 7% of the fair rental value of the motor  
18 vehicle, trailer or semitrailer during use.

19 (b) Aircraft.--A commercial aircraft operator who acquires  
20 an aircraft for the purpose of resale, or lease, or is entitled  
21 to claim another valid exemption at the time of purchase, and  
22 subsequent to the purchase, periodically uses the same aircraft  
23 for a taxable use under this chapter or the Tax Reform Code of  
24 1971, may elect to pay a tax equal to 7% of the fair rental  
25 value of the aircraft during such use.

26 (c) Applicability.--This section shall not apply to the use  
27 of a vehicle as a wrecker, parts truck, delivery truck or  
28 courtesy car.

29 Section 706. Credit against tax.

30 (a) Tax paid to another state.--

1           (1) A credit against the tax imposed by section 702  
2 shall be granted with respect to tangible personal property  
3 or services purchased for use outside the Commonwealth equal  
4 to the tax paid to another state by reason of the imposition  
5 by the other state of a tax similar to the tax imposed by  
6 this chapter.

7           (2) No credit under paragraph (1) shall be granted  
8 unless the other state grants substantially similar tax  
9 relief by reason of the payment of tax under this chapter or  
10 under the Tax Reform Code of 1971.

11       (b) Telecommunications services.--A credit against the tax  
12 imposed by section 702 on telecommunications services shall be  
13 granted to a call center for gross receipts tax paid by a  
14 telephone company on the receipts derived from the sale of  
15 incoming and outgoing interstate telecommunications services to  
16 the call center under section 1101(a)(2) of the Tax Reform Code  
17 of 1971. The following apply:

18           (1) A telephone company, on request, shall notify a call  
19 center of the amount of gross receipts tax paid by the  
20 telephone company on the receipts derived from the sale of  
21 incoming and outgoing interstate telecommunications services  
22 to the call center.

23           (2) A call center that is eligible for the credit in  
24 this subsection may apply for a tax credit as set forth in  
25 this subsection.

26           (3) By February 15, a taxpayer must submit an  
27 application to the department for gross receipts tax paid on  
28 the receipts derived from the sale of incoming and outgoing  
29 interstate telecommunications services incurred in the prior  
30 calendar year.



1 issued for the principal place of business in this Commonwealth.

2 (b) Criteria for issuance of license.--

3 (1) The department shall, after the receipt of an  
4 application, issue the license applied for under subsection  
5 (a) if the applicant filed all required State tax reports and  
6 paid any State taxes not subject to a timely perfected  
7 administrative or judicial appeal or subject to a duly  
8 authorized deferred payment plan. The license shall be  
9 nonassignable.

10 (2) All licenses in effect on the effective date of this  
11 section under former Article III of the Tax Reform Code of  
12 1971 and all licenses issued or renewed on or after the  
13 effective date of this section shall be valid for a period of  
14 five years.

15 (b.1) Refusal of license.--

16 (1) If an applicant for a license or any person holding  
17 a license has not filed all required State tax reports and  
18 paid any State taxes not subject to a timely perfected  
19 administrative or judicial appeal or subject to a duly  
20 authorized deferred payment plan, the department may refuse  
21 to issue, may suspend or may revoke said license.

22 (2) The department shall notify the applicant or  
23 licensee of any refusal, suspension or revocation. The notice  
24 shall contain a statement that the refusal, suspension or  
25 revocation may be made public. The notice shall be made by  
26 first class mail.

27 (3) An applicant or licensee aggrieved by the  
28 determination of the department may file an appeal pursuant  
29 to the provisions for administrative appeals in this chapter.  
30 In the case of a suspension or revocation which is appealed,

1 the license shall remain valid pending a final outcome of the  
2 appeals process.

3 (4) Notwithstanding section 774 or sections 353(f),  
4 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform Code of  
5 1971, or any other provision of law to the contrary, if no  
6 appeal is taken or if an appeal is taken and denied at the  
7 conclusion of the appeal process, the department may  
8 disclose, by publication or otherwise, the identity of a  
9 person and the fact that the person's license has been  
10 refused, suspended or revoked under this subsection.  
11 Disclosure may include the basis for refusal, suspension or  
12 revocation.

13 (c) Penalties.--

14 (1) A person that maintains a place of business in this  
15 Commonwealth for the purpose of selling or leasing services  
16 or tangible personal property, the sale or use of which is  
17 subject to tax, without having first been licensed by the  
18 department shall be guilty of a summary offense and, upon  
19 conviction thereof, be sentenced to pay a fine of not less  
20 than \$300 nor more than \$1,500 and, in default thereof, a  
21 term of imprisonment of not less than five days nor more than  
22 30 days.

23 (2) The penalties imposed by this subsection shall be in  
24 addition to any other penalties imposed by this chapter.

25 (3) For purposes of this subsection, the offering for  
26 sale or lease of any service or tangible personal property,  
27 the sale or use of which is subject to tax, during any  
28 calendar day shall constitute a separate violation.

29 (4) The secretary may designate employees of the  
30 department to enforce the provisions of this subsection. The

1 employees shall exhibit proof of and be within the scope of  
2 the designation when instituting proceedings as provided by  
3 the Pennsylvania Rules of Criminal Procedure.

4 (d) Effect of failure to obtain license.--Failure of any  
5 person to obtain a license shall not relieve that person of  
6 liability to pay the tax imposed by this chapter.

7 SUBCHAPTER E

8 HOTEL OCCUPANCY TAX

9 Section 709. Definitions.

10 (a) General rule.--The following words and phrases when used  
11 in this subchapter shall have the meanings given to them in this  
12 section unless the context clearly indicates otherwise:

13 "Hotel." A building or buildings in which the public may,  
14 for a consideration, obtain sleeping accommodations. The term  
15 does not include any charitable, educational or religious  
16 institution summer camp for children, hospital or nursing home.

17 "Occupancy." The use or possession or the right to the use or  
18 possession by any person, other than a permanent resident, of  
19 any room or rooms in a hotel for any purpose or the right to the  
20 use or possession of the furnishings or to the services and  
21 accommodations accompanying the use and possession of the room  
22 or rooms.

23 "Occupant." A person, other than a permanent resident, who,  
24 for a consideration, uses, possesses or has a right to use or  
25 possess any room or rooms in a hotel under any lease,  
26 concession, permit, right of access, license or agreement.

27 "Operator." Any person who operates a hotel.

28 "Permanent resident." Any occupant who has occupied or has  
29 the right to occupancy of any room or rooms in a hotel for at  
30 least 30 consecutive days.

1 "Rent." The consideration received for occupancy valued in  
2 money, whether received in money or otherwise, including all  
3 receipts, cash, credits and property or services of any kind or  
4 nature, and also any amount for which the occupant is liable for  
5 the occupancy without any deduction. The term "rent" shall not  
6 include a gratuity.

7 (b) Other definitions.--The following words and phrases,  
8 when used in Subchapters D and F, shall, in addition to the  
9 meaning ascribed to them by section 701, have the meaning  
10 ascribed to them in this subsection, except where the context  
11 clearly indicates a different meaning:

12 "Maintaining a place of business in this Commonwealth."

13 Being the operator of a hotel in this Commonwealth.

14 "Purchase at retail." Occupancy.

15 "Purchase price." Rent.

16 "Purchaser." Occupant.

17 "Sale at retail." The providing of occupancy to an occupant  
18 by an operator.

19 "Services." Occupancy.

20 "Tangible personal property." Occupancy.

21 "Use." Occupancy.

22 "Vendor." Operator.

23 Section 710. Imposition of tax.

24 There is hereby imposed an excise tax of 7% of the rent on  
25 every occupancy of a room or rooms in a hotel in this  
26 Commonwealth, which tax shall be collected by the operator from  
27 the occupant and paid over to the Commonwealth as provided in  
28 this chapter and deposited into the Education Stabilization  
29 Fund.

30 Section 711. Seasonal tax returns.

1 Notwithstanding any other provisions in this chapter or the  
2 Tax Reform Code of 1971, the department may, by regulation,  
3 waive the requirement for the filing of quarterly returns in the  
4 case of any operator whose hotel is operated only during certain  
5 seasons of the year, and may provide for the filing of returns  
6 by such persons at times other than those provided by section  
7 721.

8 SUBCHAPTER F

9 PROCEDURE AND ADMINISTRATION

10 Section 715. Persons required to make returns.

11 Every person required to pay tax to the department or collect  
12 and remit tax to the department shall file returns with respect  
13 to the tax.

14 Section 716. Form of returns.

15 The returns required by section 715 shall be on forms  
16 prescribed by the department and shall show such information  
17 with respect to the taxes imposed by this chapter as the  
18 department may reasonably require.

19 Section 717. Time for filing returns.

20 (a) Monthly reporting.--A return shall be filed monthly with  
21 respect to each month by every licensee whose total tax reported  
22 or, in the event no report is filed, the total tax which should  
23 have been reported, for the third calendar quarter of the  
24 preceding year equals or exceeds \$600. The returns shall be  
25 filed on or before the 20th day of the next succeeding month  
26 with respect to which the return is made. Any licensee required  
27 to file monthly returns under this chapter shall be relieved  
28 from filing quarterly returns.

29 (b) Annual reporting.--No annual return shall be filed,  
30 except as may be required by rules and regulations of the

1 department promulgated and published at least 60 days prior to  
2 the end of the year with respect to which the returns are made.  
3 Where such annual returns are required, licensees shall not be  
4 required to file such returns prior to the 20th day of the year  
5 succeeding the year with respect to which the returns are made.

6 (c) Persons other than licensees.--Any person, other than a  
7 licensee, liable to pay to the department any tax under this  
8 chapter, shall file a return on or before the 20th day of the  
9 month succeeding the month in which the person becomes liable  
10 for the tax.

11 (d) Waivers.--The department, by regulation, may waive the  
12 requirement for the filing of quarterly return in the case of  
13 any licensee whose individual tax collections do not exceed \$75  
14 per calendar quarter and may provide for reporting on a less  
15 frequent basis in such cases.

16 Section 718. Extension of time for filing returns.

17 The department may, on written application and for good cause  
18 shown, grant a reasonable extension of time for filing any  
19 return required under this subchapter. However, the time for  
20 making a return shall not be extended for more than three  
21 months.

22 Section 719. Place for filing returns.

23 Returns shall be filed with the department at its main office  
24 or at any branch office which it may designate for filing  
25 returns.

26 Section 720. Timely mailing treated as timely filing and  
27 payment.

28 (a) General rule.--Notwithstanding the provisions of any  
29 State tax law to the contrary, whenever a report or payment of  
30 all or any portion of a State tax is required by law to be

1 received by the department or other agency of the Commonwealth  
2 on or before a day certain, the taxpayer shall be deemed to have  
3 complied with the law if the letter transmitting the report or  
4 payment of the tax which has been received by the department is  
5 postmarked by the United States Postal Service on or prior to  
6 the final day on which the payment is to be received.

