

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 13 Session of 2022

INTRODUCED BY RYAN, FEBRUARY 24, 2022

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 24, 2022

AN ACT

1 Amending Titles 53 (Municipalities Generally) and 72 (Taxation  
 2 and Fiscal Affairs) of the Pennsylvania Consolidated  
 3 Statutes, eliminating school district property taxes;  
 4 imposing county and school district taxes; establishing the  
 5 School District Emergency Fund and the School District  
 6 Property Tax Elimination Fund; consolidating Articles II and  
 7 III of the Tax Reform Code of 1971; in preliminary provisions  
 8 relating to sales and use tax, providing for definitions; in  
 9 taxation generally relating to sales and use tax, providing  
 10 for exclusions and for transfer to county sales and use tax  
 11 accounts; and, in preliminary provisions relating to personal  
 12 income tax, providing for definitions; and making related  
 13 repeals.

14 This act may be referred to as the School Property Tax  
 15 Elimination Act.

16 The General Assembly finds and declares as follows:

17 (1) School district property taxes are a fixed expense  
 18 for property owners, which creates an unsustainable and  
 19 regressive system of taxation impacting our fundamental  
 20 rights of life, liberty and property. School district  
 21 property taxes are not reflective of a property owner's  
 22 ability to pay and are regressive in nature.

23 (2) The current rate of increase of school district  
 24 property taxes is unsustainable due to factors frequently

1 beyond the control of local school officials and school  
2 boards, including underfunded pensions, rapidly escalating  
3 health care costs, more complex educational requirements for  
4 students and unfunded mandates.

5 (3) School district property taxes impact individuals  
6 differently. For example, if spouses are retired and one  
7 spouse passes away, the income reduction caused by the death  
8 is immediate, but the school district property tax burden  
9 remains unchanged. Other factors impacting older  
10 Pennsylvanians' ability to bear the burden of school district  
11 property taxes include the amount of financial assets in  
12 retirement, health, mobility and the proximity of family  
13 members. School district property taxes are problematic for  
14 working families as well, with young working families bearing  
15 the brunt of funding the State while managing such financial  
16 burdens as income taxes, exploding health care coverage costs  
17 and day care expenses.

18 (4) This Commonwealth faces an additional risk through  
19 its tax structure and limited job creation, as young working  
20 families continue to relocate from this Commonwealth, partly  
21 as a result of Pennsylvania's tax system being specifically  
22 geared to taxation of income from working citizens, with  
23 retirement income not being taxed.

24 (5) The Independent Fiscal Office reports that  
25 Pennsylvania is attracting more seniors as residents because  
26 of the tax status in this Commonwealth of retirement income,  
27 particularly when compared to neighboring states.

28 (6) The demographic changes to this Commonwealth, fueled  
29 by the combination of the exodus of younger people from this  
30 Commonwealth and the migration of older people into this

1 Commonwealth, have precipitated a growing financial crisis.

2 (7) School districts are fixed cost-intensive operations  
3 and seek stability in funding through property taxes, but the  
4 predictability and certainty of school district property  
5 taxes create contradictory impacts on property owners in  
6 meeting their tax obligations.

7 (8) School district property tax reform must be  
8 accomplished in an equitable manner in the form of the total  
9 elimination of school district property taxes for residential  
10 and commercial properties. Businesses in this Commonwealth  
11 alone cannot and should not bear the financial burden caused  
12 by the elimination of school district property taxes on  
13 residential property only. (See 53 Pa.C.S. § 9011(a).)

14 (9) School district property tax reform must also  
15 include rental properties, whereby each landlord must reduce  
16 rental payments required of each residential or commercial  
17 tenant in an amount equal to the reduction of taxes on real  
18 property attributable to a tenant's unit. (See 53 Pa.C.S. §  
19 9017.)

20 (10) This act provides for the elimination of school  
21 district property taxes through the following:

22 (i) An increase in the sales, use and occupancy  
23 taxes, whereby a new or additional 2% tax shall be  
24 imposed on certain items and that money distributed to  
25 each county of this Commonwealth, which shall disburse  
26 money to school districts within the county from the  
27 School District Property Tax Elimination Fund. (See 53  
28 Pa.C.S. Ch. 90A Subchs. C and F.) For this purpose,  
29 certain exclusions from taxation are eliminated,  
30 including certain clothing, food and beverages. (See 53

1 Pa.C.S. § 90A22(b.1).)

2 (ii) The imposition by each school district of a  
3 local tax on the personal income of resident taxpayers of  
4 the school district up to a maximum rate of 1.85%, the  
5 revenue from which shall be collected by and be solely  
6 for the use of school districts. (See 53 Pa.C.S. Ch. 90A  
7 Subch. D.) For this purpose, compensation is expanded to  
8 include taxation of old age or retirement benefits, with  
9 the exception of Social Security benefits. (See the  
10 definition of "compensation" in 72 Pa.C.S. § 2102, which  
11 effectuates these changes.)

12 (11) This act is not intended to reduce expenditures  
13 made to school districts in this Commonwealth. The purpose of  
14 this act is to shift a source of local school district  
15 funding away from school district property taxes in a manner  
16 that does not negatively impact school districts.

17 The General Assembly of the Commonwealth of Pennsylvania  
18 hereby enacts as follows:

19 Section 1. Title 53 of the Pennsylvania Consolidated  
20 Statutes is amended by adding chapters to read:

21 CHAPTER 90

22 SCHOOL DISTRICT PROPERTY TAX ELIMINATION

23 Subchapter

24 A. Preliminary Provisions

25 B. Administration

26 SUBCHAPTER A

27 PRELIMINARY PROVISIONS

28 Sec.

29 9001. Scope of chapter.

30 9002. Definitions.

1 § 9001. Scope of chapter.

2 This chapter relates to school district property tax  
3 elimination.

4 § 9002. 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 year." The first fiscal year of a school district  
9 beginning after June 30, 2024.

10 "Board." The School District Property Tax Elimination  
11 Appeals Board.

12 "Department." The Department of Education of the  
13 Commonwealth.

14 "Earned income tax." A tax on earned income and net profits  
15 levied under:

16 (1) the act of June 27, 2006 (1st Sp.Sess., P.L.1873,  
17 No.1), known as the Taxpayer Relief Act; or

18 (2) the act of October 15, 2008 (P.L.1615, No.130).

19 "Emergency fund." The School District Emergency Fund  
20 established under section 9013 (relating to School District  
21 Emergency Fund).

22 "Fund." The School District Property Tax Elimination Fund  
23 established under section 90A51 (relating to School District  
24 Property Tax Elimination Fund).

25 "Secretary." The Secretary of Education of the Commonwealth.

26 SUBCHAPTER B

27 ADMINISTRATION

28 Sec.

29 9011. Prohibition.

30 9012. School District Property Tax Elimination Appeals Board.

1 9013. School District Emergency Fund.

2 9014. Supplemental funding.

3 9015. Excess money.

4 9016. Effect on basic education funding allocation.

5 9017. Rent reductions.

6 9018. Training.

7 § 9011. Prohibition.

8 (a) General rule.--Except as provided in subsection (b), for  
9 the first fiscal year of a school district beginning after  
10 December 31, 2024, and each fiscal year of the school district  
11 thereafter, the school district may not levy, assess or collect  
12 real property taxes.

13 (b) Exception.--Subsection (a) shall not apply to the  
14 collection of delinquent taxes.

15 (c) Penalty.--During any attempt after the prohibition under  
16 subsection (a), by a school district to reinstate real property  
17 taxes or levy against real property, the school district may  
18 not:

19 (1) Receive any future disbursements through the fund.

20 (2) Impose a personal income tax under Subchapter D of  
21 Chapter 90A (relating to personal income tax).

22 § 9012. School District Property Tax Elimination Appeals Board.

23 (a) Establishment.--The School District Property Tax  
24 Elimination Appeals Board is established.

25 (b) Composition.--The board shall consist of the following  
26 members:

27 (1) Two representatives of the department, to be  
28 appointed by the secretary.

29 (2) A representative of the Pennsylvania State Education  
30 Association, to be appointed by the secretary.

1           (3) A representative of the Pennsylvania Association of  
2 School Business Officials, to be appointed by the secretary.

3           (4) A representative of the Pennsylvania School Boards  
4 Association, to be appointed by the secretary.

5           (5) An individual appointed by the President pro tempore  
6 of the Senate.

7           (6) An individual appointed by the Majority Leader of  
8 the Senate.

9           (7) An individual appointed by the Minority Leader of  
10 the Senate.

11           (8) An individual appointed by the Speaker of the House  
12 of Representatives.

13           (9) An individual appointed by the Majority Leader of  
14 the House of Representatives.

15           (10) An individual appointed by the Minority Leader of  
16 the House of Representatives.

17           (c) Chairperson.--The secretary shall appoint a chairperson  
18 of the board, who shall be one of the representatives of the  
19 department.

20           (d) Compensation.--Members of the board shall not be  
21 entitled to compensation for their services as members but shall  
22 be entitled to reimbursement for actual and necessary travel  
23 expenses.

24           (e) Vacancies.--A vacancy on the board shall be filled in  
25 the same manner as the original appointment.

26           (f) Quorum.--A majority of the appointed members of the  
27 board shall constitute a quorum. Action may be taken by the  
28 board at a meeting upon a vote of a quorum of its members  
29 present in person or through electronic means.

30           (g) Meetings.--

1           (1) The board shall hold the board's first meeting  
2 within 30 days of the effective date of this section.

3           (2) The board shall meet at the call of the chairperson  
4 or as otherwise provided by the board.

5           (3) Meetings of the board shall be subject to the  
6 requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

7           (h) Administrative support.--The department shall provide  
8 administrative support, meeting space, data, research and any  
9 other assistance or information required by the board to carry  
10 out the board's duties.

11           (i) Duties.--The board shall:

12           (1) Provide information to counties and school districts  
13 regarding the use of the fund and the requirements under this  
14 chapter.

15           (2) During the base year and the first three fiscal  
16 years immediately following the base year, periodically  
17 evaluate the finances of each school district in this  
18 Commonwealth to determine whether the school district is  
19 negatively impacted as a result of the elimination of school  
20 district property taxes and the replacement of that revenue  
21 through disbursements from the fund.

22           (3) Make a determination as to a request for  
23 supplemental funding under section 9014 (relating to  
24 supplemental funding).

25 § 9013. School District Emergency Fund.

26           (a) Establishment.--The School District Emergency Fund is  
27 established as a separate fund in the State Treasury.

28           (b) Purpose.--The emergency fund shall be used to make  
29 disbursements at a time and in a manner determined by the board  
30 in accordance with section 9014 (relating to supplemental

1 funding).

2 (c) Funding.--

3 (1) The sum of \$500,000,000 is appropriated from the  
4 General Fund to the emergency fund for the fiscal years July  
5 1, 2022, to June 30, 2024. The appropriation shall be a  
6 continuing appropriation and shall not lapse. The  
7 appropriation shall be allocated as follows:

8 (i) For fiscal year 2022-2023, \$250,000,000.

9 (ii) For fiscal year 2023-2024, \$250,000,000.

10 (2) For fiscal year 2024-2025, and each fiscal year  
11 thereafter, the department shall transfer the amount remitted  
12 under subsection (d) to the emergency fund. A school district  
13 may not receive supplemental funding under section 9014 in an  
14 amount in excess of the amount contained in the school  
15 district's segregated account under subsection (d)(3) plus  
16 any funds remaining from the appropriations under paragraph  
17 (1).

18 (d) Remittance.--

19 (1) By August 1, 2024, and each August 1 thereafter,  
20 each school district shall submit one quarter of 1% of the  
21 school district's budget for that school year to the  
22 department.

23 (2) By September 1, 2024, and each September 1  
24 thereafter, the department shall transfer the amount remitted  
25 under paragraph (1) to the emergency fund.

26 (3) The amount transferred under paragraph (2) shall be  
27 segregated in the emergency fund by accounts for each  
28 separate school district.

29 § 9014. Supplemental funding.

30 (a) Application.--

1       (1) A school district that is negatively impacted as a  
2 result of the elimination of school district property taxes  
3 and the replacement of that revenue through disbursements  
4 from the fund may apply to the board for special  
5 consideration of additional supplemental funding to the  
6 school district because the school district faces unforeseen  
7 or exigent financial circumstances.

8       (2) The request for supplemental funding shall specify  
9 the reasons and amount of the request, along with any course  
10 of action that may mitigate the request.

11       (b) Review and determination.--The board shall, in a timely  
12 manner, review the application under subsection (a) and  
13 determine the amount of supplemental funding to be received by  
14 the school district from the emergency fund.

15       (c) Absence of reciprocity agreement.--Upon application  
16 under subsection (a), money in the General Fund shall be paid to  
17 the school district to offset a revenue loss to the school  
18 district due to the absence of an income tax reciprocity  
19 agreement between the Commonwealth and another state. The board  
20 shall determine the amount of the payment based on the amount of  
21 residential real property tax levied and assessed by the school  
22 district in the base year.

23       (d) Notice.--The board shall notify the school district in  
24 writing of its determination.

25       § 9015. Excess money.

26       If, as a result of the disbursements made through the fund, a  
27 school district receives more money during a fiscal year than  
28 the amount under the school district budget approved by the  
29 school district's board of school directors for that fiscal  
30 year, the school district shall reduce the earned income tax

1 imposed by the school district or reduce any indebtedness of the  
2 school district by the difference between the amount of the fund  
3 disbursements and the amount under the school district budget.  
4 § 9016. Effect on basic education funding allocation.

5 This chapter is not intended to alter the basic education  
6 funding allocation.

7 § 9017. Rent reductions.

8 (a) Amount of reduction.--Each landlord shall reduce rental  
9 payments required of each residential or commercial tenant in an  
10 amount equal to the reduction of taxes on real property  
11 attributable to the tenant's unit unless the landlord can  
12 confirm by a written disclosure that prior property tax  
13 increases over the past five years were not passed to each  
14 tenant. The amount of tax reduction attributable to each unit  
15 shall be based upon allocated square footage occupied or other  
16 reasonable criteria. The rental amount specified in a lease  
17 shall reflect any reduction in real property taxes under this  
18 chapter.

19 (b) Calculation.--The rental reduction per rental payment  
20 shall be calculated by dividing the total real property tax  
21 reduction applicable to the real property leased by the tenant  
22 by the number of payments required of the tenant during that tax  
23 year. In cases where more than one rental unit is situated upon  
24 a tract of real estate affected by the tax reduction, the  
25 landlord shall reduce the rent of each tenant in a proportion  
26 equal to the total amount of rent that the rental unit leased by  
27 the tenant bears to the total amount of rent of all rental units  
28 situated upon the tract of real estate.

29 (c) Time of reduction.--A landlord shall reduce the rental  
30 payments required of each tenant commencing with the first date

1 on which the tenant is required to pay rent subsequent to the  
2 effective date of the elimination of the school real property  
3 tax and ending on the last date the tenant is required to pay  
4 rent under the lease. If a lease is on a month-to-month basis,  
5 rental payments shall only be reduced for the first month during  
6 which the tenant is required to pay rent subsequent to the  
7 effective date of the elimination of the school real property  
8 tax.

9 (d) Applicability.--This section shall apply to leases  
10 entered into before, on or after the effective date of this  
11 section.

12 (e) Taxability.--Notwithstanding any other provision of law,  
13 a reduction in rent provided under this section shall not be  
14 taxable.

15 § 9018. Training.

16 The following may provide training regarding budget and  
17 financial management for school district officials as a result  
18 of the implementation of the fund:

19 (1) The board.

20 (2) An institution of higher education, as defined in  
21 section 118(c) of the act of March 10, 1949 (P.L.30, No.14),  
22 known as the Public School Code of 1949, that has expertise  
23 in financial management, budgeting, treasury operations and  
24 forecasting.

25 CHAPTER 90A

26 COUNTY AND SCHOOL DISTRICT TAXES

27 Subchapter

28 A. Preliminary Provisions

29 B. Subjects of Taxation

30 C. Sales and Use Tax

- 1     D. Personal Income Tax
- 2     E. Credits and Exemptions
- 3     F. Disbursement

4                                   SUBCHAPTER A

5                                   PRELIMINARY PROVISIONS

6     Sec.

7     90A01. Scope of chapter.

8     90A02. Definitions.

9     90A03. Scope and limitations.

10    § 90A01. Scope of chapter.

11        This chapter relates to county tax imposition.

12    § 90A02. Definitions.

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

16        "Base year." As defined in section 9002 (relating to  
17 definitions).

18        "Board of county commissioners." Includes the successor in  
19 function to the board of county commissioners in a county which  
20 has adopted a home rule charter under the former act of April  
21 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and  
22 Optional Plans Law, or under Subpart E of Part III (relating to  
23 home rule and optional plan government).

24        "County." A county-level municipality within this  
25 Commonwealth, regardless of classification. The term includes a  
26 county which has adopted a home rule charter or optional plan of  
27 government under the former Home Rule Charter and Optional Plans  
28 Law or under Subpart E of Part III.

29        "County sales and use tax account." The separate account  
30 established in the fund for each county under section 90A52(b)

1 (relating to payments to counties).

2 "Current year." The calendar year or fiscal year for which  
3 the tax is levied.

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

5 "Domicile." As defined in section 501 of the Local Tax  
6 Enabling Act.

7 "Fund." The School District Property Tax Elimination Fund  
8 established under section 90A51 (relating to School District  
9 Property Tax Elimination Fund).

10 "Governing body." The board of county commissioners,  
11 including the successor in function to the board of county  
12 commissioners in a county which has adopted a home rule charter  
13 under the former Home Rule Charter and Optional Plans Law or  
14 under Subpart E of Part III.

15 "Individual." As defined in 72 Pa.C.S. § 2102 (relating to  
16 definitions).

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

19 "Ordinance." Includes a resolution.

20 "Personal income." Income enumerated in 72 Pa.C.S. § 2203  
21 (relating to classes of income) as returned to and ascertained  
22 by the department, subject, however, to any correction thereof  
23 for fraud, evasion or error as finally ascertained by the  
24 Commonwealth.

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

27 "Taxpayer." An individual required under this chapter to  
28 file a tax return or to pay a tax.

29 § 90A03. Scope and limitations.

30 It is the intent of this chapter to require each county and

1 school district to levy, assess and collect taxes.

2 SUBCHAPTER B

3 SUBJECTS OF TAXATION

4 Sec.

5 90A11. General tax authorization.

6 90A12. Continuity of tax.

7 § 90A11. General tax authorization.

8 (a) County.--Each county shall by ordinance levy, assess and  
9 collect or provide for the levying, assessment and collection of  
10 taxes on the subjects specified under this chapter within the  
11 geographical limits of the county.

12 (b) School district.--Each school district shall by  
13 resolution levy, assess and collect or provide for the levying,  
14 assessment and collection of taxes on the subjects specified  
15 under this chapter within the geographical limits of the school  
16 district.

17 (c) Local Tax Enabling Act.--

18 (1) Nothing under section 305 of the Local Tax Enabling  
19 Act shall be construed to require the vacation of an  
20 ordinance or resolution passed under the authority of Chapter  
21 3 of the Local Tax Enabling Act as a result of the assessment  
22 and collection of taxes on the subjects specified under this  
23 chapter.

24 (2) The assessment and collection of taxes on the  
25 subjects specified under this chapter shall not apply to the  
26 provisions of section 311 of the Local Tax Enabling Act.

27 (3) The calculation of the aggregate amount of taxes  
28 under section 320 of the Local Tax Enabling Act shall not  
29 include any revenues derived from the assessment and  
30 collection of taxes on the subjects specified under this

1 chapter.

2 § 90A12. Continuity of tax.

3 Each tax levied under this chapter shall continue in force on  
4 a calendar or fiscal year basis, as the case may be, without  
5 annual reenactment unless the rate of tax is increased or the  
6 tax is subsequently repealed.

7 SUBCHAPTER C

8 SALES AND USE TAX

9 Sec.

10 90A21. Construction.

11 90A22. Imposition.

12 90A23. Situs.

13 90A24. Licenses.

14 90A25. Rules and regulations and collection costs.

15 90A26. Procedure and administration.

16 § 90A21. Construction.

17 The tax imposed by the governing body under this subchapter  
18 shall be in addition to any tax imposed by the Commonwealth  
19 under 72 Pa.C.S. Pt. II Subpt. A (relating to sales and use  
20 tax). Except for the differing situs provisions under section  
21 90A23 (relating to situs), the provisions of 72 Pa.C.S. Pt. II  
22 Subpt. A shall apply to the tax.

23 § 90A22. Imposition.

24 (a) Sales.--Each governing body shall, beginning October 1,  
25 2024, levy and assess on each separate sale at retail of  
26 tangible personal property or services, as defined in 72 Pa.C.S.  
27 § 1102 (relating to definitions), within the boundaries of the  
28 county, a tax on the purchase price. The tax shall be collected  
29 by the vendor from the purchaser and shall be paid over to the  
30 Commonwealth.

1 (b) Use.--Each governing body shall, beginning October 1,  
2 2024, levy and assess a tax on the use, within the county, of  
3 tangible personal property purchased at retail and on services  
4 purchased at retail, as defined in 72 Pa.C.S. § 1102, on the  
5 purchase price. The tax shall be paid over to the Commonwealth  
6 by the person who makes the use. The use tax imposed under this  
7 subchapter shall not be paid over to the Commonwealth by any  
8 person who has paid the tax imposed under:

9 (1) Subsection (a).

10 (2) This subsection to the vendor with respect to the  
11 use.

