

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2332 Session of
2020

INTRODUCED BY OBERLANDER, PICKETT, JAMES, MILLARD, YOUNGBLOOD,
PYLE, WILLIAMS AND SANKEY, MARCH 5, 2020

REFERRED TO COMMITTEE ON FINANCE, MARCH 5, 2020

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in sales and use tax, further providing for
11 definitions and for exclusions from tax; and, in computer
12 data center equipment incentive program, further providing
13 for application and for limitations.

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

16 Section 1. Sections 201 and 204 of the act of March 4, 1971
17 (P.L.6, No.2), known as the Tax Reform Code of 1971, are amended
18 by adding clauses to read:

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

23 * * *

1 (mmm) "Computer data center." All or part of a facility
2 that may be composed of one or more businesses, owners or
3 tenants, that is or will be predominantly used to house working
4 servers or similar data storage systems and that may have
5 uninterruptible energy supply or generator backup power, or
6 both, cooling systems, towers and other temperature control
7 infrastructure.

8 (nnn) "Computer data center equipment." Equipment that is
9 used to outfit, operate or benefit a computer data center and
10 component parts, installations, refreshments, replacements and
11 upgrades to the equipment, regardless of whether any of the
12 equipment is affixed to or incorporated into real property,
13 including any of the following:

14 (1) Equipment necessary for the transformation, generation,
15 distribution or management of electricity that is required to
16 operate computer servers or similar data storage equipment,
17 including uninterruptible energy supplies, generators, conduit,
18 gaseous fuel piping, cabling, duct banks, switches,
19 switchboards, batteries and testing equipment.

20 (2) Equipment necessary to cool and maintain a controlled
21 environment for the operation of computer servers or data
22 storage systems and other components of a computer data center,
23 including mechanical equipment, refrigerant piping, gaseous fuel
24 piping, adiabatic and free cooling systems, cooling towers,
25 water softeners, air handling units, indoor direct exchange
26 units, fans, ducting and filters.

27 (3) Water conservation systems, including facilities or
28 mechanisms that are designed to collect, conserve and reuse
29 water.

30 (4) Software, including, but not limited to, enabling

software and licensing agreements, computer servers or similar data storage equipment, chassis, networking equipment, switches, racks, cabling, trays and conduits.

(5) Monitoring equipment and security systems.

(6) Modular data centers and preassembled components of any item described under this clause, including components used in the manufacturing of modular data centers.

(7) Other tangible personal property that is essential to the operations of a computer data center.

(ooo) "Telecommunications provider." A provider of telecommunications services.

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

* * *

(74) The sale at retail or use of computer data center equipment for installation in a computer data center. The exclusion under this clause shall not apply to any of the following:

(i) A telecommunications provider's computer data center where retail or wholesale customers are not being billed or paying for services and a majority of services are from internal services to the telecommunications provider or the telecommunications provider's subsidiaries.

(ii) Computer data center equipment used by a computer data center to generate electricity for resale purposes to a public utility or to generate, provide or sell more than five percent of the computer data center's electricity outside of the computer data center.

Section 2. Section 2913-D(a) of the act is amended and the section is amended by adding a subsection to read:

1 Section 2913-D. Application.

2 (a) General rule.--[An] Except as provided under subsection
3 (c), an owner, operator or qualified tenant may apply for a tax
4 refund under this article on or before July 30, 2017, and each
5 July 30 thereafter.

6 * * *

7 (c) Limitation.--An owner, operator or qualified tenant may
8 not apply for a tax refund under this article after April 30,
9 2020.

10 Section 3. Section 2914-D of the act is amended by adding a
11 subsection to read:

12 Section 2914-D. Limitations.

13 * * *

14 (c) Expiration.--The department may not approve a tax refund
15 under this article after June 30, 2020.

16 Section 4. This act shall take effect as follows:

17 (1) The following shall take effect July 1, 2020, or
18 immediately, whichever is later:

19 (i) The addition of section 201(mmm), (nnn) and
20 (ooo) of the act.

21 (ii) The addition of section 204(74) of the act.

22 (2) The remainder of this act shall take effect
23 immediately.