7 (b) Presentation of receipt.--For the purposes of this  
8 chapter, presentation of a receipt indicating that the report or  
9 payment was mailed by registered or certified mail on or before  
10 the due date shall be evidence of timely filing and payment.

11 Section 721. Payment of tax.

12 When a return of tax is required under this subchapter, the  
13 person required to make the return shall pay the tax to the  
14 department.

15 Section 722. Time of payment.

16 (a) General rule.--The tax imposed by this chapter and  
17 incurred or collected by a licensee shall be due and payable by  
18 the licensee on the day the return is required to be filed under  
19 the provisions of section 717 and the payment must accompany the  
20 return for the preceding period.

21 (b) Other payments.--If the amount of tax due for the  
22 preceding year as shown by the annual return of a taxpayer is  
23 greater than the amount already paid by the taxpayer in  
24 connection with the taxpayer's monthly or quarterly returns, the  
25 taxpayer shall send with the annual return a remittance for the  
26 unpaid amount of tax for the year.

27 (c) Persons other than licensees.--Any person other than a  
28 licensee liable to pay any tax under this chapter shall remit  
29 the tax at the time of filing the return required by this  
30 chapter.

1 Section 723. Other times for payment.

2 In the event that the department authorizes a taxpayer to  
3 file a return at other times than those specified in section  
4 717, the tax due shall be paid at the time the return is filed.

5 Section 724. Place for payment.

6 The tax imposed by this chapter shall be paid to the  
7 department at the place fixed for filing the return.

8 Section 725. Tax held in trust for Commonwealth.

9 (a) General rule.--All taxes collected by any person from  
10 purchasers in accordance with this chapter and all taxes  
11 collected by any person from purchasers under color of this  
12 chapter which have not been properly refunded by the person to  
13 the purchaser shall constitute a trust fund for the  
14 Commonwealth, and such trust shall be enforceable against such  
15 person, the person's representatives and any person, other than  
16 a purchaser to whom a refund has been made properly, receiving  
17 any part of the fund without consideration, or knowing that the  
18 taxpayer is committing a breach of trust.

19 (b) Presumption.--Any person receiving payment of a lawful  
20 obligation of the taxpayer from the fund identified under  
21 subsection (a) shall be presumed to have received the same in  
22 good faith and without any knowledge of the breach of trust.

23 (c) Right to petition and appeal.--Any person, other than a  
24 taxpayer, against whom the department makes any claim under this  
25 section shall have the same right to petition and appeal as is  
26 given taxpayers by any provisions of this subchapter.

27 Section 726. Local receivers of use tax.

28 (a) General rule.--In every county, except counties of the  
29 first class, the county treasurer shall receive use tax due and  
30 payable under this chapter from any person other than a

1 licensee. The receiving of the taxes shall be pursuant to rules  
2 and regulations promulgated by the department and on forms  
3 furnished by the department.

4 (b) Deduction for administrative costs.--Each county  
5 treasurer shall remit to the department all use taxes received  
6 under the authority of this section minus the costs of  
7 administering this section not to exceed 1% of the amount of use  
8 taxes received, which amount shall be retained in lieu of any  
9 commission otherwise allowable by law for the collection of the  
10 tax.

11 Section 727. Discount.

12 (a) General rule.--Subject to the provisions of subsection  
13 (b), if a return is filed by a licensee and the tax shown to be  
14 due thereon less any discount is paid all within the time  
15 prescribed, the licensee shall be entitled to credit and apply  
16 against the tax payable by the licensee a discount of 1% of the  
17 amount of the tax collected by the licensee, as compensation for  
18 the expense of collecting and remitting the tax due by the  
19 licensee and as consideration of the prompt payment.

20 (b) Types of periodic filers.--For returns filed on or after  
21 the effective date of this section, the discount under  
22 subsection (a) shall be limited to the following:

- 23 (1) For a monthly filer, \$25 per return.
- 24 (2) For a quarterly filer, \$75 per return.
- 25 (3) For a semiannual filer, \$150 per return.

26 Section 728. (Reserved).

27 Section 729. (Reserved).

28 Section 730. Assessment.

29 The department shall make the inquiries, determinations and  
30 assessments of the tax, including interest, additions and

1 penalties, imposed by this chapter. A notice of assessment and  
2 demand for payment shall be mailed by certified mail to the  
3 taxpayer. The notice shall set forth the basis of the  
4 assessment.

5 Section 731. Mode and time of assessment.

6 (a) Duty to examine.--

7 (1) Within a reasonable time after any return is filed,  
8 the department shall examine it and, if the return shows a  
9 greater tax due or collected than the amount of tax remitted  
10 with the return, the department shall issue an assessment for  
11 the difference, together with an addition of 3% of the  
12 difference, which shall be paid to the department within ten  
13 days after a notice of the assessment has been mailed to the  
14 taxpayer.

15 (2) If such assessment is not paid within ten days,  
16 there shall be added and paid to the department an additional  
17 3% of the difference for each month during which the  
18 assessment remains unpaid. The total of all additions shall  
19 not exceed 18% of the difference shown on the assessment.

20 (b) Underestimated tax on returns.--

21 (1) If the department determines that any return or  
22 returns of any taxpayer understates the amount of tax due, it  
23 shall determine the proper amount and shall ascertain the  
24 difference between the amount of tax shown in the return and  
25 the amount determined. The difference may be referred to as  
26 the deficiency.

27 (2) The department shall send a notice of assessment for  
28 the deficiency and the reasons to the taxpayer.

29 (3) The taxpayer shall pay the deficiency to the  
30 department within 30 days after a notice of the assessment

1 has been mailed to the taxpayer.

2 (c) Estimated assessments.--

3 (1) In the event that any taxpayer fails to file a  
4 return required by this chapter, the department may make an  
5 estimated assessment, based on information available, of the  
6 proper amount of tax owed by the taxpayer and shall send a  
7 notice of assessment in the estimated amount to the taxpayer.

8 (2) The taxpayer shall pay the tax within 30 days after  
9 a notice of the estimated assessment has been mailed to the  
10 taxpayer.

11 (d) Studies.--

12 (1) The department may conduct the studies necessary to  
13 compute effective rates by business classification, based  
14 upon the ratio between the tax required to be collected and  
15 taxable sales and to use such rates in arriving at the  
16 apparent tax liability of a taxpayer.

17 (2) Any assessment based on such rates shall be prima  
18 facie correct, except that the rate shall not be considered  
19 where a taxpayer establishes the rate is based on a sample  
20 inapplicable to the taxpayer.

21 Section 732. Reassessment.

22 Any taxpayer against whom an assessment is made may petition  
23 the department for a reassessment under Article XXVII of the Tax  
24 Reform Code of 1971.

25 Section 733. (Reserved).

26 Section 734. Review by Board of Finance and Revenue.

27 (a) Procedure.--

28 (1) Within 60 days after the date of mailing of notice  
29 by the department of the decision on any petition for  
30 reassessment filed with it, the person against whom the

1 assessment was made may, by petition, request the Board of  
2 Finance and Revenue to review the decision.

3 (2) The failure of the department to notify the  
4 petitioner of a decision within the time provided by section  
5 732 shall act as a denial of such petition, and a petition  
6 for review may be filed with the Board of Finance and Revenue  
7 within 120 days of the date prior to which the department  
8 should have mailed to the petitioner its notice of decision.

9 (b) Contents of petition for review.--Each petition for  
10 review filed under this section shall state specifically the  
11 reasons on which the petitioner relies, or shall incorporate by  
12 reference the petition for reassessment in which the reasons are  
13 stated. The petition shall be supported by affidavit that it is  
14 not made for the purpose of delay and that the facts set forth  
15 in the petition are true.

16 (c) Action by board.--

17 (1) The Board of Finance and Revenue shall act finally  
18 in disposing of petitions filed with it within six months  
19 after they have been received.

20 (2) In the event of the failure of the board to dispose  
21 of any petition within six months, the action taken by the  
22 department, upon the petition for reassessment, shall be  
23 sustained.

24 (3) The Board of Finance and Revenue may sustain the  
25 action taken by the department on the petition for  
26 reassessment, or it may reassess the tax due on such basis as  
27 it deems according to law.

28 (4) The board shall give notice of its action to the  
29 department and to the petitioner.

30 Section 735. (Reserved).

1 Section 736. Burden of proof.

2 In all cases of petitions for reassessment, review or appeal,  
3 the burden of proof shall be on the petitioner or appellant, as  
4 applicable.

5 Section 737. Collection of tax.

6 (a) General rule.--The department shall collect the tax in  
7 the manner provided by law for the collection of taxes imposed  
8 by the laws of this Commonwealth.

9 (b) Collection by persons maintaining a place of business in  
10 the Commonwealth.--

11 (1) Every person maintaining a place of business in this  
12 Commonwealth and selling or leasing tangible personal  
13 property or services, the sale or use of which is subject to  
14 tax shall collect the tax from the purchaser or lessee at the  
15 time of making the sale or lease, and shall remit the tax to  
16 the department, unless the collection and remittance is  
17 otherwise provided for in this chapter.

18 (2) (i) Every person not otherwise required to collect  
19 tax that delivers tangible personal property to a  
20 location within this Commonwealth and that unpacks,  
21 positions, places or assembles the tangible personal  
22 property shall collect the tax from the purchaser at the  
23 time of delivery and shall remit the tax to the  
24 department if the person delivering the tangible personal  
25 property is responsible for collecting any portion of the  
26 purchase price of the tangible personal property  
27 delivered and the purchaser has not provided the person  
28 with proof that the tax imposed by this chapter has been  
29 or will be collected by the seller or that the purchaser  
30 provided the seller with a valid exemption certificate.

1           (ii) Every person required to collect tax under this  
2 paragraph shall be deemed to be selling or leasing  
3 tangible personal property or services, the sale or use  
4 of which is subject to the tax imposed under section 702.

5           (3) Any person required under this chapter to collect  
6 tax from another person, who shall fail to collect the proper  
7 amount of the tax, shall be liable for the full amount of the  
8 tax which the person should have collected.

9           (c) Certificate for tax-exempt sales or leases.--

10           (1) If the tax does not apply to the sale or lease of  
11 tangible personal property or services, the purchaser or  
12 lessee shall furnish to the vendor a certificate indicating  
13 that the sale is not legally subject to the tax. The  
14 certificate shall be in substantially such form as the  
15 department may, by regulation, prescribe.

16           (2) Where the tangible personal property or service is  
17 of a type which is never subject to the tax imposed or where  
18 the sale or lease is in interstate commerce, the certificate  
19 need not be furnished.

20           (3) Where a series of transactions are not subject to  
21 tax, a purchaser or user may furnish the vendor with a single  
22 exemption certificate in substantially such form and valid  
23 for such period of time as the department may, by regulation,  
24 prescribe.

25           (4) The department shall provide all school districts  
26 and intermediate units with a permanent tax exemption number.

27           (5) An exemption certificate, which is complete and  
28 regular and on its face discloses a valid basis of exemption  
29 if taken in good faith, shall relieve the vendor from the  
30 liability imposed by this section.