12 (b.1) Subjects of taxation.--Notwithstanding any exclusion  
13 from sales and use tax under 72 Pa.C.S. Pt. II Subpt. A  
14 (relating to sales and use tax), the tax under subsections (a)  
15 and (b) may be imposed on the following:

16 (1) The sale at retail or use of clothing and other  
17 related items, as specified in 72 Pa.C.S. § 1321(17)(ii)  
18 (relating to exclusions), except the sale at retail or use of  
19 used clothing, if the clothing is sold by an institution or  
20 organization that has received a determination of exception  
21 from the Internal Revenue Service under section 501(c)(3) of  
22 the Internal Revenue Code of 1986, as amended (26 U.S.C. §  
23 501(c)(3)). The following apply:

24 (i) The exemption granted under this paragraph shall  
25 be limited to institutions or organizations that are not  
26 organized or operated for profit, and no part of the net  
27 earnings of which inures to the benefit of any private  
28 shareholder or individual.

29 (ii) No institution or organization shall be exempt  
30 under this paragraph, unless the institution or

1 organization shall have issued to it by the department an  
2 exemption certificate declaring that the institution or  
3 organization is entitled to the exemption provided for by  
4 this paragraph.

5 (iii) All proceeds from sales exempted under this  
6 paragraph must be for section 501(c)(3) purposes.

7 (2) The sale at retail of food and beverages, as  
8 specified in 72 Pa.C.S. § 1321(19)(ii).

9 (3) The sale at retail or use of candy or gum, as  
10 specified in 72 Pa.C.S. § 1321(40).

11 (c) Occupancy.--In any county within which a tax authorized  
12 by subsection (a) is imposed, there shall be levied, assessed  
13 and collected an excise tax on the rent on each occupancy of a  
14 room in a hotel in the county. The tax shall be collected by the  
15 operator or owner from the occupant and paid over to the  
16 Commonwealth.

17 (d) Rate and uniformity.--

18 (1) The tax under subsections (a), (b) and (c) shall be  
19 imposed at a rate of 2%.

20 (2) The tax imposed by subsections (a), (b) and (c)  
21 shall be uniform.

22 (e) Computation.--The tax imposed under this section shall  
23 be computed in the same manner under section 503(e)(2) of the  
24 act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
25 Intergovernmental Cooperation Authority Act for Cities of the  
26 First Class.

27 (f) Deposit.--Taxes collected under this section shall be  
28 deposited into the fund.

29 § 90A23. Situs.

30 (a) General rule.--Except as provided under subsections (b)

1 and (c), the situs of sales at retail or uses, including leases,  
2 of motor vehicles, aircraft, motorcraft and utility services  
3 shall be determined in the manner specified by section 504 of  
4 the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
5 Intergovernmental Cooperation Authority Act for Cities of the  
6 First Class, and 72 Pa.C.S. Pt. II Subpt. A (relating to sales  
7 and use tax).

8 (b) Premium cable services.--The sale or use of premium  
9 cable service shall be deemed to occur at the service address in  
10 the county which is the address where the customer cable  
11 connection is located. This subsection shall determine the situs  
12 of premium cable service for the purpose of all local sales  
13 taxes, including those imposed under Chapter 5 of the  
14 Pennsylvania Intergovernmental Cooperation Authority Act for  
15 Cities of the First Class and under Subdivision (e) of Article  
16 XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as  
17 the Second Class County Code.

18 (c) Telecommunications service.--The situs of  
19 telecommunications service under this chapter shall be  
20 determined in accordance with regulations adopted by the  
21 department, which shall be uniform among all counties, and shall  
22 be consistent with regulations promulgated under Subdivision (e)  
23 of Article XXXI-B of the Second Class County Code, 72 Pa.C.S.  
24 Pt. II Subpt. A and Chapter 5 of the Pennsylvania  
25 Intergovernmental Cooperation Authority Act for Cities of the  
26 First Class.

27 § 90A24. Licenses.

28 A license for the collection of the tax imposed by this  
29 subchapter shall be issued in the same manner as is provided for  
30 in section 505 of the act of June 5, 1991 (P.L.9, No.6), known

1 as the Pennsylvania Intergovernmental Cooperation Authority Act  
2 for Cities of the First Class. Licensees shall be entitled to  
3 the same discount as provided in 72 Pa.C.S. § 1526 (relating to  
4 discount).

5 § 90A25. Rules and regulations and collection costs.

6 (a) Regulations.--Rules and regulations shall be applicable  
7 to the taxes imposed under section 90A23 (relating to situs) in  
8 the same manner as is provided under section 506(1) and (2) of  
9 the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
10 Intergovernmental Cooperation Authority Act for Cities of the  
11 First Class.

12 (b) Administrative costs.--The department, to cover its  
13 costs of administration under this subchapter, shall be entitled  
14 to retain a sum equal to the costs of administration. When the  
15 annual operating budget for the department is submitted to the  
16 General Assembly, the department shall also submit to the  
17 chairperson and minority chairperson of the Appropriations  
18 Committee of the Senate and to the chairperson and minority  
19 chairperson of the Appropriations Committee of the House of  
20 Representatives a report of the actual sums retained for costs  
21 of collection in the preceding fiscal year, together with all  
22 supporting details.

23 § 90A26. Procedure and administration.

24 Prior to adopting an ordinance imposing a tax under this  
25 chapter, the governing body shall give public notice of its duty  
26 to adopt the ordinance in the manner provided by section 306 of  
27 the Local Tax Enabling Act.

28 SUBCHAPTER D

29 PERSONAL INCOME TAX

30 Sec.

1 90A31. Construction.  
2 90A32. Local personal income tax.  
3 90A33. Collections.  
4 90A34. Rules and regulations.  
5 90A35. Procedure and administration.

6 § 90A31. Construction.

7 The tax imposed by the school district under this subchapter  
8 shall be in addition to any tax imposed by the Commonwealth  
9 under 72 Pa.C.S. Pt. II Subpt. B (relating to personal income  
10 tax). Except for the differing provisions under sections 90A41  
11 (relating to credits), 90A42 (relating to low-income tax  
12 provisions) and 90A43 (relating to regulations), the provisions  
13 of 72 Pa.C.S. Pt. II Subpt. B shall apply to the tax.

14 § 90A32. Local personal income tax.

15 Each school district shall adopt a resolution to, beginning  
16 October 1, 2024, levy, assess and collect a local tax on the  
17 personal income of resident taxpayers of the school district up  
18 to a maximum rate of 1.85%.

19 § 90A33. Collections.

20 Each school district imposing a tax under section 90A32  
21 (relating to local personal income tax) shall designate the tax  
22 officer who is appointed under section 507 of the Local Tax  
23 Enabling Act, or otherwise by law, as the collector of the tax.  
24 In the performance of the tax collection duties under this  
25 subchapter, the designated tax officer shall have all the same  
26 powers, rights, responsibilities and duties for the collection  
27 of the taxes which may be imposed under the Local Tax Enabling  
28 Act or as otherwise provided by law.

29 § 90A34. Rules and regulations.

30 Taxes imposed under section 90A32 (relating to local personal

1 income tax) shall be subject to the rules and regulations  
2 adopted by the department under Article III of the Tax Reform  
3 Code.

4 § 90A35. Procedure and administration.

5 Prior to adopting the resolution imposing the tax under  
6 section 90A32 (relating to local personal income tax), the  
7 school district shall give public notice of its duty to adopt  
8 the resolution in the manner provided by section 306 of the  
9 Local Tax Enabling Act.

10 SUBCHAPTER E

11 CREDITS AND EXEMPTIONS

12 Sec.

13 90A41. Credits.

14 90A42. Low-income tax provisions.

15 90A43. Regulations.

16 § 90A41. Credits.

17 The provisions of section 317 of the Local Tax Enabling Act  
18 shall be used to determine any credits under the provisions of  
19 this chapter for any taxes imposed under section 90A32 (relating  
20 to local personal income tax) on the earned income portion of  
21 the personal income tax.

22 § 90A42. Low-income tax provisions.

23 The provisions of 72 Pa.C.S. § 2204 (relating to special tax  
24 provisions for poverty) shall be applied by each school district  
25 which levies a tax under section 90A32 (relating to local  
26 personal income tax.

27 § 90A43. Regulations.

28 Each school district may adopt regulations for the processing  
29 of claims under this subchapter.

30 SUBCHAPTER F

1 DISBURSEMENT

2 Sec.

3 90A51. School District Property Tax Elimination Fund.

4 90A52. Payments to counties.

5 90A53. Payments by counties.

6 § 90A51. School District Property Tax Elimination Fund.

7 (a) Establishment.--The School District Property Tax  
8 Elimination Fund is established as a separate fund in the State  
9 Treasury.

10 (b) Purpose.--The fund shall be used to make disbursements  
11 at a time and in a manner determined by the Department of  
12 Education in consultation with the department and in accordance  
13 with Chapter 90 (relating to school district property tax  
14 elimination) for the purpose of eliminating school district  
15 property taxes.

16 (c) Sources.--The following shall be deposited into the  
17 fund:

18 (1) Money deposited under section 90A22(f) (relating to  
19 imposition).

20 (2) Money appropriated or transferred to the fund.

21 (3) Return on money in the fund.

22 (4) Grants, gifts, donations and other payments from a  
23 person or governmental entity to the fund.

24 § 90A52. Payments to counties.

25 (a) Initial amounts.--During the first three fiscal years  
26 immediately following the base year, the State Treasurer shall  
27 make distributions to each county, on behalf of school districts  
28 within the county, from the fund in an amount equivalent to the  
29 total real property tax revenues collected by the school  
30 districts during the base year, without regard to the amount of

1 money contained in the fund at the time of the distributions.  
2 The General Assembly shall appropriate as much money as  
3 necessary to allow the fund to remain solvent to make the  
4 distributions.

5 (b) County accounts.--For each county the (proper name)  
6 County Sales and Use Tax Account is established as a separate  
7 account within the fund.

8 (c) Subsequent amounts.--For the fourth fiscal year  
9 immediately following the base year, and each fiscal year  
10 thereafter, the following apply:

11 (1) Taxes imposed under section 90A22 (relating to  
12 imposition) shall be received by the department and paid to  
13 the State Treasurer and, along with interest and penalties,  
14 less any collection costs allowed under this chapter and any  
15 refunds and credits paid, shall be credited, based on the  
16 situs of the sales at retail or uses, to the respective  
17 county sales and use tax accounts. Money shall be credited to  
18 the county sales and use tax accounts not less frequently  
19 than every two weeks.

20 (2) Money in the county sales and use tax accounts shall  
21 not lapse or be transferred to any other fund, but shall  
22 remain in the county sales and use tax accounts. Pending  
23 their disbursement, money received on behalf of or deposited  
24 into the county sales and use tax accounts shall be invested  
25 or reinvested as is other money in the custody of the State  
26 Treasurer in the manner provided by law. All earnings  
27 received from the investment or reinvestment of the money  
28 shall be credited to the respective county sales and use tax  
29 accounts.

30 (3) The State Treasurer shall make periodic

1 disbursements to each county, on behalf of school districts  
2 within the county, out of the money contained in the county's  
3 sales and use tax account.

4 § 90A53. Payments by counties.

5 Each county shall distribute to each school district a  
6 portion of the total disbursement to school districts which is  
7 equal to the total disbursement to school districts multiplied  
8 by the ratio of average daily membership of the school district  
9 divided by the sum of the average daily membership of all school  
10 districts in the county. For the purposes of this section, the  
11 term "average daily membership" shall mean "average daily  
12 membership" as defined by the act of March 10, 1949 (P.L.30,  
13 No.14), known as the Public School Code of 1949. For school  
14 districts located in more than one county, the average daily  
15 membership shall be multiplied by a factor calculated by  
16 dividing the square mileage of the school district located in  
17 the county by the total square mileage of the school district.

18 Section 2. Title 72 is amended by adding parts to read:

19 PART I

20 PRELIMINARY PROVISIONS

21 Chapter

22 1. General Provisions

23 CHAPTER 1

24 GENERAL PROVISIONS

25 Sec.

26 101. Scope of title.

27 102. Definitions.

28 § 101. Scope of title.

29 This title relates to taxation and fiscal affairs.

30 § 102. Definitions.

1 Subject to additional definitions contained in subsequent  
2 provisions of this title which are applicable to specific  
3 provisions under this title, the following words and phrases  
4 when used in this title shall have the meanings given to them in  
5 this section unless the context clearly indicates otherwise:

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

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

9 "Internal Revenue Code of 1954." The Internal Revenue Code  
10 of 1954 (68A Stat. 3).

11 "Internal Revenue Code of 1986." The Internal Revenue Code  
12 of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

13 "Liquor Code." The act of April 12, 1951 (P.L.90, No.21),  
14 known as the Liquor Code.

15 "Mobile Telecommunications Sourcing Act." The Mobile  
16 Telecommunications Sourcing Act (Public Law 106-252, 114 Stat.  
17 626).

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

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

21 PART II

22 STATE TAX PROVISIONS

23 Subpart

24 A. Sales and Use Tax

25 B. Personal Income Tax

26 SUBPART A

27 SALES AND USE TAX

28 Chapter

29 11. Preliminary Provisions

30 13. Taxation Generally

1 15. Procedure and Administration

2 CHAPTER 11

3 PRELIMINARY PROVISIONS

4 Sec.

5 1101. Scope of subpart.

6 1102. Definitions.

7 § 1101. Scope of subpart.

8 This subpart relates to sales and use tax.

9 § 1102. Definitions.

10 The following words and phrases when used in this subpart  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Adjustment services, collection services or credit reporting  
14 services." As follows:

15 (1) A service providing collection or adjustments of  
16 accounts receivable or mercantile or consumer credit  
17 reporting, including, but not limited to, services provided  
18 by an adjustment bureau or collection agency, a consumer or  
19 mercantile credit reporting bureau, a credit bureau or  
20 agency, a credit clearinghouse or a credit investigation  
21 service.

22 (2) The term shall not include any of the following:

23 (i) Providing credit card service with collection by  
24 a central agency.

25 (ii) Providing debt counseling or adjustment  
26 services to individuals.

27 (iii) Billing or collection services provided by a  
28 local exchange telephone company.

29 "Affiliated person." A person that, with respect to another  
30 person:

1           (1) has a direct or indirect ownership interest of more  
2 than 5% in the other person; or

3           (2) is related to the other person because a third  
4 person, or group of third persons who are affiliated with  
5 each other as defined in this definition, holds a direct or  
6 indirect ownership interest of more than 5% in the related  
7 person.

8           "Animal housing facility." A roofed structure or facility,  
9 or a portion of the facility, used for occupation by livestock  
10 or poultry.

11           "Blasting." The use of a combustible or explosive  
12 composition in the removal of material resources, minerals and  
13 mineral aggregates from the earth, including the separation of  
14 the dirt, waste and refuse in which they are found.

15           "Building machinery and equipment." As follows:

16           (1) Generation equipment, storage equipment,  
17 conditioning equipment, distribution equipment and  
18 termination equipment, limited to the following:

19           (i) Air conditioning, limited to heating, cooling,  
20 purification, humidification, dehumidification and  
21 ventilation.

22           (ii) Electrical.

23           (iii) Plumbing.

24           (iv) Communications limited to voice, video, data,  
25 sound, master clock and noise abatement.

26           (v) Alarms, limited to fire, security and detection.

27           (vi) A control system, limited to energy management,  
28 traffic and parking lot and building access.

29           (vii) A medical system, limited to diagnosis and  
30 treatment equipment, medical gas, nurse call and doctor

1           paging.

2           (viii) A laboratory system.

3           (ix) A cathodic protection system.

4           (x) Furniture, cabinetry and kitchen equipment.

5           (2) The term shall include any of the following,

6 together with integral coverings and enclosures, whether the

7 item constitutes a fixture or is otherwise affixed to the

8 real estate, whether damage would be done to the item or its

9 surroundings upon removal or whether the item is physically

10 located within a real estate structure:

11           (i) Boilers.

12           (ii) Chillers.

13           (iii) Air cleaners.

14           (iv) Humidifiers.

15           (v) Fans.

16           (vi) Switchgear.

17           (vii) Pumps.

18           (viii) Telephones.

19           (ix) Speakers.

20           (x) Horns.

21           (xi) Motion detectors.

22           (xii) Dampers.

23           (xiii) Actuators.

24           (xiv) Grills.

25           (xv) Registers.

26           (xvi) Traffic signals.

27           (xvii) Sensors.

28           (xviii) Card access devices.

29           (xix) Guardrails.

30           (xx) Medial devices.

- 1           (xxi) Floor troughs.
- 2           (xxii) Grates.
- 3           (xxiii) Laundry equipment.

4           (3) The term shall not include any of the following:

- 5           (i) Guardrail posts.
- 6           (ii) Pipes.
- 7           (iii) Fittings.
- 8           (iv) Pipe supports and hangers.
- 9           (v) Valves.
- 10          (vi) Underground tanks.
- 11          (vii) Wire.
- 12          (viii) Conduit.
- 13          (ix) Receptacle and junction boxes.
- 14          (x) Insulation.
- 15          (xi) Ductwork.
- 16          (xii) Coverings.

17          "Building maintenance or cleaning services." As follows:

18           (1) Providing services which shall include, but shall  
19          not be limited to, any of the following:

- 20           (i) Janitorial, maid or housekeeping service.
- 21           (ii) Office or interior building cleaning or  
22          maintenance.
- 23           (iii) Window cleaning.
- 24           (iv) Floor waxing.
- 25           (v) Lighting maintenance such as bulb replacement.
- 26           (vi) Cleaning.
- 27           (vii) Chimney cleaning.
- 28           (viii) Acoustical tile cleaning.
- 29           (ix) Venetian blind cleaning.
- 30           (x) Cleaning and maintenance of telephone booths.

1           (xi) Cleaning and degreasing of service stations.

2           (2) The term shall not include any of the following:

3           (i) Repairs on buildings and other structures.

4           (ii) Maintenance or repair of boilers, furnaces and  
5 residential air conditioning equipment or parts of  
6 boilers, furnaces and residential air conditioning  
7 equipment.

8           (iii) Painting, wallpapering or applying other  
9 coverings to interior walls, ceilings or floors.

10          (iv) Exterior painting of buildings.

11          "Commercial aircraft operator." A person, excluding a  
12 scheduled airline, engaging in any or all of the following:

13          (1) Aircraft charters.

14          (2) Aircraft leasing.

15          (3) Aircraft sales.

16          (4) Aircraft rental.

17          (5) Flight instruction.

18          (6) Air freight.

19          (7) Other flight activities for compensation.

20          "Commercial racing activities." Any of the following:

21          (1) Thoroughbred and harness racing at which pari-mutuel  
22 wagering is conducted under 3 Pa.C.S. Ch. 93 (relating to  
23 race horse industry reform).

24          (2) Fair racing sanctioned by the State Harness Racing  
25 Commission.

26          "Construction contract." As follows:

27          (1) A written or oral contract or agreement for the  
28 construction, reconstruction, remodeling, renovation or  
29 repair of real estate or a real estate structure.

30          (2) The term shall not apply to services which are

1 taxable under any of the following:

2 (i) Paragraph (1)(ix) or (xi) of the definition of  
3 "sale at retail."

4 (ii) Paragraph (1)(vi) or (viii) of the definition  
5 of "use."

6 "Construction contractor." A person who performs an activity  
7 under a construction contract, including a subcontractor.

8 "Disinfecting or pest control services." As follows:

9 (1) A service providing disinfecting, termite control,  
10 insect control, rodent control or other pest control  
11 services, including deodorant servicing of restrooms,  
12 washroom sanitation service, restroom cleaning service,  
13 extermination service or fumigating service.

14 (2) As used in this definition:

15 (i) The term "fumigating service" shall not include  
16 the fumigation of agricultural commodities or containers  
17 used for agricultural commodities.

18 (ii) The term "insect control" shall not include the  
19 spraying of trees which are harvested for commercial  
20 purposes for gypsy moth control.

21 "Employment agency services." As follows:

22 (1) Providing employment services to a prospective  
23 employer or employee other than employment services provided  
24 by theatrical employment agencies and motion picture casting  
25 bureaus.

26 (2) The term shall include, but not be limited to,  
27 services provided by employment agencies, executive placement  
28 services and labor contractor employment agencies other than  
29 farm labor.

30 "Forum." As follows:

1           (1) A place where sales at retail occur, whether  
2           physical or electronic.

3           (2) The term shall include a store, booth, Internet  
4           website, catalog or similar place.

5           "Gratuity." An amount paid or remitted for services  
6           performed in conjunction with a sale of food or beverages or  
7           hotel or motel accommodations when the amount is in excess of  
8           the charges and the tax for the food, beverages or  
9           accommodations, regardless of the method of billing or payment.

10          "Help supply services." As follows:

11           (1) Providing temporary or continuing help where the  
12           help supplied is on the payroll of the supplying person or  
13           entity, but is under the supervision of the individual or  
14           business to which help is furnished.

15           (2) The term shall include, but not be limited to,  
16           service provided by any of the following:

17                   (i) Labor and manpower pools.

18                   (ii) Employee leasing services.

19                   (iii) Office help supply services.

20                   (iv) Temporary help services.

21                   (v) Usher services.

22                   (vi) Modeling services.

23                   (vii) Fashion show model supply services.

24           (3) The term shall not include services providing farm  
25           labor or human health-related services, including nursing,  
26           home health care and personal care. As used in this  
27           paragraph, the term "personal care" shall include providing  
28           at least one of the following types of assistance to persons  
29           with limited ability for self-care:

30                   (i) Dressing, bathing or feeding.

1           (ii) Supervising self-administered medication.