1 (6) An exemption certificate:

2 (i) accepted by a vendor from a natural person  
3 domiciled within this Commonwealth or any association,  
4 fiduciary, partnership, corporation or other entity,  
5 either authorized to do business within this Commonwealth  
6 or having an established place of business within this  
7 Commonwealth, in the ordinary course of the vendor's  
8 business;

9 (ii) which on its face discloses a valid basis of  
10 exemption consistent with the activity of the purchaser  
11 and character of the property or service being purchased  
12 or which is provided to the vendor by a charitable,  
13 religious, educational or volunteer firefighters'  
14 organization;

15 (iii) contains the organization's charitable  
16 exemption number; and

17 (iv) which, in the case of any purchase costing \$200  
18 or more, is accompanied by a sworn declaration on a form  
19 to be provided by the department of an intended usage of  
20 the property or service which would render it nontaxable,  
21 shall be presumed to be taken in good faith and the burden of  
22 proving otherwise shall be on the department.

23 (d) Waivers.--

24 (1) The department may authorize a purchaser or lessee  
25 who acquires tangible personal property or services under  
26 circumstances which make it impossible at the time of  
27 acquisition to determine the manner in which the tangible  
28 personal property or service will be used, to pay the tax  
29 directly to the department, and waive the collection of the  
30 tax by the vendor.

1           (2) No such authority shall be granted or exercised,  
2           except on application to the department, and the issuance by  
3           the department, in its discretion, of a direct payment  
4           permit.

5           (3) If a direct payment permit is granted, its use shall  
6           be subject to conditions specified by the department, and the  
7           payment of tax on all acquisitions pursuant to the permit  
8           shall be made directly to the department by the permit  
9           holder.

10 Section 738. Collection of tax on motor vehicles, trailers and  
11           semitrailers.

12       (a) General rule.--Notwithstanding the provisions of section  
13 737(b)(1), tax due on the sale at retail or use of a motor  
14 vehicle, trailer or semitrailer, except mobile homes as defined  
15 in 75 Pa.C.S. (relating to vehicles), required by law to be  
16 registered with the department under the provisions of 75  
17 Pa.C.S. shall be paid by the purchaser or user directly to the  
18 department on application to the department for an issuance of a  
19 certificate of title on the motor vehicle, trailer or  
20 semitrailer.

21       (b) No issuance of certificate of title without payment of  
22 tax.--

23           (1) The department shall not issue a certificate of  
24 title until the tax has been paid, or evidence satisfactory  
25 to the department has been given to establish that tax is not  
26 due.

27           (2) The department may cancel or suspend any record of  
28 certificate of title or registration of a motor vehicle,  
29 trailer or semitrailer when the check received in payment of  
30 the tax on the vehicle is not paid on demand.

1 (c) First encumbrance.--The tax shall be considered as a  
2 first encumbrance against the vehicle and the vehicle may not be  
3 transferred without first payment in full of the tax and any  
4 interest additions or penalties which shall accrue in accordance  
5 with this chapter.

6 Section 739. Precollection of tax.

7 (a) Authorization.--

8 (1) Except as otherwise provided under paragraph (2),  
9 the department may, by regulation, authorize or require  
10 particular categories of vendors selling tangible personal  
11 property for resale to precollect from the purchaser the tax  
12 which the purchaser will collect on making a sale at retail  
13 of the tangible personal property.

14 (2) The department, pursuant to this section, may not  
15 require a vendor to precollect tax from a purchaser who  
16 purchases for resale more than \$1,000 worth of tangible  
17 personal property from the vendor per year.

18 (b) No license required.--In any case in which a vendor has  
19 been authorized to prepay the tax to the person from whom the  
20 vendor purchased the tangible personal property for resale, the  
21 vendor authorized to prepay the tax may, under the regulations  
22 of the department, be relieved from the duty to secure a license  
23 if the duty arises only by reason of the vendor's sale of the  
24 tangible personal property with respect to which the vendor is,  
25 under authorization of the department, to prepay the tax.

26 (c) Reimbursement.--

27 (1) The vendor, on making a sale at retail of tangible  
28 personal property with respect to which the vendor has  
29 prepaid the tax, must separately state at the time of resale  
30 the proper amount of tax on the transaction, and reimburse

1       itself on account of the taxes which the vendor has  
2       previously prepaid.

3           (2) If the vendor collects a greater amount of tax in  
4       any reporting period than the vendor previously prepaid on  
5       purchase of the goods with respect to which the vendor  
6       prepaid the tax, the vendor must file a return and remit the  
7       balance to the Commonwealth at the time at which a return  
8       would otherwise be due with respect to the sales.

9       Section 740. Bulk and auction sales.

10       A person who sells or causes to be sold at auction, or who  
11       sells or transfers in bulk, 51% or more of any stock, of goods,  
12       wares or merchandise of any kind, fixtures, machinery,  
13       equipment, buildings or real estate, involved in a business for  
14       which the person is licensed or required to be licensed under  
15       this chapter, or is liable for filing use tax returns in  
16       accordance with this chapter, shall be subject to the provisions  
17       of section 1403 of The Fiscal Code.

18       Section 741. Collection on failure to request reassessment,  
19               review or appeal.

20       (a) General rule.--The department may collect any tax:

21           (1) If an assessment of tax is not paid within ten days  
22       or 30 days, as the case may be, after notice of the  
23       assessment to the taxpayer and no petition for reassessment  
24       has been filed.

25           (2) Within 60 days from the date of reassessment, if no  
26       petition for review has been filed.

27           (3) Within 30 days from the date of the decision of the  
28       Board of Finance and Revenue on a petition for review, or of  
29       the expiration of the board's time for acting on the  
30       petition, if no appeal has been made.

1 (4) In all cases of judicial sales, receiverships,  
2 assignments or bankruptcies.

3 (b) Limitation on defenses.--

4 (1) Subject to the provisions of paragraph (2), in any  
5 such case in a proceeding for the collection of the taxes,  
6 the person against whom the taxes were assessed shall not be  
7 permitted to set up any ground of defense that might have  
8 been determined by the department, the Board of Finance and  
9 Revenue or the courts.

10 (2) The defense of failure of the department to mail  
11 notice of assessment or reassessment to the taxpayer and the  
12 defense of payment of assessment or reassessment may be  
13 raised in proceedings for collection by a motion to stay the  
14 proceedings.

15 Section 742. Lien for taxes.

16 (a) Nature and effect of lien.--

17 (1) If any person liable to pay any tax neglects or  
18 refuses to pay the same after demand, the amount, including  
19 any interest, addition or penalty, together with any costs  
20 that may accrue in addition, shall be a lien in favor of the  
21 Commonwealth on the property, both real and personal, of the  
22 person but only after same has been entered and docketed of  
23 record by the prothonotary of the county where the property  
24 is situated.

25 (2) The department may, at any time, transmit to the  
26 prothonotaries of the respective counties certified copies of  
27 all liens for taxes imposed by this chapter or the Tax Reform  
28 Code of 1971 and penalties and interest.

29 (3) Each prothonotary receiving the lien shall enter and  
30 docket the lien of record in the prothonotary's office, which

1       lien shall be indexed as judgments are now indexed.

2           (4) No prothonotary shall require, as a condition  
3 precedent to the entry of the liens, the payment of the costs  
4 incident thereto.

5       (b) Priority status.--

6           (1) The lien imposed under this section shall have  
7 priority from the date of its recording, and shall be fully  
8 paid and satisfied out of the proceeds of any judicial sale  
9 of property before any other obligation, judgment, claim,  
10 lien or estate to which the property may subsequently become  
11 subject, except costs of the sale and of the writ on which  
12 the sale was made, and real estate taxes and municipal claims  
13 against such property, but shall be subordinate to mortgages  
14 and other liens existing and duly recorded or entered of  
15 record prior to the recording of the tax lien.

16           (2) In the case of a judicial sale of property, subject  
17 to a lien imposed under this section, on a lien or claim over  
18 which the lien imposed under this section has priority, the  
19 sale shall discharge the lien imposed under this section to  
20 the extent only that the proceeds are applied to its payment,  
21 and the lien shall continue in full force and effect as to  
22 the balance remaining unpaid.

23           (3) There shall be no inquisition or condemnation upon  
24 any judicial sale of real estate made by the Commonwealth  
25 pursuant to the provisions of this section.

26           (4) (i) The lien of the taxes, interest and penalties,  
27 shall continue for five years from the date of entry, and  
28 may be revived and continued in the manner now or  
29 hereafter provided for renewal of judgments, or as may be  
30 provided in The Fiscal Code, and a writ of execution may

1 directly issue upon the lien without the issuance and  
2 prosecution to judgment of a writ of scire facias.

3 (ii) Not less than ten days before issuance of any  
4 execution on the lien, notice of the filing and the  
5 effect of the lien shall be sent by registered mail to  
6 the taxpayer at the taxpayer's last known post office  
7 address.

8 (iii) The lien shall have no effect on any stock of  
9 goods, wares or merchandise regularly sold or leased in  
10 the ordinary course of business by the person against  
11 whom the lien has been entered, unless and until a writ  
12 of execution has been issued and a levy made on the stock  
13 of goods, wares and merchandise.

14 (c) Penalty.--Any willful failure of any prothonotary to  
15 carry out any duty imposed on the prothonotary under this  
16 section shall be a misdemeanor, and, upon conviction, the  
17 prothonotary shall be sentenced to pay a fine not more than  
18 \$1,000 and costs of prosecution or to a term of imprisonment not  
19 exceeding one year, or both.

20 (d) Priority payment from distribution.--

21 (1) Except as otherwise provided under the law, in the  
22 distribution, voluntary or compulsory, in receivership,  
23 bankruptcy or otherwise, of the property or estate of any  
24 person, all taxes imposed by this chapter which are due and  
25 unpaid and are not collectible under section 725 shall be  
26 paid from the first money available for distribution in  
27 priority to all other claims and liens, except insofar as the  
28 laws of the United States may give a prior claim to the  
29 Federal Government.

30 (2) Any person charged with the administration or

1 distribution of the property or estate, who violates the  
2 provisions of this section, shall be personally liable for  
3 any taxes imposed by this chapter, which are accrued and  
4 unpaid and are chargeable against the person whose property  
5 or estate is being administered or distributed.

6 (e) Construction.--Subject to the limitations contained in  
7 this chapter as to the assessment of taxes, nothing contained in  
8 this section shall be construed to restrict, prohibit or limit  
9 the use by the department in collecting taxes finally due and  
10 payable of any other remedy or procedure available at law or  
11 equity for the collection of debts.

12 Section 743. Suit for taxes.

13 (a) General rule.--At any time within three years after any  
14 tax or any amount of tax shall be finally due and payable, the  
15 department may commence an action in the courts of this  
16 Commonwealth, of any state or of the United States, in the name  
17 of the Commonwealth, to collect the amount of tax due together  
18 with additions, interest, penalties and costs in the manner  
19 provided at law or in equity for the collection of ordinary  
20 debts.