2           (iii) Transferring a person to or from a bed or  
3 wheelchair.

4           (iv) Routine housekeeping chores when provided in  
5 conjunction with and supplied by the same provider of the  
6 assistance listed in subparagraph (i), (ii) or (iii).

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

10       "Lawn care service." Providing services for lawn upkeep,  
11 including, but not limited to, fertilizing, lawn mowing,  
12 shrubbery trimming or other lawn treatment services.

13       "Liquor." As defined in section 102 of the Liquor Code.

14       "Lobbying services." Providing the services of a lobbyist,  
15 as that term is defined in 65 Pa.C.S. § 13A03 (relating to  
16 definitions).

17       "Maintaining a place of business in this Commonwealth." As  
18 follows:

19           (1) Any of the following:

20           (i) Having, maintaining or using within this  
21 Commonwealth, either directly or through a subsidiary,  
22 representative or agent, an office, distribution house,  
23 sales house, warehouse, service enterprise or other place  
24 of business. This subparagraph shall include an agent of  
25 general or restricted authority or other representative,  
26 regardless of whether the place of business,  
27 representative or agent is located in this Commonwealth  
28 permanently or temporarily or whether the person or  
29 subsidiary maintaining the place of business,  
30 representative or agent is authorized to do business in

1 this Commonwealth.

2 (ii) Engaging in an activity as a business in this  
3 Commonwealth by a person, either directly or through a  
4 subsidiary, representative or an agent, in connection  
5 with the lease, sale or delivery of tangible personal  
6 property or the performance of services for use, storage  
7 or consumption or in connection with the sale or delivery  
8 for use of the services described under paragraph (1)  
9 (vi), (vii), (viii), (ix), (x), (xi) or (xii) of the  
10 definition of "sale at retail," including, but not  
11 limited to, having, maintaining or using an office,  
12 distribution house, sales house, warehouse or other place  
13 of business, a stock of goods or a solicitor, canvasser,  
14 salesman, representative or agent under its authority, at  
15 its direction or with its permission, regardless of  
16 whether the person or subsidiary is authorized to do  
17 business in this Commonwealth.

18 (iii) Regularly or substantially soliciting orders  
19 within this Commonwealth in connection with the lease,  
20 sale or delivery of tangible personal property or the  
21 performance of services or in connection with the sale or  
22 delivery of the services described under paragraph (1)  
23 (vi), (vii), (viii), (ix), (x), (xi) or (xii) of the  
24 definition of "sale at retail" for residents of this  
25 Commonwealth by means of catalogs or other advertising,  
26 whether the orders are accepted within or without this  
27 Commonwealth.

28 (iv) Entering this Commonwealth to provide assembly,  
29 service or repair of tangible personal property, either  
30 directly or through a subsidiary, representative or

1 agent.

2 (v) Delivering tangible personal property to  
3 locations within this Commonwealth if the delivery shall  
4 include the unpacking, positioning, placing or assembling  
5 of the tangible personal property.

6 (vi) Having contact within this Commonwealth which  
7 would allow the Commonwealth to require a person to  
8 collect and remit tax under the Constitution of the  
9 United States.

10 (vii) Providing a customer's mobile  
11 telecommunications service deemed to be provided by the  
12 customer's home service provider under the Mobile  
13 Telecommunications Sourcing Act. For purposes of this  
14 subparagraph, words and phrases used in this subparagraph  
15 shall have the meanings given to them in the Mobile  
16 Telecommunications Sourcing Act.

17 (viii) As follows:

18 (A) Engaging in an activity as a business by a  
19 person, either directly or through a subsidiary,  
20 representative or agent, in connection with the  
21 lease, sale or delivery of tangible personal property  
22 into this Commonwealth or the performance of services  
23 for use, storage or consumption or in connection with  
24 the sale or delivery for use in this Commonwealth of  
25 at least \$100,000 during the preceding 12-month  
26 calendar period.

27 (B) For a marketplace facilitator, this activity  
28 includes all sales, leases and deliveries of tangible  
29 personal property and all sales of services by the  
30 marketplace seller whose sales are facilitated

1 through the marketplace facilitator's forum.

2 (2) The term shall not include any of the following:

3 (i) Owning or leasing of tangible or intangible  
4 property by a person who has contracted with an  
5 unaffiliated commercial printer for printing if the  
6 property is for use by the commercial printer and located  
7 at the Pennsylvania premises of the commercial printer.

8 (ii) Visits by a person's employees or agents to the  
9 premises in this Commonwealth of an unaffiliated  
10 commercial printer with whom the person has contracted  
11 for printing in connection with the contract.

12 "Malt or brewed beverages." As defined in section 102 of the  
13 Liquor Code.

14 "Manufacture." As follows:

15 (1) The performance of manufacturing, fabricating,  
16 compounding, processing or other operations engaged in as a  
17 business, which place tangible personal property in a form,  
18 composition or character different from that in which it is  
19 acquired, whether for sale or use by the manufacturer.

20 (2) The term shall include, but not be limited to, any  
21 of the following:

22 (i) Every operation commencing with the first  
23 production stage and ending with the completion of  
24 tangible personal property having the physical qualities,  
25 including packaging which passes to the ultimate  
26 consumer, the tangible personal property has when  
27 transferred by the manufacturer to another. The following  
28 apply:

29 (A) For purposes of this subparagraph, the term  
30 "operation" shall include clean rooms and their

1 component systems, including any of the following:

2 (I) Environmental control systems.

3 (II) Antistatic vertical walls and  
4 manufacturing platforms and floors, which are  
5 independent of the real estate.

6 (III) Process piping systems.

7 (IV) Specialized lighting systems.

8 (V) Deionized water systems.

9 (VI) Process vacuum and compressed air  
10 systems.

11 (VII) Process and specialty gases.

12 (VIII) Alarm or warning devices specifically  
13 designed to warn of threats to the integrity of  
14 the product or people.

15 (B) For purposes of clause (A), the term "clean  
16 room" is a location with a self-contained, sealed  
17 environment with a controlled, closed air system  
18 independent from the facility's general environmental  
19 control system.

20 (ii) The publishing and printing of books,  
21 newspapers, magazines and other periodicals.

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

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

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

4 (v) Research for the production of a new or improved  
5 product or utility service or method of producing a  
6 product or utility service, but not including market  
7 research or research for the improvement of  
8 administrative efficiency.

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

17 (vii) Remanufacture or retrofit by a manufacturer or  
18 remanufacturer of aircraft, armored vehicles or other  
19 defense-related vehicles having a finished value of at  
20 least \$50,000. Remanufacture or retrofit involves the  
21 disassembly of the aircraft, vehicles, parts or  
22 components, including electric or electronic components,  
23 the integration of the parts and components with other  
24 used or new parts or components, including the salvaging,  
25 recycling or reclaiming of the used parts or components  
26 and the assembly of the new or used aircraft, vehicles,  
27 parts or components. For purposes of this subparagraph,  
28 the following words or phrases have the following  
29 meanings:

30 (A) "Aircraft." A fixed-wing aircraft,

1 helicopter, powered aircraft, tilt-rotor or tilt-wing  
2 aircraft, unmanned aircraft or glider.

3 (B) "Armored vehicles." A tank, armed personnel  
4 carrier or other armed track or semitrack vehicle.

5 (C) "Other defense-related vehicles." A truck,  
6 truck-tractor, trailer, jeep or other utility  
7 vehicles, including an unmanned vehicle.

8 (viii) Remanufacture by a remanufacturer of  
9 locomotive parts from used parts acquired in bulk by the  
10 remanufacturer using an assembly line process which  
11 involves the complete disassembly of the parts and  
12 integration of the components of the parts with other  
13 used or new components of parts, including the salvaging,  
14 recycling or reclaiming of used parts by the  
15 remanufacturer.

16 (3) The term shall not include any of the following:

17 (i) Constructing, altering, servicing, repairing or  
18 improving real estate.

19 (ii) Repairing, servicing or installing tangible  
20 personal property.

21 (iii) The producing of a commercial motion picture.

22 (iv) The cooking, freezing or baking of fruits,  
23 vegetables, mushrooms, fish, seafood, meats, poultry or  
24 bakery products.

25 "Manufacturer of malt or brewed beverages." As defined in  
26 section 102 of the Liquor Code.

27 "Marketplace facilitator." As follows:

28 (1) A person that facilitates the sale at retail of  
29 tangible personal property.

30 (2) For purposes of this subpart, a person facilitates a

1 sale at retail if the person or an affiliated person:

2 (i) lists or advertises tangible personal property  
3 for sale at retail in any forum; and

4 (ii) either directly or indirectly through  
5 agreements or arrangements with third parties, collects  
6 the payment from the purchaser and transmits the payment  
7 to the person selling the property.

8 (3) The term includes a person that may also be a  
9 vendor.

10 "Marketplace seller." A person that has an agreement with a  
11 marketplace facilitator to facilitate sales for the person.

12 "Mobile telecommunications service." As defined in the  
13 Mobile Telecommunications Sourcing Act.

14 "Person." A natural person, association, fiduciary,  
15 partnership, corporation or other entity, including the  
16 Commonwealth of Pennsylvania, its political subdivisions and  
17 instrumentalities and public authorities. When used in  
18 prescribing and imposing a penalty, fine or imprisonment, or  
19 both, the term, as applied to an association, shall include the  
20 members of the association and, as applied to a corporation, the  
21 officers of the corporation.

22 "Prebuilt housing." Either of the following:

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

28 (2) Industrialized housing as defined in the act of May  
29 11, 1972 (P.L.286, No.70), known as the Industrialized  
30 Housing Act.

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

3 "Prebuilt housing purchaser." A person who purchases  
4 prebuilt housing in a transaction and who intends to occupy the  
5 unit for residential purposes in this Commonwealth.

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

14 "Premium cable or premium video programming service." As  
15 follows:

16 (1) Includes the portion of cable television services,  
17 video programming services, community antenna television  
18 services or other distribution of television, video, audio or  
19 radio services which meets all of the following criteria:

20 (i) Is transmitted with or without the use of wires  
21 to purchasers.

22 (ii) Consists substantially of programming  
23 uninterrupted by paid commercial advertising which shall  
24 include, but not be limited to, programming primarily  
25 composed of uninterrupted full-length motion pictures or  
26 sporting events, pay-per-view, paid programming or audio  
27 or radio broadcasting.

28 (iii) Does not constitute a component of a basic  
29 service tier provided by a cable television system or a  
30 cable programming service tier provided by a cable

1 television system. The following apply:

2 (A) A basic service tier shall include any of  
3 the following:

4 (I) All signals of domestic television  
5 broadcast stations, any public, educational,  
6 governmental or religious programming and  
7 additional video programming signals or service  
8 added to the basic service tier by the cable  
9 operator.

10 (II) A single additional lower-priced  
11 package of broadcast channels and access  
12 information channels which is a subset of the  
13 basic service tier under subclause (I).

14 (B) A cable programming service tier shall  
15 include video programming other than any of the  
16 following:

17 (I) The basic service tier.

18 (II) Video programming offered on a pay-per-  
19 channel or pay-per-view basis.

20 (III) A combination of multiple channels of  
21 pay-per-channel or pay-per-view programming  
22 offered as a package.

23 (2) If a purchaser receives or agrees to receive premium  
24 cable or premium video programming service, then the  
25 following charges are included in the purchase price:

26 (i) Charges for installation or repair of any  
27 premium cable or premium video programming service.

28 (ii) Upgrade to include additional premium cable or  
29 premium video programming service.

30 (iii) Downgrade to exclude all or some premium cable

1 or premium video programming service.

2 (iv) Additional premium cable outlets in excess of  
3 10.

4 (v) Other charges or fees related to premium cable  
5 or premium video programming services.

6 (3) The term shall not apply to the following:

7 (i) Transmissions by public television, public radio  
8 services or official Federal, State or local government  
9 cable services.

10 (ii) Local origination programming which provides a  
11 variety of public service programs unique to the  
12 community, programming which provides coverage of public  
13 affairs issues which are presented without commentary or  
14 analysis, including United States Congressional  
15 proceedings, or programming which is substantially  
16 related to religious subjects.

17 (iii) Subscriber charges for access to a video dial  
18 tone system or charges by a common carrier to a video  
19 programmer for the transport of video programming.

20 "Prepaid mobile telecommunications service." As follows:

21 (1) Mobile telecommunications service which is paid for  
22 in advance and which enables the origination of calls using  
23 an access number, authorization code or both, whether  
24 manually or electronically dialed, if the remaining amount of  
25 units of the prepaid mobile telecommunications service is  
26 known by the service provider of the prepaid mobile  
27 telecommunications service on a continuous basis.

28 (2) The term shall not include the advance purchase of  
29 mobile telecommunications service if the purchase is pursuant  
30 to a service contract between the service provider and

1 customer and if the service contract requires the customer to  
2 make periodic payments to maintain the mobile  
3 telecommunications service.

4 "Prepaid telecommunications." A tangible item containing a  
5 prepaid authorization number that can be used solely to obtain  
6 telecommunications service, including a renewal or increase in  
7 the prepaid amount.

8 "Processing." The performance of the following activities  
9 when engaged in as a business enterprise:

10 (1) The filtering or heating of honey or the cooking,  
11 baking or freezing of fruits, vegetables, mushrooms, fish,  
12 seafood, meats, poultry or bakery products, when the person  
13 engaged in the business packages the property in sealed  
14 containers for wholesale distribution.

15 (2) The processing of fruits or vegetables by cleaning,  
16 cutting, coring, peeling or chopping and treating to  
17 preserve, sterilize or purify and substantially extend the  
18 useful shelf life of the fruits or vegetables, when the  
19 person engaged in the activity packages the property in  
20 sealed containers for wholesale distribution.

21 (3) The scouring, carbonizing, cording, combing,  
22 throwing, twisting or winding of natural or synthetic fibers,  
23 or the spinning, bleaching, dyeing, printing or finishing of  
24 yarns or fabrics, when the activities are performed prior to  
25 sale to the ultimate consumer.

26 (4) The electroplating, galvanizing, enameling,  
27 anodizing, coloring, finishing, impregnating or heat treating  
28 of metals or plastics for sale or in the process of  
29 manufacturing.

30 (5) The blanking, shearing, leveling, slitting or

1 burning of metals for sale to or use by a manufacturer or  
2 processor.

3 (6) The rolling, drawing or extruding of ferrous and  
4 nonferrous metals.

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

9 (8) The preparation of animal feed or poultry feed for  
10 sale.

11 (9) The production, processing and bottling of  
12 nonalcoholic beverages for wholesale distribution.

13 (10) The operation of a saw mill or planing mill for the  
14 production of lumber or lumber products for sale. The  
15 operation of a saw mill or planing mill begins with the  
16 unloading by the operator of the saw mill or planing mill of  
17 logs, timber, pulpwood or other forms of wood material to be  
18 used in the saw mill or planing mill.

19 (11) The milling for sale of flour or meal from grains.

20 (12) The aging, stripping, conditioning, crushing and  
21 blending of tobacco leaves for use as cigar filler or as  
22 components of smokeless tobacco products for sale to  
23 manufacturers of tobacco products.

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

28 (14) The processing of used lubricating oils.

29 (15) The broadcasting of radio and television programs  
30 of licensed commercial or educational stations.

1       (16) The cooking or baking of bread, pastries, cakes,  
2 cookies, muffins and donuts when the person engaged in the  
3 activity sells the items at retail at locations that do not  
4 constitute an establishment from which ready-to-eat food and  
5 beverages are sold. For purposes of this paragraph, a bakery,  
6 pastry shop and donut shop are not to be considered an  
7 establishment from which ready-to-eat food and beverages are  
8 sold.

9       (17) The cleaning and roasting and the blending,  
10 grinding or packaging for sale of coffee from green coffee  
11 beans or the production of coffee extract.

12       (18) The preparation of dry or liquid fertilizer for  
13 sale.

14       (19) The production, processing and packaging of ice for  
15 wholesale distribution.

16       (20) The producing of mobile telecommunications  
17 services.

18       (21) The collection, washing, sorting, inspecting and  
19 packaging of eggs.

20       "Promoter." A person who directly or indirectly rents,  
21 leases or otherwise operates or grants permission to a person to  
22 use space at a show for the display for sale or for the sale of  
23 tangible personal property or services subject to tax under  
24 Subchapter A of Chapter 13 (relating to imposition of tax).

25       "Purchase at retail." As follows:

26       (1) Any of the following:

27           (i) The acquisition for a consideration of the  
28 ownership, custody or possession of tangible personal  
29 property other than for resale by the person acquiring  
30 the property when the acquisition is made for the purpose

1 of consumption or use, whether the acquisition is  
2 absolute or conditional, and by whatever means in which  
3 the acquisition is made.

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

8 (iii) The obtaining for a consideration of those  
9 services described under paragraph (1) (ii), (iii) or (iv)  
10 of the definition of "sale at retail" other than for  
11 resale.

12 (iv) A retention after March 7, 1956, of possession,  
13 custody or a license to use or consume under a rental  
14 contract or other lease arrangement, other than as  
15 security, other than for resale.

16 (v) The obtaining for a consideration of those  
17 services described under paragraph (1) (vi), (vii),  
18 (viii), (ix), (x), (xi) or (xii) of the definition of  
19 "sale at retail."

20 (2) The term shall include the purchase of liquor from a  
21 Pennsylvania liquor store by a person for any purpose, and  
22 the purchase of malt or brewed beverages from a manufacturer  
23 of malt or brewed beverages, distributor or importing  
24 distributor by a person for any purpose, except purchases  
25 from a manufacturer of malt or brewed beverages by a  
26 distributor or importing distributor or purchases from an  
27 importing distributor by a distributor within the meaning of  
28 the Liquor Code.

29 (3) The term shall not include a purchase of malt or  
30 brewed beverages from a retail dispenser or a purchase of

1 liquor or malt or brewed beverages from a person holding a  
2 retail liquor license under the Liquor Code, but shall  
3 include purchase or acquisition of liquor or malt or brewed  
4 beverages other than under the Liquor Code.

5 "Purchase price." As follows:

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

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

23 (3) In determining the purchase price on the sale or use  
24 of taxable tangible personal property or a service where,  
25 because of affiliation of interests between the vendor and  
26 purchaser or irrespective of the affiliation, if for any  
27 other reason the purchase price declared by the vendor or  
28 taxpayer on the taxable sale or use of the tangible personal  
29 property or service is determined by the department not to be  
30 indicative of the true value of the article or service or the

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

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

1 included as part of the purchase price the value of anything  
2 paid or delivered, or promised to be paid or delivered, by a  
3 lessee, whether money or otherwise, to a person other than  
4 the vendor or lessor by reason of the maintenance, insurance  
5 or repair of the tangible personal property which a lessee  
6 has the possession or custody of under a rental contract or  
7 lease arrangement.

8 (5) With respect to the tax imposed by Subchapter A of  
9 Chapter 13 upon tangible personal property originally  
10 purchased by the user of the property six months or longer  
11 prior to the first taxable use of the property within this  
12 Commonwealth, the user may elect to pay tax on a substituted  
13 base determined by considering the purchase price of the  
14 property for tax purposes to be equal to the prevailing  
15 market price of similar tangible personal property at the  
16 time and place of the first use within this Commonwealth. The  
17 election must be made at the time of filing a tax return with  
18 the department and reporting the tax liability and paying the  
19 proper tax due plus all accrued penalties and interest, if  
20 any, within six months of the due date of the report and  
21 payment, as provided under section 1513(a) and (c) (relating  
22 to time for filing returns).

23 (6) The purchase price of employment agency services and  
24 help supply services shall be the service fee paid by the  
25 purchaser to the vendor or supplying entity. As used in this  
26 paragraph, the term "service fee" is the total charge or fee  
27 of the vendor or supplying entity minus the costs of the  
28 supplied employee, including wages, salaries, bonuses,  
29 commissions, employment benefits, expense reimbursements and  
30 payroll and withholding taxes, to the extent that these costs

1 are specifically itemized or that these costs in aggregate  
2 are stated in billings from the vendor or supplying entity.  
3 To the extent that these costs are not itemized or stated on  
4 the billings, then the service fee shall be the total charge  
5 or fee of the vendor or supplying entity.

6 (7) Unless the vendor separately states that portion of  
7 the billing which applies to premium cable service, the total  
8 bill for the provision of all cable services shall be the  
9 purchase price.

10 (8) The purchase price of prebuilt housing shall be 60%  
11 of the manufacturer's selling price, but a manufacturer of  
12 prebuilt housing who precollects tax from a prebuilt housing  
13 builder at the time of the sale to the prebuilt housing  
14 builder shall have the option to collect tax on 60% of the  
15 selling price or on 100% of the actual cost of the supplies  
16 and materials used in the manufacture of the prebuilt  
17 housing.

18 (9) The purchase price of malt or brewed beverages sold  
19 by a manufacturer of malt or brewed beverages directly to the  
20 ultimate consumer for consumption on or off premises shall be  
21 25% of the retail sales price of the malt or brewed beverages  
22 sold for consumption on or off premises.

23 "Purchaser." As follows:

24 (1) A person who acquires, for a consideration, the  
25 ownership, custody or possession by sale, lease or otherwise,  
26 of tangible personal property or who obtains services in  
27 exchange for a purchase price.

28 (2) The term shall not include an employer who obtains  
29 services from the employer's employees in exchange for wages  
30 or salaries when the services are rendered in the ordinary

1 scope of employment.

2 "Real estate structure." As follows:

3 (1) A structure or item purchased by a construction  
4 contractor under a construction contract with any of the  
5 following:

6 (i) A charitable organization, volunteer  
7 firefighters' organization, nonprofit educational  
8 institution or religious organization for religious  
9 purposes and which qualifies as an institution of purely  
10 public charity under the act of November 26, 1997  
11 (P.L.508, No.55), known as the Institutions of Purely  
12 Public Charity Act.

13 (ii) The United States.

14 (iii) The Commonwealth, its instrumentalities or  
15 political subdivisions.

16 (2) The term shall include any of the following:

17 (i) Building machinery and equipment.

18 (ii) Developed or undeveloped land.

19 (iii) Streets, roads and highways.

20 (iv) Parking lots.

21 (v) Stadiums and stadium seating.

22 (vi) Recreational courts.

23 (vii) Sidewalks.

24 (viii) Foundations, structural supports, walls,  
25 floors, ceilings, roofs and doors.

26 (ix) Canopies.

27 (x) Millwork.

28 (xi) Elevators.

29 (xii) Windows and external window coverings.

30 (xiii) Outdoor advertising boards or signs.

1           (xiv) Airport runways.

2           (xv) Bridges, dams and dikes.

3           (xvi) Traffic-control devices, including traffic  
4 signs.

5           (xvii) Satellite dishes and antennas.

6           (xviii) Guardrail posts.

7           (xix) Pipes, fittings, pipe supports and hangers.

8           (xx) Valves.

9           (xxi) Underground tanks.

10          (xxii) Wire, conduit, receptacle and junction boxes.

11          (xxiii) Insulation.

12          (xxiv) Ductwork and ductwork coverings.

13          (xxv) A structure or item similar to the items  
14 listed in subparagraphs (i) through (xxiv), whether the  
15 structure or item constitutes a fixture or is affixed to  
16 the real estate, or whether damage would be done to the  
17 structure or item or its surroundings upon removal.

18          "Resale." As follows:

19           (1) Any of the following:

20           (i) A transfer of ownership, custody or possession  
21 of tangible personal property for a consideration,  
22 including the grant of a license to use or consume and  
23 transactions where the possession of the property is  
24 transferred but where the transferor retains title only  
25 as security for payment of the selling price, whether the  
26 transaction is designated as bailment lease, conditional  
27 sale or otherwise.

28           (ii) The physical incorporation of tangible personal  
29 property as an ingredient or constituent into other  
30 tangible personal property, which is to be sold in the

1 regular course of business or the performance of those  
2 services described under paragraphs (2), (3) and (4) of  
3 the definition of "sale at retail" upon tangible personal  
4 property which is to be sold in the regular course of  
5 business or where the person incorporating the property  
6 has undertaken at the time of purchase to cause the  
7 property to be transported in interstate commerce to a  
8 destination outside this Commonwealth.

9 (2) The term shall include any of the following:

10 (i) Telecommunications services purchased by a cable  
11 operator or video programmer that are used to transport  
12 or deliver cable or video programming services which are  
13 sold in the regular course of business.

14 (ii) Tangible personal property purchased or having  
15 a situs within this Commonwealth solely for the purpose  
16 of being processed, fabricated or manufactured into,  
17 attached to or incorporated into tangible personal  
18 property and then transported outside this Commonwealth  
19 for use exclusively outside this Commonwealth.

20 (3) The term shall not include the sale of malt or  
21 brewed beverages by a retail dispenser or the sale of liquor  
22 or malt or brewed beverages by a person holding a retail  
23 liquor license within the meaning of the Liquor Code.

24 (4) The physical incorporation of tangible personal  
25 property as an ingredient or constituent in the construction  
26 of foundations for machinery or equipment the sale or use of  
27 which is excluded from tax under the provisions of paragraph  
28 (2) (ii) (A), (B), (C) or (D) of the definition of "sale at  
29 retail" or paragraph (2) (ii) (A), (B), (C) or (D) of the  
30 definition of "use," whether the foundations at the time of

1 construction or transfer constitute tangible personal  
2 property or real estate.

3 "Resident." Any of the following:

4 (1) A natural person who:

5 (i) is domiciled in this Commonwealth; or

6 (ii) maintains a permanent place of residence within  
7 this Commonwealth and spends in the aggregate more than  
8 60 days of the year within this Commonwealth.

9 (2) A corporation which:

10 (i) is incorporated under the laws of this

11 Commonwealth;

12 (ii) is authorized to do business or doing business  
13 within this Commonwealth; or

14 (iii) maintains a place of business within this  
15 Commonwealth.

16 (3) An association, fiduciary, partnership or other  
17 entity which:

18 (i) is domiciled in this Commonwealth;

19 (ii) is authorized to do business or doing business  
20 within this Commonwealth; or

21 (iii) maintains a place of business within this  
22 Commonwealth.

23 "Sale at retail." As follows:

24 (1) Any of the following:

25 (i) A transfer, for a consideration, of the  
26 ownership, custody or possession of tangible personal  
27 property, including the grant of a license to use or  
28 consume whether the transfer is absolute or conditional  
29 and by whatever means in which the transfer is made.

30 (ii) The rendition of the service of printing or

1 imprinting of tangible personal property for a  
2 consideration for persons who furnish, either directly or  
3 indirectly, the materials used in the printing or  
4 imprinting.

5 (iii) The rendition for a consideration of the  
6 service of any of the following:

7 (A) Washing, cleaning, waxing, polishing or  
8 lubricating the motor vehicles of another, whether or  
9 not tangible personal property is transferred.

10 (B) Inspecting motor vehicles under the  
11 mandatory requirements of 75 Pa.C.S. (relating to  
12 vehicles).

13 (iv) The rendition for a consideration of the  
14 service of repairing, altering, mending, pressing,  
15 fitting, dyeing, laundering, drycleaning or cleaning  
16 tangible personal property other than wearing apparel or  
17 shoes, or applying or installing tangible personal  
18 property as a repair or replacement part of other  
19 tangible personal property except wearing apparel or  
20 shoes for a consideration, whether the services are  
21 performed directly or by any means other than by coin-  
22 operated self-service laundry equipment for wearing  
23 apparel or household goods and whether tangible personal  
24 property is transferred, except services that are  
25 rendered in the construction, reconstruction, remodeling,  
26 repair or maintenance of real estate. This subparagraph  
27 shall not be deemed to impose tax upon these services in  
28 the preparation for sale of new items which are excluded  
29 from the tax under section 1321(17) (relating to  
30 exclusions) or upon diaper service.

1           (v) The retention of possession, custody or a  
2 license to use or consume tangible personal property or  
3 any further obtaining of services described under  
4 subparagraph (ii), (iii) or (iv) under a rental or  
5 service contract or other arrangement, other than as  
6 security.

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

9           (vii) The rendition for a consideration of  
10 adjustment services, collection services or credit  
11 reporting services.

12           (viii) The rendition for a consideration of  
13 secretarial or editing services.

14           (ix) The rendition for a consideration of  
15 disinfecting or pest control services, building  
16 maintenance or cleaning services.

17           (x) The rendition for a consideration of employment  
18 agency services or help supply services.

19           (xi) The rendition for a consideration of lawn care  
20 service.

21           (xii) The rendition for a consideration of self-  
22 storage service.

23           (xiii) The rendition for a consideration of a mobile  
24 telecommunications service.

25           (2) The term shall not include any of the following:

26           (i) A transfer of tangible personal property or  
27 rendition of services for the purpose of resale.

28           (ii) Except as provided under paragraph (3), the  
29 rendition of services or the transfer of tangible  
30 personal property including, but not limited to,

1 machinery and equipment and machinery and equipment parts  
2 and supplies to be used or consumed by the purchaser  
3 directly in the operations of any of the following:

4 (A) The manufacture of tangible personal  
5 property.

6 (B) Farming, dairying, agriculture, timbering,  
7 horticulture or floriculture when engaged in as a  
8 business enterprise. As used in this clause:

9 (I) The term "farming" shall include the  
10 propagation and raising of ranch raised fur-  
11 bearing animals and the propagation of game birds  
12 for commercial purposes by holders of propagation  
13 permits issued under 34 Pa.C.S. (relating to  
14 game) and the propagation and raising of horses  
15 to be used exclusively for commercial racing  
16 activities.

17 (II) The term "timbering" shall include any  
18 of the following, except the harvesting of trees  
19 for clearing land for access roads:

20 (a) The business of producing or  
21 harvesting trees from forests, woodlots or  
22 tree farms for the purpose of the commercial  
23 production of wood, paper or energy products  
24 derived from wood by a company primarily  
25 engaged in the business of harvesting trees.

26 (b) All operations prior to the  
27 transport of the harvested product necessary  
28 for the removal of timber or forest products  
29 from the site, in-field processing of trees  
30 into logs or chips, complying with

1 environmental protection and safety  
2 requirements applicable to the harvesting of  
3 forest products, loading of forest products  
4 onto highway vehicles for transport to  
5 storage or processing facilities and  
6 postharvesting site reclamation, including  
7 those activities necessary to improve timber  
8 growth or ensure natural or direct  
9 reforestation of the site.

10 (C) Except as provided under paragraph (4), the  
11 producing, delivering or rendering of a public  
12 utility service, or in constructing, reconstructing,  
13 remodeling, repairing or maintaining the facilities  
14 which are directly used in producing, delivering or  
15 rendering the service.

16 (D) Processing.

17 (3) The exclusions under paragraph (2) (ii) (A), (B), (C)  
18 and (D) shall not apply to any of the following:

19 (i) A vehicle required to be registered under 75  
20 Pa.C.S., except those vehicles used directly by a public  
21 utility engaged in business as a common carrier or to  
22 maintenance facilities or to materials, supplies or  
23 equipment to be used or consumed in the construction,  
24 reconstruction, remodeling, repair or maintenance of real  
25 estate, other than directly used machinery, equipment,  
26 parts or foundations that may be affixed to the real  
27 estate.

28 (ii) Tangible personal property or services to be  
29 used or consumed in managerial sales or other  
30 nonoperational activities or to the purchase or use of

1 tangible personal property or services by a person other  
2 than the person directly using the property or services  
3 in the operations described under paragraph (2) (ii) (A),  
4 (B), (C) and (D).

5 (iii) The services described under any of the  
6 following:

7 (A) Paragraph (1) (vi), (vii), (viii), (ix), (x),  
8 (xi) and (xii).

9 (B) The definition of any of the following:

10 (I) "Adjustment services, collection  
11 services or credit reporting services."

12 (II) "Building maintenance or cleaning  
13 services."

14 (III) "Disinfecting or pest control  
15 services," except that the exclusion provided  
16 under this definition for farming, dairying and  
17 agriculture shall apply to disinfecting or pest  
18 control services.

19 (IV) "Employment agency services."

20 (V) "Help supply services."

21 (VI) "Lawn care service."

22 (VII) "Lobbying services."

23 (VIII) "Secretarial or editing services."

24 (IX) "Self-storage service."

25 (4) The exclusions under paragraph (2) (ii) (C) shall not  
26 apply to any of the following:

27 (i) Construction materials, supplies or equipment  
28 used to construct, reconstruct, remodel, repair or  
29 maintain facilities not used directly by the purchaser in  
30 the production, delivering or rendition of public utility

1 service.

2 (ii) Construction materials, supplies or equipment  
3 used to construct, reconstruct, remodel, repair or  
4 maintain a building, road or similar structure.

5 (iii) Tools and equipment used but not installed in  
6 the maintenance of facilities used directly in the  
7 production, delivering or rendition of a public utility  
8 service.

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

18 (6) With respect to liquor and malt or brewed beverages,  
19 as follows:

20 (i) The term shall include the sale of liquor by a  
21 Pennsylvania liquor store to a person for any purpose and  
22 the sale of malt or brewed beverages by a manufacturer of  
23 malt or brewed beverages, distributor or importing  
24 distributor to a person for any purpose, except sales by  
25 a manufacturer of malt or brewed beverages to a  
26 distributor or importing distributor or sales by an  
27 importing distributor to a distributor within the meaning  
28 of the Liquor Code.

29 (ii) The term shall not include a sale of malt or  
30 brewed beverages by a retail dispenser or a sale of

1 liquor or malt or brewed beverages by a person holding a  
2 retail liquor license under the Liquor Code, but shall  
3 include a sale of liquor or malt or brewed beverages  
4 other than under the Liquor Code.

5 "Secretarial or editing services." As follows:

6 (1) Providing services which include, but are not  
7 limited to, editing, letter writing, proofreading, resume  
8 writing, typing or word processing.

9 (2) The term shall not include court reporting and  
10 stenographic services.

11 "Self-storage service." As follows:

12 (1) Providing a building, a room in a building or a  
13 secured area within a building with separate access provided  
14 for each purchaser of self-storage service, primarily for the  
15 purpose of storing personal property.

16 (2) The term shall not include providing any of the  
17 following:

18 (i) Safe deposit boxes by financial institutions.

19 (ii) Storage in refrigerator or freezer units.

20 (iii) Storage in commercial warehouses.

21 (iv) Facilities for goods distribution.

22 (v) Lockers in airports, bus stations, museums and  
23 other public places.

24 "Show." An event, the primary purpose of which involves the  
25 display or exhibition of tangible personal property or services  
26 for sale, including, but not limited to, a flea market, antique  
27 show, coin show, stamp show, comic book show, hobby show,  
28 automobile show, fair or similar show, whether held regularly or  
29 of a temporary nature, at which more than one vendor displays  
30 for sale or sells tangible personal property or services subject

1 to tax under Subchapter A of Chapter 13.

2 "Soft drinks." As follows:

3 (1) All nonalcoholic beverages, whether carbonated or  
4 not, including any of the following:

5 (i) Soda water.

6 (ii) Ginger ale, Coca-Cola, lime cola, Pepsi, Dr.  
7 Pepper and root beer.

8 (iii) Fruit juice when plain or when carbonated  
9 water, flavoring or syrup is added.

10 (iv) Carbonated water.

11 (v) Orangeade and lemonade.

12 (vi) Other preparations and beverages commonly  
13 referred to as soft drinks, which are made with or  
14 without the use of any syrup.

15 (2) The term shall not include any of the following:

16 (i) Natural fruit or vegetable juices or their  
17 concentrates.

18 (ii) Noncarbonated fruit juice drinks containing not  
19 less than 25% by volume of natural fruit juices or of  
20 fruit juice which has been reconstituted to its original  
21 state, or natural concentrated fruit or vegetable juices  
22 reconstituted to their original state, whether any of the  
23 natural juices are frozen or unfrozen, sweetened or  
24 unsweetened, seasoned with salt or spice or unseasoned.

25 (iii) Coffee, coffee substitutes, tea or cocoa.

26 (iv) Natural fluid milk or noncarbonated drinks made  
27 from milk derivatives.

28 "Storage." As follows:

29 (1) The keeping or retention of tangible personal  
30 property within this Commonwealth for any purpose, including

1 the interim keeping, retaining or exercising a right or power  
2 over the tangible personal property.

3 (2) The term is not limited to the provision of self-  
4 storage service.

5 "Tangible personal property." As follows:

6 (1) Corporeal personal property, including, but not  
7 limited to, any of the following:

8 (i) Goods, wares and merchandise.

9 (ii) Steam and natural, manufactured and bottled gas  
10 for nonresidential use.

11 (iii) Electricity for nonresidential use.

12 (iv) Prepaid telecommunications.

13 (v) Premium cable or premium video programming  
14 service.

15 (vi) Spirituous or vinous liquor, malt or brewed  
16 beverages and soft drinks.

17 (vii) Interstate telecommunications service  
18 originating or terminating in this Commonwealth and  
19 charged to a service address in this Commonwealth.

20 (viii) Intrastate telecommunications service with  
21 the exception of:

22 (A) Subscriber line charges and basic local  
23 telephone service for residential use.

24 (B) Charges for telephone calls paid for by  
25 inserting money into a telephone accepting direct  
26 deposits of money to operate if the service address  
27 of an intrastate telecommunications service is deemed  
28 to be within this Commonwealth or within a political  
29 subdivision, regardless of how or where billed or  
30 paid. In the case of an interstate or intrastate

1 telecommunications service, a charge paid through a  
2 credit or payment mechanism which does not relate to  
3 a service address, such as a bank, travel, credit or  
4 debit card, but not including prepaid  
5 telecommunications, is deemed attributable to the  
6 address of origination of the telecommunications  
7 service.

8 (2) The term shall include the following, whether  
9 electronically or digitally delivered, streamed or accessed  
10 and whether purchased singly, by subscription or in any other  
11 manner, including maintenance and updates:

12 (i) Video.

13 (ii) Photographs.

14 (iii) Books.

15 (iv) Other taxable printed matter.

16 (v) Applications, commonly known as apps.

17 (vi) Games.

18 (vii) Music.

19 (viii) Other audio, including satellite radio  
20 service.

21 (ix) Canned software, notwithstanding the function  
22 performed, including support, except separately invoiced  
23 help desk or call center support.

24 (x) Other taxable tangible personal property  
25 electronically or digitally delivered, streamed or  
26 accessed.

27 "Taxpayer." A person required to pay or collect the tax  
28 imposed by this subpart, including a marketplace facilitator and  
29 a marketplace seller.

30 "Telecommunications service." As follows:

1           (1) A one-way transmission or a two-way, interactive  
2 transmission of sounds, signals or other intelligence  
3 converted to like form which effects or is intended to effect  
4 meaningful communications by electronic or electromagnetic  
5 means via wire, cable, satellite, light waves, microwaves,  
6 radio waves or other transmission media.

7           (2) The term shall include any of the following:

8           (i) Local, toll, wide-area or any other type of  
9 telephone service.

10           (ii) Private line service.

11           (iii) Telegraph service.

12           (iv) Radio repeater service.

13           (v) Wireless communication service.

14           (vi) Personal communications system service.

15           (vii) Cellular telecommunication service.

16           (viii) Specialized mobile radio service.

17           (ix) Stationary two-way radio service.

18           (x) Paging service.

19           (3) The term shall not include any of the following:

20           (i) Subscriber charges for access to a video dial  
21 tone system.

22           (ii) Charges to video programmers for the transport  
23 of video programming.

24           (iii) Charges for access to the Internet. Access to  
25 the Internet shall not include any of the following:

26           (A) The transport over the Internet or a  
27 proprietary network using the Internet protocol of  
28 telephone calls, facsimile transmissions or other  
29 telecommunications traffic to or from end users on  
30 the public switched telephone network if the signal

1 sent from or received by an end user is not in an  
2 Internet protocol.

3 (B) Telecommunications service purchased by an  
4 Internet service provider to deliver access to the  
5 Internet to its customers.

6 (iv) Mobile telecommunications service.

7 "Transient vendor." As follows:

8 (1) A person who satisfies all of the following  
9 conditions:

10 (i) Brings into this Commonwealth, by automobile,  
11 truck or other means of transportation, or purchases in  
12 this Commonwealth, tangible personal property the sale or  
13 use of which is subject to the tax imposed by this part  
14 or comes into the Commonwealth to perform services the  
15 sale or use of which is subject to the tax imposed by  
16 this part.

17 (ii) Offers or intends to offer tangible personal  
18 property or services for sale at retail within this  
19 Commonwealth.

20 (iii) Does not maintain an established office,  
21 distribution house, saleshouse, warehouse, service  
22 enterprise, residence from which business is conducted or  
23 other place of business within this Commonwealth.

24 (2) The term shall not include a person who:

25 (i) delivers tangible personal property within this  
26 Commonwealth under orders for the property which were  
27 solicited or placed by mail or other means; or

28 (ii) handcrafts items for sale at special events,  
29 including, but not limited to, fairs, carnivals, art and  
30 craft shows and other festivals and celebrations within

1           this Commonwealth.

2       "Use." As follows:

3           (1) Any of the following:

4               (i) The exercise of a right or power incidental to  
5       the ownership, custody or possession of tangible personal  
6       property, including, but not limited to, transportation,  
7       storage or consumption.

8               (ii) The obtaining by a purchaser of the service of  
9       any of the following:

10                   (A) Printing or imprinting of tangible personal  
11                   property when the purchaser furnishes, either  
12                   directly or indirectly, the articles used in the  
13                   printing or imprinting.

14                   (B) Washing, cleaning, waxing, polishing or  
15                   lubricating of motor vehicles, whether a tangible  
16                   personal property is transferred to the purchaser in  
17                   conjunction with the services.

18                   (C) Inspecting motor vehicles under the  
19                   mandatory requirements of 75 Pa.C.S.

20                   (D) Repairing, altering, mending, pressing,  
21                   fitting, dyeing, laundering, drycleaning or cleaning  
22                   tangible personal property other than wearing apparel  
23                   or shoes or applying or installing tangible personal  
24                   property as a repair or replacement part of other  
25                   tangible personal property other than wearing apparel  
26                   or shoes, whether the services are performed directly  
27                   or by any means other than by means of coin-operated  
28                   self-service laundry equipment for wearing apparel or  
29                   household goods, and whether tangible personal  
30                   property is transferred to the purchaser in

1 conjunction with the services, except the services as  
2 are obtained in the construction, reconstruction,  
3 remodeling, repair or maintenance of real estate.  
4 This clause shall not be deemed to impose tax upon  
5 these services in the preparation for sale of new  
6 items which are excluded from the tax under section  
7 1321(17) or upon diaper service.

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

10 (iv) The obtaining by the purchaser of adjustment  
11 services, collection services or credit reporting  
12 services.

13 (v) The obtaining by the purchaser of secretarial or  
14 editing services.

15 (vi) The obtaining by the purchaser of disinfecting  
16 or pest control services, building maintenance or  
17 cleaning services.

18 (vii) The obtaining by the purchaser of employment  
19 agency services or help supply services.