21 (b) Prosecution by Attorney General.--The Attorney General  
22 shall prosecute the action and, except as provided in this  
23 chapter, the provisions of the Rules of Civil Procedure and the  
24 provisions of the laws of this Commonwealth relating to civil  
25 procedures and remedies shall, to the extent that they are  
26 applicable, be available in such proceedings.

27 (c) Construction.--The provisions of this section are in  
28 addition to any process, remedy or procedure for the collection  
29 of taxes provided by this chapter or by the laws of this  
30 Commonwealth, and this section is neither limited by nor

1 intended to limit any such process, remedy or procedure.

2 Section 744. Tax suit comity.

3 The courts of this Commonwealth shall recognize and enforce  
4 liabilities for sales and use taxes, lawfully imposed by any  
5 other state if the other state extends a like comity to this  
6 Commonwealth.

7 Section 745. Service.

8 (a) General rule.--Any person who maintains a place of  
9 business in this Commonwealth is deemed to have appointed the  
10 Secretary of the Commonwealth as the person's agent for the  
11 acceptance of service of process or notice in any proceedings  
12 for the enforcement of the civil provisions of this chapter, and  
13 any service made upon the Secretary of the Commonwealth as agent  
14 shall be of the same legal force and validity as if the service  
15 had been personally made on the person.

16 (b) Substitute service.--Where service cannot be made on the  
17 person in the manner provided by other laws of this Commonwealth  
18 relating to service of process, service may be made on the  
19 Secretary of the Commonwealth and, in such case, a copy of the  
20 process or notice shall also be personally served on any agent  
21 or representative of the person who may be found within this  
22 Commonwealth, or where no such agent or representative may be  
23 found a copy of the process or notice shall be sent by  
24 registered mail to the person at the last known address of the  
25 person's principal place of business, home office or residence.

26 Section 746. Collection and payment of tax on credit sales.

27 If any sale subject to tax under this chapter is wholly or  
28 partly on credit, the vendor shall require the purchaser to pay  
29 in cash at the time the sale is made, or within 30 days  
30 thereafter, the total amount of tax due upon the entire purchase

1 price. The vendor shall remit the tax to the department,  
2 regardless of whether payment was made by the purchaser to the  
3 vendor, with the next return required to be filed under section  
4 717.

5 Section 747. Prepayment of tax.

6 (a) General rule.--Whenever a vendor is prohibited by law or  
7 governmental regulation to charge and collect the purchase price  
8 in advance of or at the time of delivery, the vendor shall  
9 prepay the tax as required by section 722, but in that case, if  
10 the purchaser fails to pay to the vendor the total amount of the  
11 purchase price and the tax and the amount is written off as  
12 uncollectible by the vendor, the vendor shall not be liable for  
13 the tax and shall be entitled to a credit or refund of the tax  
14 paid.

15 (b) Subsequent collection of tax.--If the purchase price is  
16 thereafter collected, in whole or in part, the amount collected  
17 shall be first applied to the payment of the entire tax portion  
18 of the bill, and shall be remitted to the department by the  
19 vendor with the first return filed after such collection.

20 (c) Time period for refund.--Tax prepaid shall be subject to  
21 refund on petition to the department under the provisions of  
22 section 752, filed within 105 days of the close of the fiscal  
23 year in which the accounts are written off.

24 Section 747.1. Refund of sales tax attributed to bad debt.

25 (a) General rule.--A vendor may file a petition for refund  
26 of sales tax paid to the department that is attributed to a bad  
27 debt if all of the following apply:

28 (1) The purchaser fails to pay the vendor the total  
29 purchase price.

30 (2) The purchase price is written off, either in whole

1 or in part, as a bad debt on the vendor's books and records.

2 (3) The bad debt has been deducted for Federal income  
3 tax purposes under section 166 of the Internal Revenue Code  
4 of 1986.

5 The petition must be filed with the department under Article  
6 XXVII of the Tax Reform Code of 1971 within the time limitations  
7 prescribed by section 3003.1 of the Tax Reform Code of 1971.

8 (b) Limitation.--

9 (1) The refund authorized by this section shall be  
10 limited to the sales tax paid to the department that is  
11 attributed to the bad debt, less any discount under section  
12 727.

13 (2) Partial payments by the purchaser to the vendor  
14 shall be prorated between the original purchase price and the  
15 sales tax due on the sale.

16 (3) Payments made to a vendor on any transaction which  
17 includes both taxable and nontaxable components shall be  
18 allocated proportionally between the taxable and nontaxable  
19 components.

20 (c) Assignment.--A vendor may assign its right to petition  
21 and receive a refund of sales tax attributed to a bad debt to an  
22 affiliated entity. A vendor may not assign its right to petition  
23 and receive a refund of sales tax attributed to a bad debt to  
24 any other person.

25 (d) Items not refundable.--No refund shall be granted under  
26 this section for interest, finance charges or expenses incurred  
27 in attempting to collect any amount receivable.

28 (e) Contents of petition for refund.--The documentation,  
29 procedures and methods for claiming and calculating the refund  
30 allowed under this section shall be in such form as the

1 department may prescribe.

2 (f) Subsequent collection.--If the purchase price that is  
3 attributed to a prior bad debt refund is collected in whole or  
4 in part, the vendor or affiliated entity shall remit the  
5 proportional tax to the department with the first return filed  
6 after the collection.

7 (g) Interest prohibited.--Notwithstanding the provisions of  
8 section 806.1 of The Fiscal Code, no interest shall be paid by  
9 the Commonwealth on refunds of sales tax attributed to bad debt  
10 under this section.

11 (h) Administration.--

12 (1) No refund or credit of sales tax shall be made for  
13 any uncollected purchase price or bad debt except as  
14 authorized by this section.

15 (2) No deduction or credit for bad debt may be taken on  
16 any return filed with the department.

17 (3) This section shall provide the exclusive procedure  
18 for claiming a refund or credit of sales tax attributed to  
19 uncollected purchase price or bad debt.

20 (i) Definition.--For purposes of this section, the term  
21 "affiliated entity" means any corporation that is part of the  
22 same affiliated group as the vendor as defined by section  
23 1504(a)(1) of the Internal Revenue Code of 1986.

24 Section 748. Registration of transient vendors.

25 (a) General rule.--Prior to conducting business or otherwise  
26 commencing operations in this Commonwealth, a transient vendor  
27 shall register with the department. The application for  
28 registration shall be in such form and contain such information  
29 as the department, by regulation, shall prescribe and shall set  
30 forth truthfully and accurately the information desired by the

1 department. This registration shall be renewed and updated  
2 annually.

3 (b) Certificate to be issued.--After registration and the  
4 posting of the bond required by section 748.1, the department  
5 shall issue to the transient vendor a certificate valid for one  
6 year. On renewal of registration, the department shall issue a  
7 new certificate valid for one year, if the department is  
8 satisfied that the transient vendor has complied with the  
9 provisions of this chapter.

10 (c) Possession and exhibition of certificate.--The transient  
11 vendor shall possess the certificate at all times when  
12 conducting business within this Commonwealth and shall exhibit  
13 the certificate upon demand by authorized employees of the  
14 department or any law enforcement officer.

15 (d) Contents of certificate.--The certificate issued by the  
16 department shall state that the transient vendor named in the  
17 certificate has registered with the department and shall provide  
18 notice to the transient vendor that:

19 (1) The transient vendor must notify the department in  
20 writing before it enters this Commonwealth to conduct  
21 business, of the location or locations where it intends to  
22 conduct business and the date or dates on which it intends to  
23 conduct business.

24 (2) Failure to notify or giving false information to the  
25 department may result in suspension or revocation of the  
26 transient vendor's certificate.

27 (3) Conducting business in this Commonwealth after a  
28 certificate has been suspended or revoked may result in  
29 criminal conviction and the imposition of fines or other  
30 penalties.

1 Section 748.1. Bond.

2 (a) General rule.--Upon registration with the department, a  
3 transient vendor shall also post a bond with the department in  
4 the amount of \$500 as surety for compliance with the provisions  
5 of this chapter. After a period of demonstrated compliance with  
6 these provisions or, if the transient vendor provides the  
7 license number of a promoter who has notified the department of  
8 a show, in accordance with the provisions of section 748.6(a),  
9 the department may reduce the amount of bond required of a  
10 transient vendor or may eliminate the bond entirely.

11 (b) Voluntary suspension of certificate.--A transient vendor  
12 may file a request for voluntary suspension of certificate with  
13 the department. If the department is satisfied that the  
14 provisions of this chapter have been complied with and has  
15 possession of the transient vendor's certificate, it shall  
16 return the bond posted to the transient vendor.

17 Section 748.2. Notification to department.

18 (a) General rule.--Prior to entering this Commonwealth to  
19 conduct business, a transient vendor shall notify the department  
20 in writing of the location or locations where it intends to  
21 conduct business and the date or dates on which it intends to  
22 conduct business.

23 (b) Inspection of records.--While conducting business in  
24 this Commonwealth, the transient vendor shall permit authorized  
25 employees of the department to inspect its sales records,  
26 including, but not limited to, sales receipts and inventory or  
27 price lists and to permit inspection of the tangible personal  
28 property offered for sale at retail.

29 (c) Conditions for suspension or revocation of  
30 certificate.--The department may suspend or revoke a certificate

1 issued to a transient vendor if the transient vendor:

2 (1) fails to notify the department as required by  
3 subsection (a);

4 (2) provides the department with false information  
5 regarding the conduct of business in this Commonwealth;

6 (3) fails to collect sales tax on all tangible personal  
7 property or services sold subject to the sales tax; or

8 (4) fails to file with the department a tax return as  
9 required by section 717.

10 (d) Regulations.--The department shall promulgate the rules  
11 and regulations necessary to implement this section.

12 Section 748.3. Seizure of property.

13 (a) General rule.--If a transient vendor conducting business  
14 in this Commonwealth fails to exhibit a valid certificate on  
15 demand by authorized employees of the department, those  
16 authorized employees shall seize, without warrant, the tangible  
17 personal property and the automobile, truck or other means of  
18 transportation used to transport or carry that property. All  
19 property seized shall be deemed contraband and shall be subject  
20 to immediate forfeiture proceedings instituted by the department  
21 pursuant to procedures adopted by regulation, except as  
22 otherwise provided by this section.

23 (b) Release of seized property.--Property seized pursuant to  
24 subsection (a) shall be released on:

25 (1) presentation of a valid certificate to authorized  
26 employees of the department; or

27 (2) registration by the transient vendor with the  
28 department and the posting of a bond in the amount of \$500,  
29 either immediately or within 15 days after the property is  
30 seized.

1 Section 748.4. Fines.

2 Any transient vendor conducting business in this Commonwealth  
3 while its certificate is suspended or revoked, as provided by  
4 sections 748.1(b) and 748.2(c), commits a misdemeanor of the  
5 third degree and, upon conviction, shall be sentenced to pay a  
6 fine of not more than \$2,500 for each offense.