20 (viii) The obtaining by the purchaser of lawn care  
21 service.

22 (ix) The obtaining by the purchaser of self-storage  
23 service.

24 (x) The obtaining by a construction contractor of  
25 tangible personal property or services provided to  
26 tangible personal property which will be used under a  
27 construction contract whether or not the tangible  
28 personal property or services are transferred.

29 (xi) The obtaining of mobile telecommunications  
30 service by a customer.

1           (2) The term shall not include any of the following:

2           (i) Tangible personal property acquired and kept,  
3 retained or over which power is exercised within this  
4 Commonwealth on which the taxing of the storage, use or  
5 other consumption is expressly prohibited by the  
6 Constitution of the United States or which is excluded  
7 from tax under other provisions of this subpart.

8           (ii) Except as provided under paragraph (3), the use  
9 or consumption of tangible personal property, including,  
10 but not limited to, machinery and equipment and machinery  
11 and equipment parts and supplies or the obtaining of the  
12 services described under paragraph (1) (ii) (A), (B), (C)  
13 or (D) directly in the operations of any of the  
14 following:

15                   (A) The manufacture of tangible personal  
16 property.

17                   (B) Farming, dairying, agriculture, timbering,  
18 horticulture or floriculture when engaged in as a  
19 business enterprise. As used in this clause:

20                           (I) The term "farming" shall include the  
21 propagation and raising of ranch-raised  
22 furbearing animals and the propagation of game  
23 birds for commercial purposes by holders of  
24 propagation permits issued under 34 Pa.C.S. and  
25 the propagation and raising of horses to be used  
26 exclusively for commercial racing activities.

27                           (II) The term "timbering" shall include any  
28 of the following, except the harvesting of trees  
29 for clearing land for access roads:

30                                   (a) The business of producing or

1 harvesting trees from forests, woodlots or  
2 tree farms for the purpose of the commercial  
3 production of wood, paper or energy products  
4 derived from wood by a company primarily  
5 engaged in the business of harvesting trees.

6 (b) All operations prior to the  
7 transport of the harvested product necessary  
8 for the removal of timber or forest products  
9 from the site, in-field processing of trees  
10 into logs or chips, complying with  
11 environmental protection and safety  
12 requirements applicable to the harvesting of  
13 forest products, loading of forest products  
14 onto highway vehicles for transport to  
15 storage or processing facilities and  
16 postharvesting site reclamation, including  
17 those activities necessary to improve timber  
18 growth or ensure natural or direct  
19 reforestation of the site. The term shall not  
20 include the harvesting of trees for clearing  
21 land for access roads.

22 (C) Except as provided under paragraph (4), the  
23 producing, delivering or rendering of a public  
24 utility service or in constructing, reconstructing,  
25 remodeling, repairing or maintaining the facilities  
26 which are directly used in producing, delivering or  
27 rendering the service.

28 (D) Processing.

29 (iii) The providing of a motor vehicle to a  
30 nonprofit private or public school to be used by the

1 school for the sole purpose of driver education.

2 (3) The exclusions provided under paragraph (2) (ii)  
3 shall not apply to any of the following:

4 (i) A vehicle required to be registered under 75  
5 Pa.C.S. except those vehicles directly used by a public  
6 utility engaged in the business as a common carrier.

7 (ii) Maintenance facilities.

8 (iii) Materials, supplies or equipment to be used or  
9 consumed in the construction, reconstruction, remodeling,  
10 repair or maintenance of real estate other than directly  
11 used machinery, equipment, parts or foundations for the  
12 maintenance of real estate that may be affixed to the  
13 real estate.

14 (iv) Tangible personal property or services to be  
15 used or consumed in managerial sales or other  
16 nonoperational activities or to the purchase or use of  
17 tangible personal property or services by a person other  
18 than the person directly using the same in the operations  
19 described under paragraph (2) (ii).

20 (v) The services described under any of the  
21 following:

22 (A) Paragraph (1) (vi), (vii), (viii), (ix), (x)  
23 or (xi).

24 (B) The definition of any of the following:

25 (I) "Adjustment services, collection  
26 services or credit reporting services."

27 (II) "Building maintenance or cleaning  
28 services."

29 (III) "Disinfecting or pest control  
30 services," except that the exclusion provided

1 under this definition for farming, dairying and  
2 agriculture shall apply to disinfecting or pest  
3 control services.

4 (IV) "Employment agency services."

5 (V) "Help supply services."

6 (VI) "Lawn care service."

7 (VII) "Lobbying services."

8 (VIII) "Secretarial or editing service."

9 (IX) "Self-storage service."

10 (4) The exclusion provided under paragraph (2) (ii) (C)  
11 shall not apply to any of the following:

12 (i) Construction materials, supplies or equipment  
13 used to construct, reconstruct, remodel, repair or  
14 maintain facilities not used directly by the purchaser in  
15 the production, delivering or rendition of public utility  
16 service.

17 (ii) Tools and equipment used but not installed in  
18 the maintenance of facilities used directly in the  
19 production, delivering or rendition of a public utility  
20 service.

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

29 (6) With respect to liquor and malt or brewed beverages,  
30 as follows:

1           (i) The term shall include the purchase of liquor  
2           from a Pennsylvania liquor store by a person for any  
3           purpose and the purchase of malt or brewed beverages from  
4           a manufacturer of malt or brewed beverages, distributor  
5           or importing distributor by a person for any purpose,  
6           except purchases from a manufacturer of malt or brewed  
7           beverages by a distributor or importing distributor, or  
8           purchases from an importing distributor by a distributor  
9           within the meaning of the Liquor Code.

10           (ii) The term shall not include a purchase of malt  
11           or brewed beverages from a retail dispenser or a purchase  
12           of liquor or malt or brewed beverages from a person  
13           holding a retail liquor license under the Liquor Code,  
14           but shall include the exercise of a right or power  
15           incidental to the ownership, custody or possession of  
16           liquor or malt or brewed beverages obtained by the person  
17           exercising the right or power in any manner other than  
18           under the Liquor Code.

19           (7) The use of tangible personal property purchased at  
20           retail upon which the services described under paragraph (1)  
21           (ii) have been performed shall be deemed to be a use of the  
22           services by the person using the property.

23           "Used prebuilt housing." Prebuilt housing that was  
24           previously subject to a sale to a prebuilt housing purchaser.

25           "Vendor." A person maintaining a place of business in this  
26           Commonwealth, selling or leasing tangible personal property or  
27           rendering services, the sale or use of which is subject to the  
28           tax imposed by this subpart, including a marketplace facilitator  
29           and a marketplace seller, but not including an employee who, in  
30           the ordinary scope of employment, renders services to an

1 employer in exchange for wages and salaries.

2 CHAPTER 13

3 TAXATION GENERALLY

4 Subchapter

5 A. Imposition of Tax

6 B. Computation of Tax

7 C. Exclusions from Tax

8 D. Licenses

9 E. Hotel Occupancy Tax

10 F. Remote Sellers

11 SUBCHAPTER A

12 IMPOSITION OF TAX

13 Sec.

14 1301. Sale of tangible personal property or services.

15 1302. Use of tangible personal property or services.

16 1303. Telecommunications service.

17 1304. Coin-operated vending machines.

18 1305. Prepaid telecommunications.

19 1306. Prepaid mobile communications service.

20 1307. Prebuilt housing.

21 1308. Mobile telecommunications services.

22 1309. Malt or brewed beverages.

23 § 1301. Sale of tangible personal property or services.

24 (a) Imposition.--There is imposed upon each separate sale at  
25 retail of tangible personal property or services within this  
26 Commonwealth a tax of 6% of the purchase price.

27 (b) Collection.--The tax under this section shall, except as  
28 otherwise provided, be collected by the vendor or other person  
29 required by this part from the purchaser and shall be paid to  
30 the Commonwealth as provided in this subpart.

1 § 1302. Use of tangible personal property or services.

2 (a) Imposition.--There is imposed upon the use, on or after  
3 the effective date of this section, within this Commonwealth of  
4 tangible personal property purchased at retail on or after the  
5 effective date of this section and on those services described  
6 in this chapter and purchased at retail on or after the  
7 effective date of this section a tax of 6% of the purchase  
8 price.

9 (b) Collection.--The tax under this section shall, except as  
10 otherwise provided, be paid to the Commonwealth by the person  
11 who makes the use as provided under subsection (a), except that  
12 the tax shall not be paid to the Commonwealth by the person if  
13 the person has paid the tax imposed by section 1301 (relating to  
14 sale of tangible personal property or services) or has paid the  
15 tax imposed by this section to the vendor with respect to the  
16 use or the vendor advertises or holds out or states to the  
17 person directly or indirectly subject to the conditions  
18 specified in section 1584(b) (relating to crimes) that the  
19 vendor will pay the tax imposed by section 1301 or this section  
20 for the person. The tax at the rate of 6% imposed by this  
21 section shall not be deemed applicable if the tax has been  
22 incurred under the former act of March 6, 1956 (1955 P.L.1228,  
23 No.381), known as the Tax Act of 1963 for Education.

24 § 1303. Telecommunications service.

25 (a) Imposition.--Subject to subsection (b), notwithstanding  
26 any other provision of this subpart, except for telegrams paid  
27 for in cash at telegraph offices, the tax with respect to  
28 telecommunications service shall be computed at the rate of 6%  
29 upon the total amount charged to customers for the services,  
30 irrespective of whether the charge is based upon a flat rate or

1 upon a message unit charge.

2 (b) Exception.--Charges for telephone calls paid for by  
3 inserting money into a telephone accepting direct deposits of  
4 money to operate shall not be subject to the tax under this  
5 section.

6 (c) Liability.--A telecommunications service provider shall  
7 have no responsibility or liability to the Commonwealth for  
8 billing, collecting or remitting taxes that apply to services,  
9 products or other commerce sold over telecommunications lines by  
10 third-party vendors.

11 (d) Credit.--To prevent actual multistate taxation of  
12 interstate telecommunications service, a taxpayer, upon proof  
13 that the taxpayer has paid a similar tax to another state on the  
14 same interstate telecommunications service, shall be allowed a  
15 credit against the tax imposed by this section on the same  
16 interstate telecommunications service to the extent of the  
17 amount of the tax properly due and paid to the other state.

18 § 1304. Coin-operated vending machines.

19 Notwithstanding any other provision of this subpart, the sale  
20 or use of food and beverages dispensed by means of a coin-  
21 operated vending machine shall be taxed at the rate of 6% of the  
22 receipts collected from the machine which dispenses food and  
23 beverages taxable under this subpart.

24 § 1305. Prepaid telecommunications.

25 (a) Imposition.--Notwithstanding any provision of this  
26 subpart, the sale or use of prepaid telecommunications evidenced  
27 by the transfer of tangible personal property shall be subject  
28 to the tax imposed by sections 1301 (relating to sale of  
29 tangible personal property or services) and 1302 (relating to  
30 use of tangible personal property or services).

1 (b) Transfer of tangible personal property.--

2 (1) Subject to paragraph (2), the sale or use of prepaid  
3 telecommunications not evidenced by the transfer of tangible  
4 personal property shall be subject to the tax imposed by  
5 sections 1301 and 1302 and shall be deemed to occur at the  
6 purchaser's billing address.

7 (2) Notwithstanding paragraph (1), the sale or use of  
8 prepaid telecommunications service not evidenced by the  
9 transfer of tangible personal property shall be taxed at the  
10 rate of 6% of the receipts collected on each sale if the  
11 service provider elects to collect the tax imposed by this  
12 subpart on receipts of each sale. The service provider shall  
13 notify the department of the service provider's election and  
14 shall collect the tax on receipts of each sale until the  
15 service provider notifies the department otherwise.

16 § 1306. Prepaid mobile communications service.

17 (a) Imposition.--Notwithstanding any other provision of this  
18 subpart, the sale or use of prepaid mobile telecommunications  
19 service evidenced by the transfer of tangible personal property  
20 shall be subject to the tax imposed by sections 1301 (relating  
21 to sale of tangible personal property or services) and 1302  
22 (relating to use of tangible personal property or services).

23 (b) Transfer of tangible personal property.--

24 (1) Subject to paragraph (2), the sale or use of prepaid  
25 mobile telecommunications service not evidenced by the  
26 transfer of tangible personal property shall be subject to  
27 the tax imposed by sections 1301 and 1302 and shall be deemed  
28 to occur at the purchaser's billing address or the location  
29 associated with the mobile telephone number or the point of  
30 sale, whichever is applicable.

1           (2) Notwithstanding paragraph (1), the sale or use of  
2           prepaid mobile telecommunications service not evidenced by  
3           the transfer of tangible personal property shall be taxed at  
4           the rate of 6% of the receipts collected on each sale if the  
5           service provider elects to collect the tax imposed by this  
6           subpart on receipts of each sale. The service provider shall  
7           notify the department of the service provider's election and  
8           shall collect the tax on receipts of each sale until the  
9           service provider notifies the department otherwise.

10 § 1307. Prebuilt housing.

11           Notwithstanding any other provision of this subpart, tax with  
12           respect to sales of prebuilt housing shall be imposed on the  
13           prebuilt housing builder at the time of the prebuilt housing  
14           sale within this Commonwealth and shall be paid and reported by  
15           the prebuilt housing builder to the department in the time and  
16           manner provided in this subpart, but a manufacturer of prebuilt  
17           housing may, at its option, precollect the tax from the prebuilt  
18           housing builder at the time of sale to the prebuilt housing  
19           builder. In any case where prebuilt housing is purchased and the  
20           tax is not paid by the prebuilt housing builder or precollected  
21           by the manufacturer, the prebuilt housing purchaser shall remit  
22           tax directly to the department if the prebuilt housing is used  
23           in this Commonwealth without regard to whether the prebuilt  
24           housing becomes a real estate structure.

25 § 1308. Mobile telecommunications services.

26           Notwithstanding any other provisions of this subpart and in  
27           accordance with the Mobile Telecommunications Sourcing Act, the  
28           sale or use of mobile telecommunications services which are  
29           deemed to be provided to a customer by a home service provider  
30           under section 117 of the Mobile Telecommunications Sourcing Act

1 shall be subject to the tax of 6% of the purchase price, which  
2 tax shall be collected by the home service provider from the  
3 customer and shall be paid over to the Commonwealth as provided  
4 in this subpart if the customer's place of primary use is  
5 located within this Commonwealth, regardless of where the mobile  
6 telecommunications services originate, terminate or pass  
7 through. For purposes of this section, words and phrases used in  
8 this section shall have the same meanings given to them in the  
9 Mobile Telecommunications Sourcing Act.

10 § 1309. Malt or brewed beverages.

11 (a) Imposition.--The tax shall be imposed on a manufacturer  
12 of malt or brewed beverages with respect to sales of malt or  
13 brewed beverages sold by the manufacturer directly to the  
14 ultimate consumer for consumption on or off premises  
15 notwithstanding any of the following:

16 (1) Any other provision of this subpart.

17 (2) Article II-B of the Tax Reform Code of 1971.

18 (3) The act of July 28, 1953 (P.L.723, No.230), known as  
19 the Second Class County Code.

20 (4) Chapter 5 or Chapter 6 of the act of June 5, 1991  
21 (P.L.9, No.6), known as the Pennsylvania Intergovernmental  
22 Cooperation Authority Act for Cities of the First Class.

23 (b) Payment.--The tax imposed under subsection (a) shall be  
24 paid and reported by the manufacturer of malt or brewed  
25 beverages to the department in the time and manner provided in  
26 this subpart.

27 (c) Local alcoholic beverage tax.--Notwithstanding any law  
28 to the contrary, a school district or local government  
29 authorized to impose a local alcoholic beverage tax under the  
30 act of June 10, 1971 (P.L.153, No.7), known as the First Class

1 School District Liquor Sales Tax Act of 1971, or 53 Pa.C.S. §  
2 8602 (relating to local financial support) may impose or  
3 continue to impose a local alcoholic beverage tax on the sale at  
4 retail of malt or brewed beverages made by a manufacturer of  
5 malt or brewed beverages to the ultimate consumer for  
6 consumption on or off premises at the same rate as authorized  
7 under the First Class School District Liquor Sales Tax Act of  
8 1971 or 53 Pa.C.S. § 8602 and notwithstanding anything to the  
9 contrary in such laws or in a local law or ordinance in  
10 existence on the effective date of this section.

11 (d) Effect of payment.--The payment of the tax imposed under  
12 subsection (a) shall eliminate the need for the ultimate  
13 consumer to pay or remit a sales or use tax on the related  
14 transaction or upon the subsequent use of the malt or brewed  
15 beverages.

16 SUBCHAPTER B

17 COMPUTATION OF TAX

18 Sec.

19 1311. Computation.

20 § 1311. Computation.

21 The amount of tax imposed by Subchapter A (relating to  
22 imposition of tax) shall be computed as follows:

23 (1) If the purchase price is 10¢ or less, no tax shall  
24 be collected.

25 (2) If the purchase price is 11¢ or more but less than  
26 18¢, 1¢ shall be collected.

27 (3) If the purchase price is 18¢ or more but less than  
28 35¢, 2¢ shall be collected.

29 (4) If the purchase price is 35¢ or more but less than  
30 51¢, 3¢ shall be collected.



1 sold or purchased shall not be excluded from the tax by the  
2 provisions of this section.

3 (2) The use of tangible personal property purchased by a  
4 nonresident person outside this Commonwealth and brought into  
5 this Commonwealth for use in this Commonwealth for a period  
6 not to exceed seven days or for any period of time when the  
7 nonresident is a tourist or vacationer and, in either case,  
8 not consumed within this Commonwealth.

9 (3) The use of tangible personal property purchased  
10 outside this Commonwealth for use outside this Commonwealth  
11 by a then-nonresident natural person or a business entity not  
12 actually doing business within this Commonwealth, who later  
13 brings the tangible personal property into this Commonwealth  
14 in connection with the establishment of a permanent business  
15 or residence in this Commonwealth, if the property was  
16 purchased more than six months prior to the date it was first  
17 brought into this Commonwealth or prior to the establishment  
18 of the business or residence, whichever occurs first. This  
19 exclusion shall not apply to tangible personal property  
20 temporarily brought into this Commonwealth for the  
21 performance of contracts for the construction,  
22 reconstruction, remodeling, repairing and maintenance of real  
23 estate.

24 (4) The sale at retail or use of any of the following:

25 (i) Disposable diapers.

26 (ii) Premoistened wipes.

27 (iii) Incontinence products.

28 (iv) Colostomy deodorants.

29 (v) Toilet paper.

30 (vi) Sanitary napkins, tampons or similar items used

1 for feminine hygiene.

2 (vii) Toothpaste, toothbrushes or dental floss.

3 (5) The sale at retail or use of any of the following:

4 (i) Any of the following when purchased directly by  
5 the user solely for the user's own residential use:

6 (A) Steam.

7 (B) Natural, manufactured and bottled gas.

8 (C) Fuel oil.

9 (D) Electricity.

10 (E) Intrastate subscriber line charges, basic  
11 local telephone service or telegraph service.

12 (ii) Charges for a telephone call paid for by  
13 inserting money into a telephone accepting direct  
14 deposits of money to operate.

15 (6) The sale at retail to or use of tangible personal  
16 property or services other than under a construction  
17 contract. The following apply:

18 (i) The exclusion under this paragraph applies to  
19 any of the following:

20 (A) A charitable organization.

21 (B) A volunteer firefighters' organization.

22 (C) A volunteer firefighters' relief association  
23 as defined in 35 Pa.C.S. § 7412 (relating to  
24 definitions).

25 (D) A nonprofit educational institution.

26 (E) A religious organization for religious  
27 purposes.

28 (ii) The exclusion under this paragraph shall not  
29 apply with respect to any of the following:

30 (A) Tangible personal property or services used

1 in an unrelated trade or business carried on by the  
2 organization or institution.

3 (B) Materials, supplies and equipment used and  
4 transferred to the organization or institution in the  
5 construction, reconstruction, remodeling, renovation,  
6 repairs and maintenance of a real estate structure,  
7 other than building machinery and equipment, except  
8 materials and supplies when purchased by the  
9 organization or institution for routine maintenance  
10 and repairs.

11 (iii) If the department has issued sales tax-exempt  
12 status to a volunteer firefighters' organization or a  
13 volunteer firefighters' relief association, the sales  
14 tax-exempt status may not expire unless the activities of  
15 the organization or association change so that the  
16 organization or association does not qualify as an  
17 institution of purely public charity, in which case the  
18 organization or association shall immediately notify the  
19 department of the change.

20 (iv) If the department ascertains that an  
21 organization or association no longer qualifies as an  
22 institution of purely public charity, the department may  
23 revoke the sales tax-exempt status of the organization or  
24 association.

25 (7) The sale at retail or use of gasoline and other  
26 motor fuels, the sales of which are otherwise subject to  
27 excise taxes under 75 Pa.C.S. Ch. 90 (relating to liquid  
28 fuels and fuels tax).

29 (8) The sale at retail to or use by the United States,  
30 this Commonwealth or the Commonwealth's instrumentalities or

1 political subdivisions of tangible personal property or  
2 services.

3 (9) The sale at retail or use of wrapping paper,  
4 wrapping twine, bags, cartons, tape, rope, labels,  
5 nonreturnable containers, all other wrapping supplies and  
6 kegs used to contain malt or brewed beverages, if the use is  
7 incidental to the delivery of personal property. A charge for  
8 wrapping or packaging shall be subject to tax at the rate  
9 imposed by Subchapter B (relating to computation of tax)  
10 unless the property wrapped or packaged will be resold by the  
11 purchaser of the wrapping or packaging service. As used in  
12 this paragraph, the term "carton" includes a corrugated box  
13 used by a person engaged in the manufacture of snack food  
14 products to deliver the manufactured product, whether or not  
15 the box is returnable for potential reuse.

16 (10) The sale at retail or use of a vessel designed for  
17 commercial use of registered tonnage of 50 tons or more if  
18 produced by the builders of the vessel upon special order of  
19 the purchaser.

20 (11) The sale at retail of tangible personal property or  
21 services used or consumed in building, rebuilding, repairing,  
22 making an addition to or making a replacement in and upon a  
23 vessel designed for commercial use of registered tonnage of  
24 50 tons or more upon special order of the purchaser or if the  
25 vessel is rebuilt, repaired or enlarged or when a replacement  
26 is made to the vessel upon order of or for the account of the  
27 owner.

28 (12) The sale at retail or use of tangible personal  
29 property or services used or consumed for ship cleaning or  
30 maintenance or as fuel, supplies, ships' equipment, ships'

1 stores or sea stores on a vessel designed for commercial use  
2 of registered tonnage of 50 tons or more to be operated  
3 principally outside the limits of this Commonwealth.

4 (13) The sale at retail or use of any of the following:

5 (i) Prescription or nonprescription medicines, drugs  
6 or medical supplies.

7 (ii) Crutches and wheelchairs for the use of  
8 individuals with disabilities.

9 (iii) An artificial limb, artificial eye and  
10 artificial hearing device if designed to be worn on the  
11 person of the purchaser or user.

12 (iv) False teeth and materials used by a dentist in  
13 dental treatment.

14 (v) Eyeglasses if especially designed or prescribed  
15 by an ophthalmologist, oculist or optometrist for the  
16 personal use of the owner or purchaser.

17 (vi) Artificial braces and supports designed solely  
18 for the use of individuals with disabilities.

19 (vii) Any other therapeutic, prosthetic or  
20 artificial device designed for the use of a particular  
21 individual to correct or alleviate a physical incapacity,  
22 including, but not limited to, a hospital bed, iron lung  
23 or kidney machine.

24 (14) The sale at retail or use of coal.

25 (15) The sale at retail or use of a motor vehicle,  
26 trailer and semitrailer, or a body attached to the chassis of  
27 a motor vehicle, trailer or semitrailer, which is:

28 (i) sold to a nonresident of this Commonwealth to be  
29 used outside this Commonwealth; and

30 (ii) registered in a state other than this

1 Commonwealth within 20 days after delivery to the vendee.

2 (16) The sale at retail or use of water.

3 (17) As follows:

4 (i) Except as provided under subparagraph (ii), the  
5 sale at retail or use of all vesture, wearing apparel,  
6 raiments, garments, footwear and other articles of  
7 clothing, including clothing patterns and items that are  
8 to be a component part of clothing, worn or carried on or  
9 about the human body.

10 (ii) The following shall not be excluded from the  
11 tax under this subpart:

12 (A) An accessory, ornamental wear, formal day or  
13 evening apparel or article made of fur on the hide or  
14 pelt or a material imitative of fur and an article of  
15 which the real, imitation or synthetic fur is the  
16 component material of chief value if the value is  
17 more than three times the value of the next most  
18 valuable component material.

19 (B) Sporting goods and clothing not normally  
20 used or worn by an individual who is not engaged in  
21 sports.

22 (18) The sale at retail or use of religious publications  
23 sold by religious groups, Bibles or religious articles.

24 (19) As follows:

25 (i) (A) Except as provided for under subparagraph  
26 (ii), the sale at retail or use of food and beverages for  
27 human consumption.

28 (B) The sale at retail of food and beverages at  
29 or from a school or church in the ordinary course of  
30 the activities of the school or church.

1           (ii) The exclusion under subparagraph (i)(A) shall  
2 not apply with respect to any of the following:

3           (A) Soft drinks.

4           (B) Malt and brewed beverages and spirituous and  
5 vinous liquors.

6           (C) As follows:

7           (I) Food or beverages, whether sold for  
8 consumption on or off the premises, on a take-out  
9 or to-go basis or delivered to the purchaser or  
10 consumer if purchased from a person engaged in  
11 the business of catering or from a person engaged  
12 in the business of operating an establishment  
13 where ready-to-eat food and beverages are sold.

14           (II) For purposes of this subclause:

15           (a) An establishment under subparagraph  
16 (I) shall include, but not be limited to, a  
17 restaurant, cafe, lunch counter, private and  
18 social club, tavern, dining car, hotel, night  
19 club, fast food operation, pizzeria, fair,  
20 carnival, lunch cart, ice cream stand, snack  
21 bar, cafeteria, employee cafeteria, theater,  
22 stadium, arena, amusement park, carryout  
23 shop, coffee shop or other similar  
24 establishment, whether mobile or immobile.

25           (b) A bakery, pastry shop, donut shop,  
26 delicatessen, grocery store, supermarket,  
27 farmer's market, convenience store or vending  
28 machine shall not be considered an  
29 establishment under subparagraph (I) from  
30 which food or beverages ready-to-eat are sold

1 except for the sale of meals, sandwiches,  
2 food from salad bars, hand-dipped or hand-  
3 served ice-based products, including ice  
4 cream and yogurt, hot soup, hot pizza and  
5 other hot food items, brewed coffee and hot  
6 beverages.

7 (c) Beverages under subparagraph (I)  
8 shall not include malt and brewed beverages  
9 and spirituous and vinous liquors, but shall  
10 include soft drinks.

11 (20) The sale at retail or use of a newspaper, including  
12 printed advertising materials circulated with the newspaper,  
13 regardless of where or by whom the printed advertising  
14 material was produced. As used in this paragraph, "newspaper"  
15 means a legal newspaper or a publication containing matters  
16 of general interest and reports of current events which  
17 qualifies as a newspaper of general circulation authorized to  
18 carry a legal advertisement as those terms are defined in 45  
19 Pa.C.S. § 101 (relating to definitions), not including  
20 magazines.

21 (21) The sale at retail or use of a casket and burial  
22 vault for human remains and a marker and tombstone for human  
23 graves.

24 (22) The sale at retail or use of flags of the United  
25 States of America and the Commonwealth of Pennsylvania.

26 (23) The sale at retail or use of textbooks for use in a  
27 public or private school, college or university if purchased  
28 on behalf of or through the school, college or university and  
29 the school, college or university is recognized by the  
30 Department of Education.

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

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

12           (26) The sale at retail or use of rail transportation  
13 equipment used in the movement of personal property.

14           (27) The sale at retail of a bus to be used under  
15 contract with a school district that is a replacement for a  
16 bus destroyed or lost in the flood of 1977 for a period  
17 ending December 31, 1977, in the counties of Armstrong,  
18 Bedford, Cambria, Indiana, Jefferson, Somerset and  
19 Westmoreland, or the use of the bus.

20           (28) The sale at retail of a horse if, at the time of  
21 purchase, the seller is directed to ship or deliver the horse  
22 to an out-of-State location, whether or not the charges for  
23 shipment are paid for by the seller or the purchaser. The  
24 following apply:

25           (i) The seller shall obtain a bill of lading, either  
26 from the carrier or from the purchaser, who, in turn, has  
27 obtained the bill of lading from the carrier reflecting  
28 delivery to the out-of-State address to which the horse  
29 has been shipped. The seller shall execute a Certificate  
30 of Delivery to Destination Outside of the Commonwealth

1 form for each bill of lading reflecting out-of-State  
2 delivery. The seller shall be required to retain the  
3 certificate of delivery form to justify the noncollection  
4 of sales tax with respect to the transaction to which the  
5 form relates.

6 (ii) In a transaction where a horse is sold by the  
7 seller and delivered to a domiciled person, agent or  
8 corporation prior to the horse being delivered to an out-  
9 of-State location, the Certificate of Delivery to  
10 Destination Outside of the Commonwealth form must have  
11 attached to it bills of lading both for the transfer to  
12 the domiciled person, agent or corporation and from the  
13 domiciled person, agent or corporation to the out-of-  
14 State location.

15 (29) The sale at retail or use of fish feed purchased by  
16 or on behalf of sportsmen's clubs, fish cooperatives or  
17 nurseries approved by the Pennsylvania Fish and Boat  
18 Commission.

19 (30) The sale at retail of supplies and materials to  
20 tourist promotion agencies that receive grants from the  
21 Commonwealth for distribution to the public as promotional  
22 material or the use of the supplies and materials by a  
23 tourist promotion agency.

24 (31) The sale at retail of supplies and materials to  
25 tourist promotion agencies that receive grants from the  
26 Commonwealth for distribution to the public as promotional  
27 material or the use of the supplies and materials by a  
28 tourist promotion agency.

29 (32) The sale or use of brook trout (salvelinus  
30 fontinalis), brown trout (Salmo trutta) or rainbow trout

1 (Salmo gairdneri).

2 (33) The sale at retail or use of a bus to be used  
3 exclusively for the transportation of children for school  
4 purposes.

5 (34) The sale at retail or use of firewood. For the  
6 purpose of this paragraph, "firewood" means the product of  
7 trees when severed from the land and cut into proper lengths  
8 for burning and pellets made from pure wood sawdust if used  
9 for fuel for cooking or hot water production or to heat a  
10 residential dwelling.

11 (35) The sale at retail or use of materials used in the  
12 construction and erection of objects purchased by not-for-  
13 profit organizations for purposes of commemoration and  
14 memorialization of historical events, if the object is  
15 erected upon publicly owned property or property to be  
16 conveyed to a public entity upon the commemoration or  
17 memorialization of the historical event.

18 (36) The sale at retail or use of food or beverages or  
19 other tangible personal property purchased in accordance with  
20 the Supplemental Nutrition Assistance Program (SNAP) under  
21 the Food and Nutrition Act of 2008 (Public Law 88-525, 7  
22 U.S.C. § 2011 et seq.).

23 (37) The sale at retail or use of food and beverages by  
24 nonprofit associations which support sports programs or youth  
25 centers. As used in this paragraph:

26 (i) "Nonprofit association" means an entity which is  
27 organized as a nonprofit corporation or nonprofit  
28 unincorporated association under the laws of this  
29 Commonwealth or the United States or an entity which is  
30 authorized to do business in this Commonwealth as a

1 nonprofit corporation or unincorporated association under  
2 the laws of this Commonwealth, including, but not limited  
3 to, a youth or athletic association, volunteer fire  
4 association, ambulance association, religious  
5 organization, charitable organization, fraternal  
6 organization, veterans organization, civic association or  
7 a separately chartered auxiliary of the association or  
8 organization, if organized and operated on a nonprofit  
9 basis.

10 (ii) "Sports program" means baseball, softball,  
11 football, basketball, soccer and any other competitive  
12 sport formally recognized as a sport by the United States  
13 Olympic Committee as specified by and under the  
14 jurisdiction of the Amateur Sports Act of 1978 (Public  
15 Law 95-606, 36 U.S.C. § 220501 et seq.), the Amateur  
16 Athletic Union or the National Collegiate Athletic  
17 Association. The term shall be limited to a program or a  
18 portion of a program that is organized for recreational  
19 purposes and whose activities are substantially for those  
20 purposes and which is primarily for participants who are  
21 18 years of age or younger or whose 19th birthday occurs  
22 during the year of participation or the competitive  
23 season, whichever is longer. There shall be no age  
24 limitation for a program operated for persons with a  
25 physical or intellectual disability.

26 (iii) "Support" means:

27 (A) that the funds raised from sales are used to  
28 pay the expenses of a sports program or a youth  
29 center; or

30 (B) the nonprofit association sells food and

1 beverages at a youth center or a location where a  
2 sports program is being conducted under this subpart.

3 (iv) "Youth center" means a fixed location used  
4 exclusively for programs for individuals who are 19 years  
5 of age or younger as long as the programs are:

6 (A) conducted primarily by volunteers;

7 (B) designed to advance recreational, civic or  
8 moral objectives; and

9 (C) conducted by an organization that is  
10 qualified under section 501(C)(3) of the Internal  
11 Revenue Code of 1986 and that has obtained an  
12 exemption number from the department as a charitable  
13 organization under paragraph (6).

14 (38) The sale at retail or use of a subscription for a  
15 magazine, including printed advertising materials circulated  
16 with the periodical or publication, regardless of where or by  
17 whom the printed advertising material was produced. As used  
18 in this paragraph, "magazine" means a periodical published at  
19 regular intervals not exceeding three months, which is  
20 circulated among the general public, containing matters of  
21 general interest and reports of current events published for  
22 the purpose of disseminating information of a public  
23 character or devoted to literature, the sciences, art or some  
24 special industry.

25 (39) The sale at retail or use of an interior office  
26 building cleaning service, but only as it relates to the  
27 costs of the supplied employee, including wages, salaries,  
28 bonuses and commissions, employment benefits, expense  
29 reimbursements and payroll and withholding taxes, to the  
30 extent that these costs are specifically itemized or that

1 these costs in aggregate are stated in billings from the  
2 seller or supplying entity.

3 (40) The sale at retail or use of candy or gum  
4 regardless of the location from which the candy or gum is  
5 sold.

6 (41) The sale at retail or use of a horse to be used  
7 exclusively for commercial racing activities and the sale at  
8 retail and use of feed, bedding, grooming supplies, riding  
9 tack, farrier services, portable stalls and sulkeys for a  
10 horse used exclusively for commercial racing activities.

11 (42) The sale at retail or use of tangible personal  
12 property or services used, transferred or consumed in  
13 installing or repairing equipment or a device designed to  
14 assist a person in ascending or descending a stairway when  
15 all of the following conditions are met:

16 (i) The equipment or device is used by a person who,  
17 by virtue of a physical disability, is unable to ascend  
18 or descend stairs without the aid of the equipment or  
19 device.

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

22 (iii) A physician has certified the physical  
23 disability of the person in whose residence the equipment  
24 or device is installed or used.

25 (43) The sale at retail to or use by a construction  
26 contractor of building machinery and equipment and services  
27 that are transferred:

28 (i) under a construction contract for a charitable  
29 organization, volunteer firefighters' organization,  
30 volunteer firefighters' relief association, nonprofit

1 educational institution or religious organization for  
2 religious purposes, if the building machinery and  
3 equipment and services are not used in any unrelated  
4 trade or business; or

5 (ii) to the United States or the Commonwealth or its  
6 instrumentalities or political subdivisions.

7 (44) (Reserved).

8 (45) The sale at retail or use of a mold and related  
9 mold equipment used directly and predominantly in the  
10 manufacture of a product, notwithstanding whether the person  
11 that holds title to the equipment manufactures a product.

12 (46) The sale or use of used prebuilt housing.

13 (47) The sale at retail to or use of food and  
14 nonalcoholic beverages by an airline which will transfer the  
15 food or nonalcoholic beverages to passengers in connection  
16 with the rendering of the airline service.

17 (48) The sale at retail or use of tangible personal  
18 property or services which are directly used in farming,  
19 dairying or agriculture when engaged in as a business  
20 enterprise, whether or not the sale is made to the person  
21 directly engaged in the business enterprise or to a person  
22 contracting with the person directly engaged in the business  
23 enterprise for the production of food.

24 (49) The sale at retail or use of separately stated fees  
25 paid under 13 Pa.C.S. § 9525 (relating to fees).

26 (50) The sale at retail to or use by a construction  
27 contractor, employed by a public school district under a  
28 construction contract, of materials and building supplies  
29 which, during construction or reconstruction, are made part  
30 of a public school building utilized for instructional

1 classroom education within this Commonwealth, if the  
2 construction or reconstruction:

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

6 (ii) takes place during the period when there is a  
7 declaration of disaster emergency under 35 Pa.C.S. §  
8 7301(c) (relating to general authority of Governor).

9 (51) The sale at retail or use of investment metal  
10 bullion and investment coins. As used in this paragraph:

11 (i) "Investment metal bullion" means an elementary  
12 precious metal which has been put through a process of  
13 smelting or refining, including gold, silver, platinum  
14 and palladium, and which is in a state or condition that  
15 its value depends upon its content and not its form. The  
16 term shall not include a precious metal which has been  
17 assembled, fabricated, manufactured or processed in one  
18 or more specific and customary industrial, professional,  
19 aesthetic or artistic uses.

20 (ii) "Investment coins" means numismatic coins or  
21 other forms of money and legal tender manufactured of  
22 gold, silver, platinum, palladium or other metal and of  
23 the United States or any foreign nation with a fair  
24 market value greater than any nominal value of such  
25 coins. The term shall not include commemorative  
26 medallions or jewelry or works of art made of coins.

27 (52) The sale at retail or use of copies of an official  
28 document sold by a government agency or a court. As used in  
29 this paragraph:

30 (i) "Court" shall include any of the following:

1           (A) An appellate court as defined in 42 Pa.C.S.  
2           § 102 (relating to definitions).

3           (B) A court of common pleas as defined in 42  
4           Pa.C.S. § 102.

5           (C) The minor judiciary as defined in 42 Pa.C.S.  
6           § 102.

7           (ii) "Government agency" shall mean an agency as  
8           defined in section 102 of the act of February 14, 2008  
9           (P.L.6, No.3), known as the Right-to-Know Law.

10          (iii) "Official document" shall mean a record as  
11          defined in section 102 of the Right-to-Know Law. The term  
12          shall include notes of court testimony, a deposition  
13          transcript, driving record, accident report, birth and  
14          death certificate, deed, divorce decree and other similar  
15          documents.

16          (53) The sale at retail or use of repair or replacement  
17          parts, including the installation of those parts, exclusively  
18          for use in a helicopter and similar rotorcraft or in the  
19          overhauling or rebuilding of a helicopter and similar  
20          rotorcraft or helicopter and similar rotorcraft components.

21          (54) The sale at retail or use of a helicopter or  
22          similar rotorcraft.

23          (55) The sale at retail or use of aircraft parts,  
24          services to aircraft and aircraft components. For purposes of  
25          this paragraph, "aircraft" shall include a fixed-wing  
26          aircraft, powered aircraft, tilt-rotor or tilt-wing aircraft,  
27          glider or unmanned aircraft.

28          (56) The sale at retail or use of services related to  
29          the set up, tear down or maintenance of tangible personal  
30          property rented by an authority to exhibitors at a convention

1 center or a public auditorium, established under any of the  
2 following:

3 (i) 64 Pa.C.S. Ch. 60 (relating to Pennsylvania  
4 Convention Center Authority).

5 (ii) The act of July 28, 1953 (P.L.723, No.230),  
6 known as the Second Class County Code.

7 (iii) The act of August 9, 1955 (P.L.323, No.130),  
8 known as The County Code.

9 (57) The sale at retail or use of food and beverages by  
10 a volunteer firemen's organization to raise funds for the  
11 purposes of the volunteer firemen's organization.

12 (58) The sale at retail of building materials and  
13 supplies used for the construction or repair of an animal  
14 housing facility, regardless if the sale is made to the  
15 purchaser directly or pursuant to a construction contract.

16 (59) The sale at retail or use by a financial  
17 institution of canned computer software directly utilized in  
18 conducting the business of banking. For the purposes of this  
19 paragraph, the following words and phrases shall have the  
20 following meanings:

21 (i) "Directly utilized in conducting the business of  
22 banking" includes the purchase of canned computer  
23 software by a financial institution to be used in  
24 transactions with customers and service providers. The  
25 term does not include the purchase of canned computer  
26 software by entities, other than a financial institution,  
27 such as holding companies and subsidiaries of a financial  
28 institution.

29 (ii) "Financial institution" means an institution  
30 doing business in this Commonwealth subject to the tax

1 imposed by Article VII or XV of the Tax Reform Code of  
2 1971.

3 § 1322. Alternate imposition of tax and credits.

4 (a) Motor vehicle, trailer or semitrailer.--If a person  
5 actively and principally engaged in the business of selling new  
6 or used motor vehicles, trailers or semitrailers, and registered  
7 with the department in the "dealer's class," acquires a motor  
8 vehicle, trailer or semitrailer for the purpose of resale, and  
9 prior to the resale, uses the motor vehicle, trailer or  
10 semitrailer for a taxable use under this subpart, the person may  
11 elect to pay a tax equal to 6% of the fair rental value of the  
12 motor vehicle, trailer or semitrailer during the use. This  
13 subsection shall not apply to the use of a vehicle as a wrecker,  
14 parts truck, delivery truck or courtesy car.

15 (b) Aircraft.--A commercial aircraft operator who acquires  
16 an aircraft for the purpose of resale, or lease, or is entitled  
17 to claim another valid exemption at the time of purchase, and  
18 subsequent to the purchase, periodically uses the aircraft for a  
19 taxable use under this subpart, may elect to pay a tax equal to  
20 6% of the fair rental value of the aircraft during the use.

21 § 1323. Credit against tax.

22 A credit against the tax imposed by Subchapter A (relating to  
23 imposition of tax) shall be granted with respect to tangible  
24 personal property or services purchased for use outside this  
25 Commonwealth equal to the tax paid to another state by reason of  
26 the imposition by the other state of a tax similar to the tax  
27 imposed by this subpart, except that no credit shall be granted  
28 unless the other state grants substantially similar tax relief  
29 by reason of the payment of tax under this subpart or under the  
30 former act of March 6, 1956 (P.L.1228, No.381), known as the Tax

1 Act of 1963 for Education.

2 SUBCHAPTER D

3 LICENSES

4 Sec.

5 1331. Definitions.

6 1332. Application.

7 1333. Issuance and conditions.

8 1334. Administrative action.

9 1335. Penalties.

10 1336. Liability.

11 § 1331. Definitions.