7 Section 748.5. Transient vendors subject to chapter.

8 Except as otherwise provided, a transient vendor shall be  
9 subject to the provisions of this chapter in the same manner as  
10 a vendor who maintains a place of business in this Commonwealth.

11 Section 748.6. Promoters.

12 (a) General rule.--A promoter of a show or shows in this  
13 Commonwealth may annually file with the department an  
14 application for a promoter's license stating the location and  
15 dates of such show or shows. The application shall be filed at  
16 least 30 days prior to the opening of the first show and shall  
17 be in such form as the department may prescribe.

18 (b) License.--

19 (1) Except as otherwise provided in this chapter, the  
20 department shall, within 15 days after receipt of an  
21 application for a license, issue to the promoter without  
22 charge a license to operate such shows.

23 (2) If application for a license under this section has  
24 been timely filed and if the license has not been received by  
25 the promoter prior to the opening of the show, the  
26 authorization contained in this section with respect to the  
27 obtaining of a promoter's license shall be deemed to have  
28 been complied with, unless or until the promoter receives  
29 notice from the department denying the application for a  
30 promoter's license.

1 (c) Compliance.--Any promoter who is a vendor under the  
2 provisions of section 701 shall comply with all the provisions  
3 of this chapter applicable to vendors and with the provisions of  
4 this section applicable to promoters.

5 (d) Prohibited conduct.--No licensed promoter shall permit  
6 any person to display for sale or to sell tangible personal  
7 property or services subject to tax under section 702 at a show  
8 unless the person is licensed under section 708 and provides to  
9 the promoter the information required under law.

10 (e) Penalties.--

11 (1) Any licensed promoter who:

12 (i) permits any person to display for sale or to  
13 sell tangible personal property or service without first  
14 having been licensed under section 708;

15 (ii) fails to maintain records of a show as required  
16 by law; or

17 (iii) knowingly maintains false records or fails to  
18 comply with any provision contained in this section or  
19 any regulation promulgated by the department pertaining  
20 to shows,

21 shall be subject to denial of a license or the revocation of  
22 any existing license issued pursuant to this section.

23 (2) The department may deny the promoter a license  
24 certificate to operate a show for a period of not more than  
25 six months from the date of such denial. The penalty shall be  
26 in addition to any other penalty imposed by this chapter.

27 (3) Within 20 days of notice of denial or revocation of  
28 a license by the department, the promoter may petition the  
29 department for a hearing pursuant to 2 Pa.C.S. (relating to  
30 administrative law and procedure).

1 Section 749. (Reserved).

2 Section 750. (Reserved).

3 Section 751. (Reserved).

4 Section 752. Refunds.

5 (a) General rule.--Subject to the provisions of subsection  
6 (b), the department shall, pursuant to the provisions of Article  
7 XXVII of the Tax Reform Code of 1971, refund all taxes, interest  
8 and penalties paid to the Commonwealth under the provisions of  
9 this chapter and to which the Commonwealth is not rightfully  
10 entitled. The refunds shall be made to the person, the person's  
11 heirs, successors, assigns or other personal representatives,  
12 who actually paid the tax.

13 (b) Exception.--No refund shall be made under this section  
14 with respect to any payment made by reason of an assessment with  
15 respect to which a taxpayer has filed a petition for  
16 reassessment pursuant to section 2702 of the Tax Reform Code of  
17 1971 to the extent that the petition has been determined  
18 adversely to the taxpayer by a decision which is no longer  
19 subject to further review or appeal.

20 (c) Construction.--Nothing contained in this section shall  
21 be deemed to prohibit a taxpayer who has filed a timely petition  
22 for reassessment from amending it to a petition for refund where  
23 the petitioner has paid the tax assessed.

24 Section 753. Refund petition.

25 (a) General rule.--Except as provided for in subsection (b)  
26 and section 756, the refund or credit of tax, interest or  
27 penalty provided for by section 752 shall be made only where the  
28 person who has actually paid the tax files a petition for refund  
29 with the department under Article XXVII of the Tax Reform Code  
30 of 1971, within the limits of section 3003.1 of the Tax Reform

1 Code of 1971.

2 (b) Assessments.--A refund or credit of tax, interest or  
3 penalty paid as a result of an assessment made by the department  
4 under section 731 shall be made only where the person who has  
5 actually paid the tax files with the department a petition for a  
6 refund with the department under Article XXVII of the Tax Reform  
7 Code of 1971 within the time limits of section 3003.1 of the Tax  
8 Reform Code of 1971. The filing of a petition for refund under  
9 the provisions of this subsection shall not affect the abatement  
10 of interest, additions or penalties to which the person may be  
11 entitled by reason of the person's payment of the assessment.

12 Section 754. (Reserved).

13 Section 755. (Reserved).

14 Section 756. Extended time for filing special petition for  
15 refund.

16 (a) General rule.--Any party to a transaction who has paid  
17 tax by reason of a transaction with respect to which the  
18 department is assessing tax against another person may, within  
19 six months after the filing by the department of the assessment  
20 against the other person, file a special petition for refund,  
21 notwithstanding the person's failure to timely file a petition  
22 pursuant to section 3003.1 of the Tax Reform Code of 1971. The  
23 provisions of Article XXVII of the Tax Reform Code of 1971 shall  
24 be applicable to the special petition for refund, except that  
25 the department need not act on the petition until there is a  
26 final determination as to the propriety of the assessment filed  
27 against the other party to the transaction. Where a petition is  
28 filed under this provision in order to take advantage of the  
29 extended period of limitations, overpayments by the petitioner  
30 shall be refunded but only to the extent of the actual tax,

1 without consideration of interest and penalties, paid by the  
2 other party to the transaction.

3 (b) Purpose.--The purpose of this section is to avoid  
4 duplicate payment of tax where a determination is made by the  
5 department that one party to a transaction is subject to tax,  
6 and another party to the transaction has previously paid tax  
7 with respect to the transaction and, as such, this section shall  
8 be construed as extending right beyond that provided for by  
9 section 753, and not to limit the other section.

10 Section 757. (Reserved).

11 Section 758. Limitation on assessment and collection.

12 The amount of the tax imposed by this chapter or the Tax  
13 Reform Code of 1971 shall be assessed within three years after  
14 the date when the return provided for by section 717(a) or (c)  
15 is filed or the end of the year in which the tax liability  
16 arises, whichever occurs later. Any assessment may be made at  
17 any time during the period notwithstanding that the department  
18 may have made one or more previous assessments against the  
19 taxpayer for the year in question, or for any part of the year.  
20 In any case, no credit shall be given for any penalty previously  
21 assessed or paid.

22 Section 759. Failure to file return.

23 Where no return is filed, the amount of the tax due may be  
24 assessed and collected at any time as to taxable transactions  
25 not reported.

26 Section 760. False or fraudulent return.

27 Where the taxpayer willfully files a false or fraudulent  
28 return with intent to evade the tax imposed by this chapter, the  
29 amount of tax due may be assessed and collected at any time.

30 Section 761. Extension of limitation period.

1 Notwithstanding any other provisions of this subchapter  
2 where, before the expiration of the period prescribed in that  
3 other provision for the assessment of a tax, a taxpayer has  
4 consented in writing that the period be extended, the amount of  
5 tax due may be assessed at any time within the extended period.  
6 The period so extended may be extended further by subsequent  
7 consents in writing made before the expiration of the extended  
8 period.

9 Section 762. (Reserved).

10 Section 763. (Reserved).

11 Section 764. (Reserved).

12 Section 765. Interest.

13 If any amount of tax imposed by this chapter is not paid to  
14 the department on or before the last date prescribed for  
15 payment, interest on the amount at the rate of .75% per month  
16 for each month, or fraction thereof, from the date, shall be  
17 paid for the period from the last date to the date paid. The  
18 last date prescribed for payment shall be determined under  
19 section 722(a) or (c) without regard to any extension of time  
20 for payment. In the case of any amount assessed as a deficiency  
21 or as an estimated assessment, the date prescribed for payment  
22 shall be 30 days after notice of the assessment.

23 Section 766. Additions to tax.

24 (a) Failure to file return.--In the case of failure to file  
25 any return required by section 715 on the date prescribed for  
26 the return, determined with regard to any extension of time for  
27 filing, and, in the case in which a return filed understates the  
28 true amount due by more than 50%, there shall be added to the  
29 amount of tax actually due 5% of the amount of the tax if the  
30 failure to file a proper return is for not more than one month,

1 with an additional 5% for each additional month, or fraction  
2 thereof, during which such failure continues, not exceeding 25%  
3 in the aggregate. In every case at least \$2 shall be added.

4 (b) Addition for understatement.--There shall be added to  
5 every assessment under section 731(b) an addition equal to 5% of  
6 the amount of the understatement and no addition to the tax  
7 shall be paid under section 731(a).

8 (c) Interest.--If the department assesses a tax according to  
9 section 731(a), (b) or (c), there shall be added to the amount  
10 of the deficiency interest at the rate of .75% per month for  
11 each month, or fraction thereof, from the date prescribed by  
12 subsection (a) or section 722(c) for the payment of the tax to  
13 the date of notice of the assessment.

14 Section 767. Penalties.

15 (a) General rule.--The penalties, additions, interest and  
16 liabilities provided by this chapter shall be paid on notice and  
17 demand by the department, and shall be assessed and collected in  
18 the same manner as taxes. Except as otherwise provided, any  
19 reference in this chapter to tax imposed by this chapter shall  
20 be deemed also to refer to the penalties, additions, interest  
21 and liabilities provided by this chapter.

22 (b) Monetary penalty.--Any person who willfully attempts, in  
23 any manner, to evade or defeat the tax imposed by this chapter,  
24 or the payment thereof, or to assist any other person to evade  
25 or defeat the tax imposed by this chapter, or the payment  
26 thereof, or to receive a refund improperly shall, in addition to  
27 other penalties provided by law, be liable for a penalty equal  
28 to one-half of the total amount of the tax evaded.

29 (c) Burden of proof.--In any direct proceeding arising out  
30 of a petition for reassessment or refund as provided in this

1 chapter, in which an issue of fact is raised with respect to  
2 whether a return is fraudulent or with respect to the propriety  
3 of the imposition by the department of the penalty prescribed in  
4 subsection (b), the burden of proof with respect to the issue  
5 shall be on the department.

6 Section 768. Criminal offenses.

7 (a) False returns.--Any person who with intent to defraud  
8 the Commonwealth willfully makes, or causes to be made, any  
9 return required by this chapter which is false commits a  
10 misdemeanor and, upon conviction, shall be sentenced to pay a  
11 fine of not more than \$2,000 or to imprisonment not exceeding  
12 three years, or both.