12 The following words and phrases when used in this subchapter  
13 shall, in addition to the meaning given to them in section 1102  
14 (relating to definitions), have the meanings given to them in  
15 this section unless the context clearly indicates otherwise:

16 "Maintaining a place of business in this Commonwealth."  
17 Being an operator as defined in section 1341 (relating to  
18 definitions).

19 "Sale." The providing of occupancy to an occupant by an  
20 operator, as those terms are defined in section 1341.

21 "Services." Occupancy as defined in section 1341.

22 "Tangible personal property." Occupancy as defined in  
23 section 1341.

24 "Use." Occupancy as defined in section 1341.

25 § 1332. Application.

26 A person maintaining a place of business in this  
27 Commonwealth, with the exception of a marketplace seller who  
28 makes no sales outside a forum for which a marketplace seller is  
29 required to collect sales tax on the seller's behalf, selling or  
30 leasing services or tangible personal property, the sale or use

1 of which is subject to tax, and who has not yet obtained a  
2 license from the department, shall, prior to the beginning of  
3 business, make application to the department, on a form  
4 prescribed by the department, for a license. If the person  
5 maintains more than one place of business in this Commonwealth,  
6 the license shall be issued for the principal place of business  
7 in this Commonwealth.

8 § 1333. Issuance and conditions.

9 (a) Issuance.--After the receipt of an application, the  
10 department shall issue the license applied for under section  
11 1332 (relating to application) if the applicant has filed all  
12 required State tax reports and paid any State taxes not subject  
13 to a timely perfected administrative or judicial appeal or  
14 subject to a duly authorized deferred payment plan.

15 (b) Nonassignability.--A license under this subchapter shall  
16 be nonassignable.

17 (c) Renewal.--All licensees as of August 4, 1991, shall be  
18 required to file for renewal of the license on or before January  
19 31, 1992. Licenses issued through April 30, 1992, shall be based  
20 on a staggered renewal system established by the department. Any  
21 license issued after April 30, 1992, shall be valid for a period  
22 of five years.

23 § 1334. Administrative action.

24 (a) Authorization.--If an applicant for a license or a  
25 person holding a license has not filed all required State tax  
26 reports and paid any State taxes not subject to a timely  
27 perfected administrative or judicial appeal or subject to a duly  
28 authorized deferred payment plan, the department may refuse to  
29 issue, may suspend or may revoke the license.

30 (b) Notification.--

1           (1) The department shall notify the applicant or  
2 licensee of any refusal, suspension or revocation.

3           (2) The notice shall contain a statement that the  
4 refusal, suspension or revocation may be made public.

5           (3) The notice shall be made by first class mail.

6 (c) Appeal.--

7           (1) An applicant or licensee aggrieved by the  
8 determination of the department may file an appeal pursuant  
9 to the provisions for administrative appeals in this subpart,  
10 except that the appeal must be filed within 30 days of the  
11 date of the notice.

12           (2) In the case of a suspension or revocation which is  
13 appealed, the license shall remain valid pending a final  
14 outcome of the appeals process.

15           (3) Notwithstanding sections 1596 (relating to  
16 unauthorized disclosure) and 2817(f) (relating to crimes) and  
17 sections 408(b), 603, 702, 802, 904 and 1102 of the Tax  
18 Reform Code of 1971 or any other provision of law to the  
19 contrary, if no appeal is taken or if an appeal is taken and  
20 denied at the conclusion of the appeal process, the  
21 department may disclose, by publication or otherwise, the  
22 identity of a person and the fact that the person's license  
23 has been refused, suspended or revoked under this section.  
24 Disclosure may include the basis for refusal, suspension or  
25 revocation.

26 § 1335. Penalties.

27           (a) Fine and imprisonment.--A person that maintains a place  
28 of business in this Commonwealth for the purpose of selling or  
29 leasing services or tangible personal property, the sale or use  
30 of which is subject to tax, without having a valid license at

1 the time of the sale or lease, shall be guilty of a summary  
2 offense and, upon conviction, be sentenced to pay a fine of not  
3 less than \$300 nor more than \$1,500 and, in default of the fine,  
4 to undergo imprisonment of not less than five days nor more than  
5 30 days.

6 (b) Nature of penalties.--The penalties imposed by this  
7 section shall be in addition to any other penalties imposed by  
8 this subpart.

9 (c) Separate violations.--For purposes of this section, the  
10 offering for sale or lease of any service or tangible personal  
11 property, the sale or use of which is subject to tax, during any  
12 calendar day shall constitute a separate violation.

13 (d) Enforcement.--The secretary may designate employees of  
14 the department to enforce the provisions of this section. The  
15 employees shall exhibit proof of and be within the scope of the  
16 designation when instituting proceedings as provided by the  
17 Pennsylvania Rules of Criminal Procedure.

18 § 1336. Liability.

19 Failure of a person to obtain a license shall not relieve  
20 that person of liability to pay the tax imposed by this subpart.

21 SUBCHAPTER E

22 HOTEL OCCUPANCY TAX

23 Sec.

24 1341. Definitions.

25 1342. Imposition of tax.

26 1343. Collection of tax.

27 1344. Seasonal tax returns.

28 1345. Tourism Promotion Fund.

29 § 1341. Definitions.

30 The following words and phrases when used in this subchapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Accommodation fee." The amount by which the rent exceeds the  
4 discount room charge, if any.

5 "Booking agent." A person or entity which facilitates or  
6 collects payment for hotel accommodations on behalf of or for an  
7 operator. The term "booking agent" shall not include a person  
8 who merely publishes advertisements for accommodations.

9 "Discount room charge." The amount charged by an operator to  
10 a booking agent in connection with the sale of an accommodation  
11 by the booking agent.

12 "Hotel." As follows:

13 (1) A building or buildings in which the public may, for  
14 a consideration, obtain sleeping accommodations.

15 (2) The term shall not include a charitable, educational  
16 or religious institution summer camp for children, hospital  
17 or nursing home.

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

24 "Occupant." As follows:

25 (1) A person who, for a consideration, uses or possesses  
26 or has a right to use or possess a room or rooms in a hotel  
27 under a lease, concession, permit, right of access, license  
28 or agreement.

29 (2) The term shall not include a permanent resident.

30 "Operator." A person operating a hotel or acting as a

1 booking agent.

2 "Permanent resident." An occupant who has occupied or has  
3 the right to occupancy of a room or rooms in a hotel for at  
4 least 30 consecutive days.

5 "Rent." As follows:

6 (1) Any of the following:

7 (i) The consideration received for occupancy valued  
8 in money, whether received in money or otherwise,  
9 including all receipts, cash, credits and property or  
10 services of any kind or nature.

11 (ii) Accommodation fees.

12 (iii) An amount for which the occupant is liable for  
13 the occupancy without any deduction from the amount,  
14 including an amount charged by a booking agent.

15 (2) The term shall not include a gratuity.

16 § 1342. Imposition of tax.

17 (a) General rule.--An excise tax of 6% of the rent is  
18 imposed upon every occupancy of a room or rooms in a hotel in  
19 this Commonwealth.

20 (b) Booking agent.--If a booking agent acting for an  
21 operator collects payment for rent, the booking agent must  
22 collect and remit the following:

23 (1) The tax imposed under this section.

24 (2) Any additional or optional hotel tax imposed under:

25 (i) The act of June 5, 1991 (P.L.9, No.6), known as  
26 the Pennsylvania Intergovernmental Cooperation Authority  
27 Act for Cities of the First Class.

28 (ii) The act of December 21, 1998 (P.L.1307,  
29 No.174), known as the Community and Economic Improvement  
30 Act.

1           (iii) 64 Pa.C.S. Ch. 60 (relating to Pennsylvania  
2           Convention Center Authority);

3           (iv) Articles XVII and XXIII of the act of August 9,  
4           1955 (P.L.323, No.130), known as The County Code.

5           (v) The act of July 28, 1953 (P.L.723, No.230),  
6           known as the Second Class County Code.

7           (c) Deposit into Tourism Promotion Fund.--Notwithstanding  
8           any provision of law to the contrary, the following shall apply:

9           (1) The collected and remitted tax imposed under  
10           subsection (b) (1) shall be deposited into the Tourism  
11           Promotion Fund established under section 1345 (relating to  
12           Tourism Promotion Fund).

13           (2) The collected and remitted tax imposed under  
14           subsection (b) (2) shall be deposited in accordance with a  
15           county ordinance.

16           (d) Accommodation fee.--An operator shall not be liable for  
17           tax owed regarding an accommodation fee.

18           (e) Disclosure.--A booking agent shall not be required to  
19           separately disclose to an occupant the amount of the tax imposed  
20           that relates to a discount room charge versus an accommodation  
21           fee.

22           § 1343. Collection of tax.

23           The tax under this subchapter shall be collected by the  
24           operator from the occupant and paid over to the Commonwealth as  
25           provided in this subpart.

26           § 1344. Seasonal tax returns.

27           Notwithstanding any other provisions in this subpart, the  
28           department may, by regulation, waive the requirement for the  
29           filing of quarterly returns in the case of an operator whose  
30           hotel is operated only during certain seasons of the year, and

1 may provide for the filing of returns by persons at times other  
2 than those provided by Subchapter C of Chapter 15 (relating to  
3 payment of tax).

4 § 1345. Tourism Promotion Fund.

5 (a) Establishment.--A restricted revenue account is  
6 established within the Treasury Department to be known as the  
7 Tourism Promotion Fund.

8 (b) Taxes and appropriation.--The tax collected by a booking  
9 agent on accommodation fees under section 1342 (relating to  
10 imposition of tax) shall be deposited into the Tourism Promotion  
11 Fund and disbursed upon appropriation for the purpose of  
12 promoting tourism in this Commonwealth.

13 (c) Department duties.--The Department of Community and  
14 Economic Development shall promulgate guidelines, rules and  
15 regulations as necessary to achieve the purpose of promoting  
16 tourism in this Commonwealth.

17 (d) Exceptions.--Money from the fund may not be used for the  
18 promotion or marketing operations of a tourism entity or for  
19 special events or grants until 30 days after the publication of  
20 the guidelines, rules and regulations under subsection (c) in  
21 the Pennsylvania Bulletin.

22 (e) Amount of funds.--The following shall apply:

23 (1) No more than 50% of the funds available for  
24 disbursement under subsection (b) may be distributed for the  
25 purposes of promotion or marketing operations of a tourism  
26 entity or for special events or grants.

27 (2) Funding for the promotion or marketing operations of  
28 a tourism entity, special events or grants shall require a  
29 50% cash or in-kind match.

30 (3) A single recipient of funding under paragraph (2)

1 may not be awarded more than 15% of the total funds available  
2 for disbursement under subsection (b). This paragraph shall  
3 not apply to contracts entered into by the department for  
4 Statewide tourism promotion or marketing.

5 (f) Restrictions.--Funds available for disbursement under  
6 subsection (b) may not be used for capital projects or for the  
7 design, construction, rehabilitation, repair, installation or  
8 purchase of any building, structure or sign in this  
9 Commonwealth.

10 (g) Definitions.--As used in this section, the following  
11 words and phrases shall have the meanings given to them in this  
12 subsection unless the context clearly indicates otherwise:

13 "Promoting tourism." Activities and expenditures designed to  
14 increase tourism including, but not limited to, the following:

15 (1) Advertising, publicizing or otherwise distributing  
16 information for the purpose of attracting and welcoming  
17 tourists.

18 (2) Developing strategies to expand tourism.

19 (3) Funding the promotion or marketing operations of a  
20 tourism entity.

21 (4) Funding marketing and operations of special events  
22 and festivals designed to attract tourists.

23 "Tourism entity." A "tourism promotion agency" as defined in  
24 section 2 of the act of July 4, 2008 (P.L.621, No.50), known as  
25 the Tourism Promotion Act, destination marketing organization or  
26 regional attractions marketing agency.

27 SUBCHAPTER F

28 REMOTE SELLERS

29 Sec.

30 1351. Definitions.

- 1 1352. Election.
- 2 1353. Notice requirements.
- 3 1354. Reports to purchasers and marketplace sellers.
- 4 1355. Reports to department.
- 5 1356. Liability and penalties.
- 6 1357. Application.
- 7 1358. Transfer to county sales and use tax accounts.
- 8 § 1351. Definitions.

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

12 "Affiliated person." A person that, with respect to another  
13 person:

14 (1) has a direct or indirect ownership interest of more  
15 than 5% in the other person; or

16 (2) is related to the other person because a third  
17 person, or group of third persons who are affiliated with  
18 each other as provided in this definition, holds a direct or  
19 indirect ownership interest of more than 5% in the related  
20 person.

21 "Forum." A place where sales at retail occur, whether  
22 physical or electronic. The term includes a store, booth,  
23 publicly accessible Internet website, catalog or similar place.

24 "Marketplace facilitator." As follows:

25 (1) A person that facilitates a sale at retail of  
26 tangible personal property. For purposes of this definition,  
27 a person facilitates a sale at retail if the person or an  
28 affiliated person:

29 (i) lists or advertises tangible personal property  
30 for sale at retail in any forum; and

1           (ii) directly or indirectly through agreements or  
2           arrangements with third parties collects the payment from  
3           the purchaser and transmits the payment to the person  
4           selling the property.

5           (2) The term shall include a person that may also be a  
6           vendor.

7           "Marketplace seller." A person that has an agreement with a  
8           marketplace facilitator pursuant to which the marketplace  
9           facilitator facilitates sales for the person.

10          "Notice and reporting requirements." The notice requirements  
11          under section 1353 (relating to notice requirements) and the  
12          reporting requirements under sections 1354 (relating to reports  
13          to purchasers and marketplace sellers) and 1355 (relating to  
14          reports to department).

15          "Referral." The transfer by a referrer of a potential  
16          purchaser to a person that advertises or lists products for sale  
17          on the referrer's platform.

18          "Referrer." As follows:

19           (1) A person, other than a person engaging in the  
20           business of printing or publishing a newspaper, that,  
21           pursuant to an agreement or arrangement with a marketplace  
22           seller or remote seller, does all of the following:

23           (i) Agrees to list or advertise for sale at retail  
24           one or more products of the marketplace seller or remote  
25           seller in a physical or electronic medium.

26           (ii) Receives consideration from the marketplace  
27           seller or remote seller from the sale offered in the  
28           listing or advertisement.

29           (iii) Transfers by telecommunications, Internet link  
30           or other means, a purchaser to a marketplace seller,

1 remote seller or affiliated person to complete a sale.

2 (iv) Does not collect a receipt from the purchaser  
3 for the sale.

4 (2) The term shall include a person that may also be a  
5 vendor.

6 (3) The term shall not include a person that:

7 (i) provides Internet advertising services; and

8 (ii) does not provide the marketplace seller's or  
9 remote seller's shipping terms or advertise whether a  
10 marketplace seller or remote seller collects a sales or  
11 use tax.

12 "Remote seller." A person, other than a marketplace  
13 facilitator, marketplace seller or referrer, that does not  
14 maintain a place of business in this Commonwealth that, through  
15 a forum, sells tangible personal property at retail, the sale or  
16 use of which is subject to the tax imposed by this chapter. The  
17 term does not include an employee who in the ordinary scope of  
18 employment renders services to the employee's employer in  
19 exchange for wages and salaries.

20 § 1352. Election.

21 (a) Duty.--Subject to subsections (c) and (d), on or before  
22 March 1, 2018, and on or before June 1 of each calendar year  
23 thereafter, beginning June 1, 2019, a remote seller, marketplace  
24 facilitator or referrer that had aggregate sales at retail of  
25 tangible personal property subject to tax under this subpart  
26 within this Commonwealth or delivered to locations within this  
27 Commonwealth worth at least \$10,000 during the immediately  
28 preceding 12-calendar-month period shall file an election with  
29 the department to collect and remit the tax imposed under this  
30 subchapter or to comply with the notice and reporting

1 requirements. The election shall be made on a form and in a  
2 manner prescribed by the department and, except as provided  
3 under subsection (e), shall apply to the next succeeding fiscal  
4 year.

5 (b) License.--A remote seller, marketplace facilitator or  
6 referrer that makes an election under subsection (a) to collect  
7 and remit the tax imposed under this subchapter shall obtain a  
8 license under Subchapter D (relating to licenses).

9 (c) Applicability for marketplace facilitator.--The  
10 requirement by a marketplace facilitator to make an election  
11 under subsection (a) shall only apply to the following:

12 (1) Sales at retail through the marketplace  
13 facilitator's forum made by or on behalf of a marketplace  
14 seller that does not maintain a place of business in this  
15 Commonwealth.

16 (2) Sales at retail made by a marketplace facilitator on  
17 its own behalf if the marketplace facilitator does not  
18 maintain a place of business in this Commonwealth.

19 (d) Applicability for referrer.--

20 (1) The requirement by a referrer to make an election  
21 under subsection (a) shall only apply to sales at retail:

22 (i) directly resulting from a referral of a  
23 purchaser to a marketplace seller that does not maintain  
24 a place of business in this Commonwealth;

25 (ii) directly resulting from a referral of a  
26 purchaser to a remote seller; and

27 (iii) of the referrer's own products if the referrer  
28 does not maintain a place of business in this  
29 Commonwealth.

30 (2) A referrer may make an election under subsection (a)

1 for the sales described under paragraph (1)(i) and (ii) that  
2 is different from the election made for the sales described  
3 under paragraph (1)(iii).

4 (e) Effective period and change of election.--An election  
5 made on or before March 1, 2018, shall be in effect for the  
6 balance of the 2017-2018 fiscal year and for the 2018-2019  
7 fiscal year. A remote seller, marketplace facilitator or  
8 referrer may change an election to comply with the notice and  
9 reporting requirements to an election to collect and remit the  
10 tax imposed under this subchapter at any time during a fiscal  
11 year by filing a new election with the department and obtaining  
12 a license under Subchapter D. The new election shall be  
13 effective 30 days after the filing and shall be effective for  
14 the balance of the fiscal year in which the new election was  
15 filed and for the next succeeding fiscal year.

16 (f) Deemed compliance.--A remote seller, marketplace  
17 facilitator or referrer who does not submit an election under  
18 subsection (a) or a new election under subsection (e) shall be  
19 deemed to have elected to comply with the notice and reporting  
20 requirements.

21 (g) Additional requirements.--In addition to records that  
22 may be required to be maintained under other applicable  
23 provisions of this subpart by a remote seller, a marketplace  
24 facilitator or referrer, remote seller, marketplace facilitator  
25 or referrer subject to this subpart shall also be subject to  
26 sections 1592 (relating to keeping of records) and 1594  
27 (relating to examinations).

28 § 1353. Notice requirements.

29 (a) Compliance.--A remote seller, marketplace facilitator or  
30 referrer required to make an election under section 1352

1 (relating to election) that does not elect to collect and remit  
2 the tax imposed by this subchapter shall comply with the  
3 applicable notice requirements of this section.

4 (b) Notice by remote seller or marketplace facilitator.--

5 (1) A remote seller or marketplace facilitator subject  
6 to the requirements of this section shall:

7 (i) Post a conspicuous notice on its forum that  
8 informs purchasers intending to purchase tangible  
9 personal property for delivery to a location within this  
10 Commonwealth that includes all of the following:

11 (A) Sales or use tax may be due in connection  
12 with the purchase and delivery of the tangible  
13 personal property.

14 (B) The Commonwealth requires the purchaser to  
15 file a return if use tax is due in connection with  
16 the purchase and delivery.

17 (C) The notice is required by this section.

18 (ii) Provide a written notice to each purchaser at  
19 the time of each sale at retail that includes all of the  
20 following:

21 (A) A statement that sales tax is not being  
22 collected in connection with the purchase.

23 (B) A statement that the purchaser may be  
24 required to remit use tax directly to the department.

25 (C) Instructions for obtaining additional  
26 information from the department regarding whether and  
27 how to remit use tax to the department.

28 (2) The notice required by paragraph (1) (ii) must be  
29 prominently displayed on all invoices and order forms and on  
30 each sales receipt or similar document, whether in paper or

1 electronic form, provided to the purchaser. No statement that  
2 sales or use tax is not imposed on a transaction may be made  
3 by a remote seller or marketplace facilitator unless the  
4 transaction is exempt from sales and use tax under this  
5 subpart or other applicable Commonwealth law.

6 (c) Notice by referrer.--

7 (1) A referrer subject to the requirements of this  
8 section shall post a conspicuous notice on its platform that  
9 informs purchasers intending to purchase tangible personal  
10 property for delivery to a location within this Commonwealth  
11 that includes all of the following:

12 (i) Sales or use tax may be due in connection with  
13 the purchase and delivery.

14 (ii) The person to which the purchaser is being  
15 referred may or may not collect and remit sales tax to  
16 the department in connection with the transaction.

17 (iii) The Commonwealth requires the purchaser to  
18 file a return if use tax is due in connection with the  
19 purchase and delivery and not collected by the person.

20 (iv) The notice is required by this section.

21 (v) Instructions for obtaining additional  
22 information from the department regarding whether and how  
23 to remit sales or use tax to the department.

24 (vi) If the person to whom the purchaser is being  
25 referred does not collect sales tax on a subsequent  
26 purchase by the purchaser, the person may be required to  
27 provide information to the purchaser and the department  
28 about the purchaser's potential sales or use tax  
29 liability.

30 (2) The notice required under paragraph (1) must be

1 prominently displayed and may include pop-up boxes or  
2 notification by other means that appears when the referrer  
3 transfers a purchaser to another person to complete the sale.  
4 § 1354. Reports to purchasers and marketplace sellers.