13 (b) Other offenses.--Except as otherwise provided by  
14 subsection (a) and subject to the provisions of subsection (c),  
15 any person who:

16 (1) advertises or holds out or states to the public or  
17 to any purchaser or user, directly or indirectly, that the  
18 tax or any part imposed by this chapter will be absorbed by  
19 the person, or that it will not be added to the purchase  
20 price of the tangible personal property or services described  
21 in section 701(k)(2), (3), (4) and (11) through (18) sold or,  
22 if added, that the tax or any part will be refunded, other  
23 than when the person refunds the purchase price because of  
24 the property being returned to the vendor;

25 (2) sells or leases tangible personal property or the  
26 services, the sale or use of which by the purchaser is  
27 subject to tax under this chapter, and willfully fails to  
28 collect the tax from the purchaser and timely remit the same  
29 to the department;

30 (3) willfully fails or neglects to timely file any

1 return or report required by this chapter or, as a taxpayer,  
2 refuses to timely pay any tax, penalty or interest imposed or  
3 provided for by this chapter, or willfully fails to preserve  
4 the person's books, papers and records as directed by the  
5 department;

6 (4) refuses to permit the department or any of its  
7 authorized agents to examine the person's books, records or  
8 papers, or who knowingly makes any incomplete, false or  
9 fraudulent return or report;

10 (5) does or attempts to do anything to prevent the full  
11 disclosure of the amount or character of taxable sales  
12 purchases or use made by himself or any other person;

13 (6) provides any person with a false statement as to the  
14 payment of tax with respect to particular tangible personal  
15 property or services; or

16 (7) makes, utters or issues a false or fraudulent  
17 exemption certificate;

18 commits a misdemeanor and, upon conviction shall be sentenced to  
19 pay a fine of not more than \$1,000 and costs of prosecution or  
20 to imprisonment for not more than one year, or both.

21 (c) Exceptions.--

22 (1) Any person who maintains a place of business outside  
23 this Commonwealth may absorb the tax with respect to taxable  
24 sales made in the normal course of business to customers  
25 present at that place of business without being subject to  
26 the penalty and fines.

27 (2) Advertising tax-included prices shall be  
28 permissible, if the prepaid services are sold by the service  
29 provider, for prepaid telecommunications services not  
30 evidenced by the transfer of tangible personal property or

1 for prepaid mobile telecommunications services.

2 (d) Penalties are cumulative.--The penalties imposed by this  
3 section shall be in addition to any other penalties imposed by  
4 any provision of this chapter.

5 Section 769. Abatement of additions or penalties.

6 On the filing of a petition for reassessment or a petition  
7 for refund as provided under this chapter by a taxpayer,  
8 additions or penalties imposed on the taxpayer by this chapter  
9 or the Tax Reform Code of 1971 may be waived or abated, in whole  
10 or in part, where the petitioner has established that the  
11 petitioner has acted in good faith, without negligence and with  
12 no intent to defraud.

13 Section 770. Rules and regulations.

14 (a) General rule.--The department shall enforce the  
15 provisions of this chapter and shall prescribe, adopt,  
16 promulgate and enforce rules and regulations not inconsistent  
17 with the provisions of this chapter, relating to any matter or  
18 thing pertaining to the administration and enforcement of the  
19 provisions of this chapter, and the collection of taxes,  
20 penalties and interest imposed by this chapter. The department  
21 may prescribe the extent, if any, to which any of the rules and  
22 regulations shall be applied without retroactive effect.

23 (b) Determination of purchase price.--

24 (1) In determining the purchase price of taxable sales  
25 where, because of affiliation of interests between the vendor  
26 and the purchaser or irrespective of any such affiliation, if  
27 for any other reason, the purchase price of the sale is in  
28 the opinion of the department not indicative of the true  
29 value of the article or the fair price of the article, the  
30 department shall, pursuant to uniform and equitable rules,

1 determine the amount of constructive purchase price on the  
2 basis of which the tax shall be computed and levied.

3 (2) The rules shall provide for a constructive amount of  
4 a purchase price for each sale, which price shall equal a  
5 price for the article which would naturally and fairly be  
6 charged in an arm's-length transaction in which the element  
7 of common interests between vendor and purchaser or, if no  
8 common interest exists, any other element causing a  
9 distortion of the price or value is absent.

10 (3) For the purpose of this chapter where a taxable sale  
11 occurs between a parent corporation and a subsidiary  
12 affiliate or controlled corporation of such parent, there  
13 shall be a rebuttable presumption that because of such common  
14 interest the transaction was not at arm's-length.

15 Section 771. Keeping of records.

16 (a) Persons liable for taxes.--Every person liable for any  
17 tax imposed by this chapter, or for the collection of the tax,  
18 shall keep the records, render such statements, make the returns  
19 and comply with the rules and regulations as the department may,  
20 from time to time, prescribe regarding matters pertinent to the  
21 person's business. Whenever in the judgment of the department it  
22 is necessary, it may require any person, by notice served on the  
23 person, or by regulations, to make the returns, render the  
24 statements or keep the records as the department deems  
25 sufficient to show whether the person is liable to pay or  
26 collect tax under this chapter.

27 (b) Persons collecting taxes.--Any person liable to collect  
28 tax from another person under the provisions of this chapter  
29 shall file reports, keep records, make payments and be subject  
30 to interest and penalties as provided for under this chapter, in

1 the same manner as if the person were directly subject to the  
2 tax.

3 (c) Nonresidents.--

4 (1) A nonresident who does business in this Commonwealth  
5 as a retail dealer shall keep adequate records of the  
6 business and of the tax due with respect to the business,  
7 which records shall at all times be retained within this  
8 Commonwealth unless retention outside this Commonwealth is  
9 authorized by the department.

10 (2) No taxes collected from purchasers shall be sent  
11 outside this Commonwealth without the written consent of and  
12 in accordance with conditions prescribed by the department.

13 (3) The department may require a taxpayer who desires to  
14 retain records or tax collections outside this Commonwealth  
15 to assume reasonable out-of-State audit expenses.

16 (d) Retail dealers.--

17 (1) Any person doing business as a retail dealer who at  
18 the same time is engaged in another business which does not  
19 involve the making of sales taxable under this chapter shall  
20 keep separate books and records of the person's businesses so  
21 as to show the sales taxable under this chapter separately  
22 from the sales not taxable under this chapter.

23 (2) If the person fails to keep such separate books and  
24 records, the person shall be liable for tax at the rate  
25 designated in section 702 on the entire purchase price of  
26 sales from both or all of the person's businesses.

27 (e) Segregation of taxes required.--

28 (1) In those instances where a vendor gives no sales  
29 memoranda or uses registers showing only total sales, the  
30 vendor shall adopt some method of segregating tax from sales

1 receipts and keep records showing the segregation, all in  
2 accordance with proper accounting and business practices.

3 (2) A vendor may apply to the department for permission  
4 to use a collection and recording procedure which will show  
5 the information as the law requires with reasonable accuracy  
6 and simplicity. The application must contain a detailed  
7 description of the procedure to be adopted.

8 (3) Permission to use the proposed procedure is not to  
9 be construed as relieving the vendor from remitting the full  
10 amount of tax collected.

11 (4) The department may revoke the permission on 30 days'  
12 notice to the vendor.

13 (5) Refusal of the department to grant permission in  
14 advance to use the procedure shall not be construed to  
15 invalidate a procedure which on examination shows the  
16 information as the law requires.

17 Section 771.1. Reports and records of promoters.

18 Every licensed promoter shall keep a record of the date and  
19 place of each show and the name, address, sales, use and hotel  
20 occupancy license number of every person whom the licensed  
21 promoter permits to display for sale or to sell tangible  
22 personal property or services subject to tax under section 702  
23 at the show. The records shall be open for inspection and  
24 examination at any reasonable time by the department or a duly  
25 authorized representative, and the records shall, unless the  
26 department consents in writing to an earlier destruction, be  
27 preserved for three years after the date the report was filed or  
28 the date it was due, whichever occurs later, except that the  
29 department may by regulation require that they be kept for a  
30 longer period of time.

1 Section 772. Examinations.

2 (a) Power of department.--The department or any of its  
3 authorized agents may examine the books, papers and records of  
4 any taxpayer in order to verify the accuracy and completeness of  
5 any return made or if no return was made, to ascertain and  
6 assess the tax imposed by this chapter. The department may  
7 require the preservation of all such books, papers and records  
8 for any period deemed proper by it but not to exceed three years  
9 from the end of the calendar year to which the records relate.

10 (b) Duty of taxpayers.--Every taxpayer shall give to the  
11 department, or its agent, the means, facilities and opportunity  
12 for the examinations and investigation.

13 (c) Other powers of department.--

14 (1) The department is further authorized to examine any  
15 person, under oath, concerning taxable sales or use by any  
16 taxpayer or concerning any other matter relating to the  
17 enforcement or administration of this chapter, and to this  
18 end may compel the production of books, papers and records  
19 and the attendance of all persons whether as parties or  
20 witnesses whom it believes to have knowledge of such matters.

21 (2) The procedure for such hearings or examinations  
22 shall be the same as that provided by The Fiscal Code  
23 relating to inquisitorial powers of fiscal officers.

24 Section 773. Records and examinations of delivery agents.

25 Every agent for the purpose of delivery of goods shipped into  
26 this Commonwealth by a nonresident, including, but not limited  
27 to, a common carrier, shall maintain adequate records of such  
28 deliveries pursuant to rules and regulations adopted by the  
29 department and shall make the records available to the  
30 department upon request after due notice.

1 Section 774. Unauthorized disclosure.

2 Any information gained by the department as a result of any  
3 return, examination, investigation, hearing or verification  
4 required or authorized by this chapter shall be confidential,  
5 except for official purposes and except in accordance with  
6 proper judicial order or as otherwise provided by law, and any  
7 person unlawfully divulging such information commits a  
8 misdemeanor and, upon conviction, shall be sentenced to pay a  
9 fine of not more than \$1,000 and costs of prosecution or to  
10 imprisonment for not more than one year, or both.

11 Section 775. Cooperation with other governments.

12 Notwithstanding the provisions of section 774, the department  
13 may permit the Commissioner of Internal Revenue of the United  
14 States, or the proper officer of any state, or the authorized  
15 representative of either such officer, to inspect the tax  
16 returns of any taxpayer, or may furnish to the officer or to the  
17 officer's authorized representative an abstract of the return of  
18 any taxpayer, or supply the officer or the authorized  
19 representative with information concerning any item contained in  
20 any return or disclosed by the report of any examination or  
21 investigation of the return of any taxpayer. This permission  
22 shall be granted only if the statutes of the United States or of  
23 such other state, as the case may be, grant substantially  
24 similar privileges to the proper officer of the Commonwealth  
25 charged with the administration of this chapter.

26 Section 776. Interstate compacts.

27 (a) General rule.--The Governor, or the Governor's  
28 authorized representative, may confer with the Governor and the  
29 authorized representatives of other states with respect to  
30 reciprocal use tax collection between the Commonwealth and such

1 other states.

2 (b) Other powers.--The Governor, or the Governor's  
3 authorized representative, may join with the authorities of  
4 other states to conduct joint investigations, to exchange  
5 information, hold joint hearings and enter into compacts or  
6 interstate agreements with such other states to accomplish  
7 uniform reciprocal use tax collections between those states who  
8 are parties to any compact or interstate agreement and the  
9 Commonwealth.

10 Section 777. Bonds.

11 (a) Procedure.--

12 (1) Whenever the department, in its discretion, deems it  
13 necessary to protect the revenues to be obtained under the  
14 provisions of this chapter, it may require any nonresident  
15 natural person or any foreign corporation, association,  
16 fiduciary, partnership or other entity, not authorized to do  
17 in this Commonwealth or not having an established place of  
18 business in this Commonwealth and subject to the tax imposed  
19 by section 702, to file a bond issued by a surety company  
20 authorized to do business in this Commonwealth and approved  
21 by the Insurance Commissioner as to solvency and  
22 responsibility, in such amounts as it may fix, to secure the  
23 payment of any tax or penalties due, or which may become due,  
24 from a natural person or corporation.

25 (2) In order to protect the revenues to be obtained  
26 under the provisions of this chapter, the department shall  
27 require any nonresident natural person or any foreign  
28 corporation, association, fiduciary, partnership or entity,  
29 who or which is a building contractor, or who or which is a  
30 supplier delivering building materials for work in this

1 Commonwealth and is not authorized to do business in this  
2 Commonwealth or does not have an established place of  
3 business in this Commonwealth and is subject to the tax  
4 imposed by section 702, to file a bond issued by a surety  
5 company authorized to do business in this Commonwealth and  
6 approved by the Insurance Commissioner as to solvency and  
7 responsibility, in the amounts as it may fix, to secure the  
8 payments of any tax or penalties due, or which may become  
9 due, from a natural person, corporation or other entity.

10 (3) The department may also require a bond of any person  
11 petitioning the department for reassessment, in the case of  
12 any assessment over \$500 or where it is of the opinion that  
13 the ultimate collection is in jeopardy.

14 (4) (i) The department may, for a period of three  
15 years, require a bond of any person who has on three or  
16 more occasions within a 12-month period either filed a  
17 return or made payment to the department more than 30  
18 days late.

19 (ii) If the department determines that a taxpayer is  
20 to file a bond, the department shall give notice to the  
21 taxpayer to that effect, specifying the amount of the  
22 bond required.

23 (iii) The taxpayer shall file a bond within five  
24 days after the giving of the notice by the department  
25 unless, within the five-day period, the taxpayer requests  
26 in writing a hearing before the secretary or the  
27 secretary's representative at which hearing the  
28 necessity, propriety and amount of the bond shall be  
29 determined by the secretary or a representative. The  
30 determination shall be final and shall be complied within

1 15 days after notice is mailed to the taxpayer.

2 (b) Alternative security.--

3 (1) In lieu of the bond required by this section,  
4 securities approved by the department, or cash in the amount  
5 as it may prescribe, may be deposited.

6 (2) Such securities or cash shall be kept in the custody  
7 of the department, who may, at any time, without notice to  
8 the depositor, apply them to any tax and/or interest or  
9 penalties due, and for that purpose the securities may be  
10 sold by the department, at public or private sale, on five  
11 days' written notice to the depositor.

12 (c) Lien may be filed.--

13 (1) The department may file a lien pursuant to section  
14 742 against any taxpayer who fails to file a bond when  
15 required to do so under this section.

16 (2) All funds received on execution of the judgment on  
17 the lien shall be refunded to the taxpayer with 3% interest  
18 should a final determination be made that the taxpayer does  
19 not owe any payment to the department.

20 SUBCHAPTER G

21 FUNDING PROVISIONS

22 Section 780. (Reserved).

23 Section 781. Appropriation for refunds.

24 So much of the proceeds of the tax imposed by this chapter as  
25 shall be necessary for the payment of refunds, enforcement or  
26 administration under this chapter is hereby appropriated for  
27 those purposes.

28 Section 781.1. Construction.

29 To the extent that the language of this chapter is identical  
30 to that of equivalent provisions in the former act of March 6,

1 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for  
2 Education, or Article II of the Tax Reform Code of 1971, that  
3 language shall be deemed a reenactment of such identical  
4 provisions.

5 Section 782. Transfers to Education Stabilization Fund.

6 (a) Legislative intent.--It is the intent of the General  
7 Assembly to increase the rate of the current sales and use tax  
8 and broaden the sales and use tax base in order to provide funds  
9 for the operating expenses of school districts and as a means to  
10 abolish the school property tax.

11 (b) Deposit of sales and use tax collected.--The secretary  
12 shall deposit into the Education Stabilization Fund revenues  
13 received on or after January 1, 2014, regardless of the  
14 transaction date, that equal the portion of the tax imposed by  
15 this chapter as follows:

16 (1) Except as otherwise provided in paragraphs (2) and  
17 (3), 1% of the tax collected on the sales at retail and use  
18 of tangible personal property and services as provided in  
19 section 702.

20 (2) All of the tax collected on the sale at retail of  
21 services under section 702, including those services subject  
22 to the tax as provided under sections 701(k)(4) and (o)(4)  
23 and 704(51).

24 (3) All of the tax collected on expanded sales and uses.

25 (c) Definition.--For purposes of this section, "expanded  
26 sales and uses" means:

27 (1) The sale at retail or use of disposable diapers;  
28 premoistened wipes; incontinence products; colostomy  
29 deodorants; toilet paper; sanitary napkins, tampons or  
30 similar items used for feminine hygiene; or toothpaste,

1 toothbrushes or dental floss.

2 (2) The sale at retail or use of nonprescription  
3 medicines.

4 (3) The sale at retail or use of all vesture, wearing  
5 apparel, raiments, garments, footwear and other articles of  
6 clothing, except as excluded from the tax under section  
7 704(26).

8 (4) The sale at retail or use of food and beverages for  
9 human consumption, except as excluded from the tax under  
10 section 704(29).

11 (5) The sale at retail or use of newspapers. For  
12 purposes of this section, the term "newspaper" shall mean a  
13 "legal newspaper" or a publication containing matters of  
14 general interest and reports of current events which  
15 qualifies as a "newspaper of general circulation" qualified  
16 to carry a "legal advertisement" as those terms are defined  
17 in 45 Pa.C.S. § 101 (relating to definitions), not including  
18 magazines. The term "newspaper" also includes any printed  
19 advertising materials circulated with such newspaper  
20 regardless of where or by whom such printed advertising  
21 material was produced.

22 (6) The sale at retail or use of caskets and burial  
23 vaults for human remains and markers and tombstones for human  
24 graves.

25 (7) The sale at retail or use of flags of the United  
26 States and the Commonwealth of Pennsylvania.

27 (8) The sale at retail or use of textbooks for use in  
28 schools, colleges and universities, either public or private,  
29 when purchased in behalf of or through such schools, colleges  
30 or universities provided such institutions of learning are

1 recognized by the Department of Education.

2 (9) The sale at retail or use of motion picture film  
3 rented or licensed from a distributor for the purpose of  
4 commercial exhibition.

5 (10) The sale at retail or use of mail order catalogs  
6 and direct mail advertising literature or materials,  
7 including electoral literature or materials, such as  
8 envelopes, address labels and a one-time license to use a  
9 list of names and mailing addresses for each delivery of  
10 direct mail advertising literature or materials, including  
11 electoral literature or materials, through the United States  
12 Postal Service.

13 (11) The sale at retail of horses, if at the time of  
14 purchase, the seller is directed to ship or deliver the horse  
15 to an out-of-State location, whether or not the charges for  
16 shipment are paid for by the seller or the purchaser.

17 (12) The sale at retail of supplies and materials to  
18 tourist promotion agencies, which receive grants from the  
19 Commonwealth, for distribution to the public as promotional  
20 material or the use of such supplies and materials by said  
21 agencies for said purposes.

22 (13) The sale at retail or use of materials used in the  
23 construction and erection of objects purchased by not-for-  
24 profit organizations for purposes of commemoration and  
25 memorialization of historical events, provided that the  
26 object is erected upon publicly owned property or property to  
27 be conveyed to a public entity upon the commemoration or  
28 memorialization of the historical event.

29 (14) The sale at retail or use of candy or gum  
30 regardless of the location from which the candy or gum is

1 sold.

2 (15) The sale at retail or use of horses to be used  
3 exclusively for commercial racing activities and the sale at  
4 retail and use of feed, bedding, grooming supplies, riding  
5 tack, farrier services, portable stalls and sulkies for  
6 horses used exclusively for commercial racing activities.

7 (16) The sale at retail to or use by a construction  
8 contractor of building machinery and equipment and services  
9 thereto that are:

10 (i) transferred pursuant to a construction contract  
11 for any charitable organization, volunteer firemen's  
12 organization, volunteer firefighters' relief association,  
13 nonprofit educational institution or religious  
14 organization for religious purposes, provided that the  
15 building machinery and equipment and services thereto are  
16 not used in any unrelated trade or business; or

17 (ii) transferred to the United States or the  
18 Commonwealth or its instrumentalities or political  
19 subdivisions.

20 (17) The sale or use of used prebuilt housing.

21 (18) The sale at retail to or use of food and  
22 nonalcoholic beverages by an airline which will transfer the  
23 food or nonalcoholic beverages to passengers in connection  
24 with the rendering of the airline service.

25 (19) The sale at retail or use of separately stated fees  
26 paid pursuant to 13 Pa.C.S. § 9525 (relating to fees).

27 (20) The sale at retail or use of investment metal  
28 bullion and investment coins. "Investment metal bullion"  
29 means any elementary precious metal which has been put  
30 through a process of smelting or refining, including, but not

1 limited to, gold, silver, platinum and palladium, and which  
2 is in such state or condition that its value depends upon its  
3 content and not its form. "Investment metal bullion" does not  
4 include precious metal which has been assembled, fabricated,  
5 manufactured or processed in one or more specific and  
6 customary industrial, professional, aesthetic or artistic  
7 uses. "Investment coins" means numismatic coins or other  
8 forms of money and legal tender manufactured of gold, silver,  
9 platinum, palladium or other metal and of the United States  
10 or any foreign nation with a fair market value greater than  
11 any nominal value of such coins. "Investment coins" does not  
12 include jewelry or works of art made of coins, nor does it  
13 include commemorative medallions.

14 CHAPTER 9

15 (RESERVED)

16 CHAPTER 11

17 LIMITATIONS ON

18 SCHOOL DISTRICT TAXATION

19 Section 1101. Authority to levy taxes and effect of future  
20 Constitutional amendment.

21 (a) Abrogating authority to impose certain taxes.--

22 (1) The authority of any school district to levy, assess  
23 and collect any real property tax under the Public School  
24 Code of 1949, or any other act shall expire, subject to the  
25 provisions of section 1102, January 1, 2014.

26 (2) The authority of a city of the first class to impose  
27 or continue to provide for the imposition or continuation of  
28 any tax, including, but not limited to, the real property  
29 tax, for the use of a school district of the first class  
30 shall expire in accordance with section 1102(b).

1 (b) Collection of certain taxes unaffected.--The provisions  
2 of this section or any other provision of this act shall not  
3 prevent or interfere with any action of any school district to  
4 collect any tax owed by any taxpayer prior to the repeal of any  
5 law authorizing such tax after such law is repealed pursuant to  
6 this act.

7 (c) Limitations on adoption of personal income taxes and  
8 earned income taxes authorized under Chapter 3.--A school  
9 district that adopts a personal income tax pursuant to Chapter 3  
10 may not adopt an earned income tax. A school district that  
11 adopts an earned income tax under Chapter 3 may not adopt a  
12 personal income tax.

13 Section 1102. Transitional taxes.

14 (a) Transitional taxes for school districts other than  
15 school districts of the first class.--Notwithstanding any other  
16 provision of the Public School Code of 1949 or any other law to  
17 the contrary:

18 (1) Any school district, other than a school district of  
19 the first class, may continue to levy, assess and collect a  
20 real property tax for fiscal year 2013-2014.

21 (2) For all fiscal years beginning after June 30, 2014,  
22 no school district shall have any power or authority to levy,  
23 assess and collect any real property tax, except as necessary  
24 to fund the annual debt service payments for its outstanding  
25 debt in existence on December 31, 2012.

26 (b) Transitional taxes for school districts of the first  
27 class.--Notwithstanding any other provision of the Public School  
28 Code of 1949 or any other law to the contrary:

29 (1) Any school district of the first class and city of  
30 the first class may continue to levy, assess and collect a

1 real property tax and all other taxes in existence on July  
2 31, 2013 at the rates in effect on that date for the use of a  
3 coterminous school district of the first class for fiscal  
4 year 2013-2014. The authority to levy, assess and collect  
5 such taxes for the use of coterminous school districts shall  
6 expire at midnight on December 31, 2013.

7 (2) For all fiscal years beginning after June 30, 2013,  
8 no city of the first class shall have any power or authority  
9 to levy, assess and collect any of the taxes identified under  
10 paragraph (1) for school purposes, except as necessary to  
11 fund the annual debt service payments for its outstanding  
12 debt in existence on December 31, 2012.

13 Section 1103. Consideration of State appropriations or  
14 reimbursements.

15 The personal income or earned income tax levied shall not be  
16 invalidated by reason of the fact that in determining the amount  
17 to be raised by such tax no deduction was made for  
18 appropriations or reimbursements paid or payable by the  
19 Commonwealth to the school district.

20 Section 1104. Taxes for cities and school districts of the  
21 first class.

22 Notwithstanding any other provision of the Public School Code  
23 of 1949 or any other law to the contrary, nothing in this act  
24 shall be construed to limit or impair a city of the first class  
25 from levying, assessing or collecting any tax for municipal  
26 purposes or from increasing the millage for real estate taxes or  
27 revenues if the revenues derived from the real property tax are  
28 used solely for municipal purposes.

29 CHAPTER 12

30 INDEBTEDNESS

1 Section 1201. Expiration of authority to issue debt.

2 No school district, including a school district of the first  
3 class, shall incur any electoral debt, lease rental debt or  
4 nonelectoral debt under 53 Pa.C.S. Pt. VII Subpt. B after the  
5 effective date of this section unless such debt is authorized  
6 under Chapter 3 or any other law.

7 Section 1202. Notices and reporting by school districts of debt  
8 outstanding.

9 (a) Duties.--

10 (1) Each school district, including a school district of  
11 the first class, shall identify the outstanding amount of all  
12 electoral debt, lease rental debt or nonelectoral debt  
13 incurred as of December 31, 2012.

14 (2) On or before September 30, 2013, each school  
15 district, including a school district of the first class,  
16 shall certify and report to the Department of Revenue the  
17 outstanding amount of all electoral debt, lease rental debt  
18 or nonelectoral debt incurred as of December 31, 2012,  
19 together with any information requested by the department in  
20 order for the Commonwealth to comply with requirements of  
21 this section.

22 (b) Audit by Department of Revenue.--

23 (1) The Department of Revenue shall audit each report  
24 submitted under subsection (a) and shall certify the amount  
25 of each report and the total aggregate amount of all reports  
26 to the State Treasurer on or before March 31, 2014.

27 (2) If the Department of Revenue disputes all or any  
28 portion of a report submitted under subsection (a), the  
29 department shall not include such amount in the certification  
30 to the State Treasurer and shall notify the school district

1 in writing of the exclusion from the certification.

2 CHAPTER 13

3 FUNDING PROVISIONS

4 Section 1301. Definitions.

5 The following words and phrases when used in this chapter  
6 shall have the meanings given to them in this section unless the  
7 context clearly indicates otherwise:

8 "Base revenue." The money a school district receives from  
9 school property taxes during fiscal year 2013-2014 less the  
10 amount necessary to fund the annual debt service payments for  
11 its outstanding debt in existence on December 31, 2012.

12 "Cost of living factor." The lesser of:

13 (1) the average annual percentage increase in the  
14 Consumer Price Index for All Urban Consumers (CPI-U) for the  
15 Pennsylvania, New Jersey and Maryland area for the preceding  
16 calendar year; or

17 (2) the percentage increase in sales and use tax  
18 collected under section 702 from the previous calendar year.

19 "Department." The Department of Education of the  
20 Commonwealth.

21 "Fund." The Education Stabilization Fund established in  
22 section 1302.

23 Section 1302. Education Stabilization Fund.

24 (a) Establishment.--The Education Stabilization Fund is  
25 established as a separate fund in the State Treasury.

26 (b) Sources.--The following are the sources of the fund:

27 (1) Money collected by the department under:

28 (i) section 401; or

29 (ii) Chapter 7.

30 (2) All revenue transferred to or received by the

1 property tax relief fund under:

2 (i) 4 Pa.C.S. § 1408(e) (relating to transfers from  
3 State Gaming Fund); and

4 (ii) 4 Pa.C.S. § 1409 (relating to Property Tax  
5 Relief Fund).

6 (3) Appropriations.

7 (4) Return on money in the fund.

8 (c) Use.--The department shall use the fund to make  
9 disbursements under section 1303.

10 (d) Continuing appropriation.--The money of the fund is  
11 hereby continuously appropriated to the department as provided  
12 in this act. This appropriation shall not lapse at the end of  
13 any fiscal year.

14 Section 1303. Standard disbursements to school districts from  
15 Education Stabilization Fund.

16 (a) General rule.--In fiscal year 2014-2015, the department  
17 shall make disbursements to each school district as follows:

18 (1) Ascertain base revenue.

19 (2) Multiply:

20 (i) the amount ascertained under paragraph (1); by

21 (ii) the cost of living factor.

22 (3) Divide:

23 (i) the product under paragraph (2); by

24 (ii) four.

25 (4) Each quarter, disburse the quotient under paragraph  
26 (3).

27 (b) Annual adjustment.--In fiscal year 2015-2016 and each  
28 fiscal year thereafter, the department shall make disbursements  
29 to each school district as follows:

30 (1) Take the amount received in the prior fiscal year

1 under this section.

2 (2) Multiply:

3 (i) the amount ascertained under paragraph (1); by

4 (ii) the cost of living factor.

5 (3) Divide:

6 (i) the product under paragraph (2); by

7 (ii) four.

8 (4) Each quarter, disburse the quotient under paragraph

9 (3).

10 CHAPTER 15

11 MISCELLANEOUS PROVISIONS

12 Section 1501. Transitional provision.

13 (a) Sales and use tax.--Notwithstanding the repeal of  
14 Article II of the Tax Reform Code of 1971, under section 1504,  
15 the department shall have the authority to enforce the  
16 collection of taxes imposed for transactions that occur prior to  
17 the effective date of this section under former Article II of  
18 the Tax Reform Code of 1971. The taxes collected after January  
19 1, 2014, regardless of the transaction date, shall be deposited  
20 as provided in section 782.

21 (b) Other taxes.--Notwithstanding the repeal of any  
22 provision of the Public School Code of 1949 or of any other law  
23 authorizing school districts to impose taxes, a governing body  
24 shall have the authority to enforce, after the effective date of  
25 the repeal, the collection of taxes levied and assessed under  
26 those former provisions prior to the effective date of the  
27 repeal under section 1504.

28 Section 1502. Construction.

29 Any and all references in any other act to Article II or any  
30 provision in Article II of the Tax Reform Code of 1971 shall be

1 deemed a reference to Chapter 7 of this act or the corresponding  
2 provisions in Chapter 7 of this act.

3 Section 1503. Severability.

4 The provisions of this act are severable as follows:

5 (1) If any provision of this act is held invalid, the  
6 invalidity shall not affect other provisions or applications  
7 of this act which can be given effect without the invalid  
8 provision or application.

9 (2) Under no circumstances shall the invalidity of any  
10 provision or application of this act affect the validity of  
11 any provision in this act that abolishes the power of the  
12 governing body and any school district and city of the first  
13 class or any other political subdivision to levy, assess or  
14 collect a tax on any interest in real property for school  
15 purposes.

16 Section 1504. Repeals.

17 (a) Intent.--The General Assembly declares that the repeals  
18 under subsection (b) are necessary to effectuate this act.

19 (b) Provisions.--The following acts and parts of acts are  
20 repealed:

21 (1) Section 631 of the act of March 10, 1949 (P.L.30,  
22 No.14), known as the Public School Code of 1949, is repealed.

23 (2) Any provision of the Public School Code of 1949 and  
24 of any other law relating to the authority of any school  
25 district to levy, assess and collect any tax on real property  
26 and the power of any city of the first class to levy, assess  
27 and collect any tax real property for school purposes is  
28 repealed upon the expiration of the respective schedule  
29 prescribed in sections 1101 and 1102.

30 (3) Any provision of the act of the Public School Code

1 of 1949 and any other law relating to debt is repealed to the  
2 extent that it is inconsistent with this act.

3 (4) Any provision of the Public School Code of 1949 and  
4 any home rule charter adopted pursuant thereto is repealed  
5 insofar as it is inconsistent with this act.

6 (5) Any provision of the act of August 9, 1963 (P.L.643,  
7 No.341), known as the First Class City Public Education Home  
8 Rule Act, and any home rule school district charter adopted  
9 pursuant thereto is repealed insofar as it is inconsistent  
10 with this act.

11 (6) Article II of the act of March 4, 1971 (P.L.6,  
12 No.2), known as the Tax Reform Code of 1971, is repealed.

13 (7) All acts and parts of acts that are inconsistent  
14 with this act are repealed to the extent of such  
15 inconsistency.

16 Section 1505. Applicability.

17 Section 1504(b)(6) and Chapter 7 shall apply January 1, 2014.

18 Section 1506. Effective date.

19 This act shall take effect as follows:

20 (1) Section 1504(b)(2) and (7) and Chapters 3 and 4  
21 shall take effect January 1, 2014.

22 (2) The remainder of this act shall take effect  
23 immediately.