5 (a) Contents.--A remote seller or marketplace facilitator  
6 required to make an election under section 1352(a) (relating to  
7 election) that does not elect to collect and remit the tax  
8 imposed by this subchapter shall, no later than January 31 of  
9 each year, provide a written report to each purchaser required  
10 to receive the notice under section 1353(b)(1)(ii) (relating to  
11 notice requirements) during the immediately preceding calendar  
12 year that includes all of the following:

13 (1) A statement that the remote seller or marketplace  
14 facilitator did not collect sales tax in connection with the  
15 purchaser's transactions with the remote seller or  
16 marketplace facilitator and that the purchaser may be  
17 required to remit use tax to the department.

18 (2) A list, by date, indicating the type and purchase  
19 price of each product purchased or leased by the purchaser  
20 from the remote seller or marketplace facilitator and  
21 delivered to a location within this Commonwealth.

22 (3) Instructions for obtaining additional information  
23 from the department regarding whether and how to remit use  
24 tax to the department.

25 (4) A statement that the remote seller or marketplace  
26 facilitator is required to submit a report to the department  
27 under section 1355 (relating to reports to department) that  
28 includes the name of the purchaser and the aggregate dollar  
29 amount of the purchaser's purchases from the remote seller or  
30 marketplace facilitator.

1           (5) Additional information as the department may  
2           reasonably require.

3           (b) Form.--The department shall prescribe the form of the  
4           report required under subsection (a) and shall make the form  
5           available on its publicly accessible Internet website.

6           (c) Transmittal.--The report required under subsection (a)  
7           shall be mailed by first class mail in an envelope prominently  
8           marked with words indicating that important tax information is  
9           enclosed to the purchaser's billing address, if known, or, if  
10           unknown, to the purchaser's shipping address. If the purchaser's  
11           billing and shipping addresses are unknown, the report shall be  
12           sent electronically to the purchaser's last known e-mail address  
13           with a subject heading indicating that important tax information  
14           is being provided.

15           (d) Notice.--A referrer required to make an election under  
16           section 1352(a) that does not elect to collect and remit the tax  
17           imposed by this subchapter shall, no later than January 31 of  
18           each year, provide a written notice to each remote seller to  
19           whom the referrer transferred a potential purchaser located in  
20           this Commonwealth during the immediately preceding calendar year  
21           that includes all of the following:

22                   (1) A statement that a sales or use tax may be imposed  
23                   by the Commonwealth on the transaction.

24                   (2) A statement that the remote seller may be required  
25                   to make the election required by section 1352(a).

26                   (3) Instructions for obtaining additional information  
27                   regarding sales and use tax from the department.

28           § 1355. Reports to department.

29           (a) Contents.--A remote seller or marketplace facilitator  
30           required to make an election under section 1352(a) (relating to

1 election) that does not elect to collect and remit the tax  
2 imposed by this subchapter shall, no later than January 31 of  
3 each year, submit a report to the department. The report shall  
4 include, with respect to each purchaser required to receive the  
5 notice under section 1353(b)(1)(ii) (relating to notice  
6 requirements) during the immediately preceding calendar year,  
7 the following:

8 (1) The purchaser's name.

9 (2) The purchaser's billing address and, if different,  
10 the purchaser's last known mailing address.

11 (3) The address within this Commonwealth to which  
12 products were delivered to the purchaser.

13 (4) The aggregate dollar amount of the purchaser's  
14 purchases from the remote seller or marketplace facilitator.

15 (5) The name and address of the remote seller,  
16 marketplace facilitator or marketplace seller that made the  
17 sales to the purchaser.

18 (b) Report and contents.--A referrer required to make an  
19 election under section 1352(a) that does not elect to collect  
20 and remit the tax imposed by this subchapter shall, no later  
21 than January 31 of each year, submit a report to the department.  
22 The report shall include a list of persons who received the  
23 notice required under section 1354(d) (relating to reports to  
24 purchasers and marketplace sellers).

25 (c) Forms and availability.--The department shall prescribe  
26 the forms of the reports required under this section and shall  
27 make them available on its publicly accessible Internet website.  
28 The reports shall be submitted electronically in a manner as the  
29 department shall require.

30 (d) Submission and statement.--A report required under this

1 section shall be submitted by an officer of the remote seller,  
2 marketplace facilitator or referrer and shall include a  
3 statement, made under penalty of perjury, by the officer that  
4 the remote seller, marketplace facilitator or referrer made  
5 reasonable efforts to comply with the notice and reporting  
6 requirements of this subpart.

7 § 1356. Liability and penalties.

8 (a) Assessment.--The department shall assess a penalty in  
9 the amount of \$20,000 or 20% of total sales in Pennsylvania  
10 during the previous 12 months, whichever is less, against a  
11 remote seller, marketplace facilitator or referrer that makes an  
12 election under section 1352(a) (relating to election) to comply  
13 with the notice and reporting requirements, or is deemed to have  
14 made such election under section 1352(f), and fails to comply  
15 with the requirements under section 1354 (relating to reports to  
16 purchasers and marketplace sellers) or 1355 (relating to reports  
17 to department). The penalty shall be assessed separately for  
18 each violation but may only be assessed once in a calendar year.

19 (b) Subject to penalties.--A remote seller, marketplace  
20 facilitator or referrer that makes an election under section  
21 1352(a) to collect and remit the tax imposed under this  
22 subchapter shall be subject to all of the provisions of this  
23 part with respect to the collection and remittance of the tax  
24 and shall be subject to all of the penalties, interest and  
25 additions for failing to comply with the provisions of this  
26 subpart except as provided in this section.

27 (c) Abatement.--The department may abate or reduce any  
28 penalties or addition imposed under subsection (b) due to  
29 hardship or for good cause shown for a period which ends as  
30 follows:

1 (1) Except as otherwise provided under paragraph (2),  
2 February 1, 2023.

3 (2) For tangible personal property described under  
4 paragraph (2) of the definition of "tangible personal  
5 property" under section 1102 (relating to definitions),  
6 February 1, 2024.

7 (d) Relief from liability.--A marketplace facilitator or  
8 referrer is relieved of liability under subsection (b) if the  
9 marketplace facilitator or referrer can show to the satisfaction  
10 of the department that the failure to collect the correct amount  
11 of tax was due to incorrect information given to the marketplace  
12 facilitator or referrer by a marketplace seller or remote  
13 seller.

14 (e) Class action.--A class action may not be brought against  
15 a marketplace facilitator or referrer on behalf of purchasers  
16 arising from or in any way related to an overpayment of sales or  
17 use tax collected by the marketplace facilitator or referrer,  
18 regardless of whether the action is characterized as a tax  
19 refund claim. Nothing in this subsection shall affect a  
20 purchaser's right to seek a refund from the department under  
21 other provisions of this subpart.

22 § 1357. Application.

23 Nothing in this section shall affect the obligations of a  
24 vendor to register with the department and to collect and remit  
25 sales tax or use tax.

26 § 1358. Transfer to county sales and use tax accounts.

27 Notwithstanding any other provision of a law, beginning  
28 October 1, 2024, 2% of the tax imposed under Subchapter A  
29 (relating to imposition of tax) that is collected and remitted  
30 by a remote seller, a marketplace facilitator or a referrer

1 shall be transferred to the School District Property Tax  
2 Elimination Fund and credited under 53 Pa.C.S. § 90A52 (relating  
3 to payments to counties) to the respective county sales and use  
4 tax accounts in the same proportion that each county's receipts  
5 under section 90A22 (relating to imposition) bears to the total  
6 receipts under section 90A22 for all counties. The amount  
7 transferred shall include interest and penalties, less any  
8 collection costs allowed and any refunds and credits paid.

9 CHAPTER 15

10 PROCEDURE AND ADMINISTRATION

11 Subchapter

12 A. Preliminary Provisions

13 B. Returns

14 C. Payment of Tax

15 D. Assessment and Collection of Tax

16 E. Refunds and Credits

17 F. Limitations

18 G. Interest, Additions, Penalties and Crimes

19 H. Enforcement and Examinations

20 I. Miscellaneous Provisions

21 SUBCHAPTER A

22 PRELIMINARY PROVISIONS

23 Sec.

24 1501. Definitions.

25 § 1501. Definitions.

26 The following words and phrases when used in this chapter  
27 shall, in addition to the meaning given to them in section 1102  
28 (relating to definitions), have the meanings given to them in  
29 this section unless the context clearly indicates otherwise:

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

1 Being an operator as defined in section 1341 (relating to  
2 definitions).

3 "Purchase price." Rent as defined in section 1341.

4 "Purchaser." An occupant as defined in section 1341.

5 "Sale." The providing of occupancy to an occupant by an  
6 operator, as those terms are defined in section 1341.

7 "Services." Occupancy as defined in section 1341.

8 "Tangible personal property." Occupancy as defined in  
9 section 1341.

10 "Use." Occupancy as defined in section 1341.

11 "Vendor" An operator as defined in section 1341.

12 SUBCHAPTER B

13 RETURNS

14 Sec.

15 1511. Persons required to make returns.

16 1512. Form of returns.

17 1513. Time for filing returns.

18 1514. Extension of time for filing returns.

19 1515. Place for filing returns.

20 1516. Timely mailing treated as timely filing and payment.

21 § 1511. Persons required to make returns.

22 Every person required to pay tax to the department or collect  
23 and remit tax to the department, but not including a marketplace  
24 seller who solely makes sales through a marketplace facilitator  
25 that is required to collect sales tax on the seller's behalf and  
26 receives a certification from the marketplace facilitator that  
27 the marketplace facilitator will collect, report and remit the  
28 proper sales tax, shall file returns with respect to the tax.

29 § 1512. Form of returns.

30 The returns required by section 1511 (relating to persons

1 required to make returns) shall be on forms prescribed by the  
2 department and shall show the information with respect to the  
3 taxes imposed by this subpart as the department may reasonably  
4 require.

5 § 1513. Time for filing returns.

6 (a) Quarterly and monthly returns.--

7 (1) For the calendar year 1971, and in each year  
8 thereafter, a return shall be filed quarterly by every  
9 licensee on or before the 20th day of April, July, October  
10 and January for the three months ending the last day of  
11 March, June, September and December.

12 (2) For the calendar year 1971, and in each year  
13 thereafter, a return shall be filed monthly with respect to  
14 each month by every licensee whose actual tax liability for  
15 the third calendar quarter of the preceding year equals or  
16 exceeds \$600 and is less than \$25,000. The return shall be  
17 filed on or before the 20th day of the next succeeding month  
18 with respect to which the return is made. A licensee required  
19 to file monthly returns under this section shall be relieved  
20 from filing quarterly returns.

21 (3) With respect to every licensee whose actual tax  
22 liability for the third calendar quarter of the preceding  
23 year equals or exceeds \$25,000 and is less than \$100,000, the  
24 licensee shall, on or before the 20th day of each month, file  
25 a single return consisting of all of the following:

26 (i) Either of the following:

27 (A) An amount equal to 50% of the licensee's  
28 actual tax liability for the same month in the  
29 preceding calendar year if the licensee was a monthly  
30 filer or, if the licensee was a quarterly or semi-

1 annual filer, 50% of the licensee's average actual  
2 tax liability for that tax period in the preceding  
3 calendar year. The following shall apply:

4 (I) The average actual tax liability shall  
5 be the actual tax liability for the tax period  
6 divided by the number of months in that tax  
7 period.

8 (II) For licensees that were not in business  
9 during the same month in the preceding calendar  
10 year or were in business for only a portion of  
11 that month, the amount shall be 50% of the  
12 average actual tax liability for each tax period  
13 the licensee has been in business.

14 (III) If the licensee is filing a tax  
15 liability for the first time with no preceding  
16 tax periods, the amount shall be zero.

17 (B) An amount equal to or greater than 50% of  
18 the licensee's actual tax liability for the same  
19 month.

20 (ii) An amount equal to the taxes due for the  
21 preceding month, less any amounts paid in the preceding  
22 month as required by subparagraph (i).

23 (4) With respect to each month by every licensee whose  
24 actual tax liability for the third calendar quarter of the  
25 preceding year equals or exceeds \$100,000, the licensee  
26 shall, on or before the 20th day of each month, file a single  
27 return consisting of the amounts under paragraph (3)(i)(A)  
28 and (ii).

29 (5) The amount due under paragraph (3)(i) or (4) shall  
30 be due the same day as the remainder of the preceding month's

1 tax.

2 (6) The department shall determine whether the amounts  
3 reported under paragraph (3) or (4) shall be remitted as one  
4 combined payment or as two separate payments.

5 (7) The department may require the filing of the returns  
6 and the payments for these types of filers by electronic  
7 means approved by the department.

8 (8) A licensee filing returns under paragraph (3) or (4)  
9 shall be relieved of filing quarterly returns.

10 (9) If a licensee required to remit payments under  
11 paragraph (3) or (4) fails to make a timely payment or makes  
12 a payment which is less than the required amount, the  
13 department may, in addition to any applicable penalties,  
14 impose an additional penalty equal to 5% of the amount due  
15 under paragraph (3) or (4) which was not timely paid. The  
16 penalty under this paragraph shall be determined when the tax  
17 return is filed for the tax period.

18 (b) Annual returns.--

19 (1) For the calendar year 1971, and for each year  
20 thereafter, no annual return shall be filed, except as may be  
21 required by rules and regulations of the department  
22 promulgated and published at least 60 days prior to the end  
23 of the year with respect to which the returns are made.

24 (2) If annual returns are required, licensees shall not  
25 be required to file returns prior to the 20th day of the year  
26 succeeding the year with respect to which the returns are  
27 made.

28 (c) Other returns.--A person, other than a licensee, liable  
29 to pay to the department a tax under this subpart shall file a  
30 return on or before the 20th day of the month succeeding the

1 month in which the person becomes liable for the tax.

2 (d) Small taxpayers.--The department, by regulation, may  
3 waive the requirement for the filing of a quarterly return in  
4 the case of a licensee whose individual tax collections do not  
5 exceed \$75 per calendar quarter and may provide for reporting on  
6 a less frequent basis in such cases.

7 § 1514. Extension of time for filing returns.

8 (a) General rule.--Except as provided under subsection (b),  
9 the department may, on written application and for good cause  
10 shown, grant a reasonable extension of time for filing a return  
11 required under this subpart.

12 (b) Exception.--The time for making a return shall not be  
13 extended for more than three months.

14 § 1515. Place for filing returns.

15 Returns shall be filed with the department at its main office  
16 or at a branch office which the department may designate for  
17 filing returns.

18 § 1516. Timely mailing treated as timely filing and payment.

19 (a) Postmark.--Notwithstanding the provisions of any State  
20 tax law to the contrary, whenever a report or payment of all or  
21 any portion of a State tax is required by law to be received by  
22 the department or other agency of the Commonwealth on or before  
23 a day certain, the taxpayer shall be deemed to have complied  
24 with the law if the letter transmitting the report or payment of  
25 the tax which has been received by the department is postmarked  
26 by the United States Postal Service on or prior to the final day  
27 on which the payment is to be received.

28 (b) Evidence.--For the purposes of this subpart,  
29 presentation of a receipt indicating that the report or payment  
30 was mailed by registered or certified mail on or before the due

1 date shall be evidence of timely filing and payment.

2 SUBCHAPTER C

3 PAYMENT OF TAX

4 Sec.

5 1521. Payment.

6 1522. Time of payment.

7 1523. Other times for payment.

8 1524. Place for payment.

9 1525. Tax held in trust for Commonwealth.

10 1526. Discount.

11 § 1521. Payment.

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

15 § 1522. Time of payment.

16 (a) Monthly and quarterly payments.--The tax imposed by this  
17 subpart and incurred or collected by a licensee shall be due and  
18 payable by the licensee on the day the return is required to be  
19 filed under the provisions of section 1513 (relating to time for  
20 filing returns) and payment must accompany the return.

21 (b) Annual 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) Other payments.--A person other than a licensee liable  
28 to pay tax under this subpart shall remit the tax at the time of  
29 filing the return required by this subpart.

30 § 1523. Other times for payment.

1 If the department authorizes a taxpayer to file a return at  
2 other times than those specified under section 1513 (relating to  
3 time for filing returns), the tax due shall be paid at the time  
4 the return is filed.

5 § 1524. Place for payment.

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

8 § 1525. Tax held in trust for Commonwealth.

9 (a) Establishment, enforceability and good faith.--All taxes  
10 collected by a person from purchasers in accordance with this  
11 subpart and all taxes collected by a person from purchasers  
12 under color of this subpart, including all taxes paid by a  
13 person who advertises or holds out or states, directly or  
14 indirectly, that the person will pay the tax for the purchaser,  
15 which have not been properly refunded by the person to the  
16 purchaser shall constitute a trust fund for the Commonwealth,  
17 and the trust shall be enforceable against the person, the  
18 person's representatives and any person, other than a purchaser  
19 to whom a refund has been made properly, receiving any part of  
20 the fund without consideration or knowing that the taxpayer is  
21 committing a breach of trust, provided that a person receiving  
22 payment of a lawful obligation of the taxpayer from the fund  
23 shall be presumed to have received the payment in good faith and  
24 without any knowledge of the breach of trust.

25 (b) Petition and appeal.--A person, other than a taxpayer,  
26 against whom the department makes a claim under this section  
27 shall have the same right to petition and appeal as is given  
28 taxpayers by any provisions of this chapter.

29 § 1526. Discount.

30 If a return is filed by a licensee and the tax shown to be

1 due on the return less any discount is paid all within the time  
2 prescribed, the licensee shall be entitled, as compensation for  
3 the expense of collecting and remitting the tax and as a  
4 consideration of the prompt payment of the tax, to credit and  
5 shall apply against the tax payable by the licensee a discount  
6 of the lesser of:

7 (1) 1% of the amount of the tax collected; or

8 (2) as follows:

9 (i) \$25 per return for a monthly filer;

10 (ii) \$75 per return for a quarterly filer; or

11 (iii) \$150 per return for a semiannual filer.

12 SUBCHAPTER D

13 ASSESSMENT AND COLLECTION OF TAX

14 Sec.

15 1531. Assessment.

16 1532. Mode and time of assessment.

17 1533. Reassessment.

18 1534. Assessment to recover erroneous refunds.

19 1535. Burden of proof.

20 1536. Collection of tax.

21 1537. Collection of tax on motor vehicles, trailers and  
22 semitrailers.

23 1538. Precollection of tax.

24 1539. Bulk and auction sales.

25 1540. Collection upon failure to request reassessment, review  
26 or appeal.

27 1541. Lien for taxes.

28 1542. Suit for taxes.

29 1543. Tax suit comity.

30 1544. Service.

1 1545. Collection and payment of tax on credit sales.  
2 1546. Prepayment of tax.  
3 1547. Refund of sales tax attributed to bad debt.  
4 1548. Registration of transient vendors.  
5 1549. Bond.  
6 1550. Notification to department and inspection of records.  
7 1551. Seizure of property.  
8 1552. Fines.  
9 1553. Transient vendors subject to subpart.  
10 1554. Promoters.  
11 § 1531. Assessment.

12 (a) Authorization.--The department is authorized and  
13 required to make the inquiries, determinations and assessments  
14 of the tax imposed by this subpart. This subsection includes  
15 interest, additions and penalties.

16 (b) Notice of assessment.--A notice of assessment and demand  
17 for payment shall be mailed to the taxpayer. The notice shall  
18 specify the basis of the assessment.

19 (c) Marketplace facilitator.--A marketplace facilitator is  
20 relieved of liability under this section if the marketplace  
21 facilitator can show to the satisfaction of the department that  
22 the failure to collect the correct amount of tax was due to  
23 incorrect information given to the marketplace facilitator by a  
24 marketplace seller.

25 (d) Marketplace seller.--A marketplace seller is relieved of  
26 liability under this section pertaining to those sales made  
27 through a marketplace facilitator, when the marketplace  
28 facilitator certifies to the seller that the marketplace  
29 facilitator will collect, report and remit the proper sales tax,  
30 unless the seller gave incorrect information to the marketplace

1 facilitator.

2 § 1532. Mode and time of assessment.

3 (a) Underpayment of tax.--Within a reasonable time after a  
4 return is filed, the department shall examine the return. If the  
5 return shows a greater tax due or collected than the amount of  
6 tax remitted with the return, the department shall issue an  
7 assessment for the difference and 3% of the difference. The  
8 assessment shall be paid to the department within 10 days after  
9 a notice of the assessment has been mailed to the taxpayer. If  
10 the assessment is not paid within 10 days, an additional 3% of  
11 the difference for each month during which the assessment  
12 remains unpaid shall be added to the assessment total, but the  
13 total of all additions shall not exceed 18% of the difference  
14 shown on the assessment.

15 (b) Understatement of tax.--If the department determines  
16 that a return of a taxpayer understates the amount of tax due,  
17 it shall determine the proper amount and shall ascertain the  
18 deficiency between the amount of tax shown in the return and the  
19 amount determined. A notice of assessment for the deficiency and  
20 the reasons for the deficiency shall be sent to the taxpayer.  
21 The deficiency shall be paid to the department within 30 days  
22 after a notice of the assessment has been mailed to the  
23 taxpayer.

24 (c) Failure to file return.--If a taxpayer fails to file a  
25 return required by this chapter, the department may make an  
26 estimated assessment, based on information available, of the  
27 proper amount of tax owed by the taxpayer. A notice of  
28 assessment in the estimated amount shall be sent to the  
29 taxpayer. The tax shall be paid within 30 days after a notice of  
30 the estimated assessment has been mailed to the taxpayer.

1 (d) Authority to establish effective rates by business  
2 classification.--The department may:

3 (1) make the studies necessary to compute effective  
4 rates by business classification, based upon the ratio  
5 between:

6 (i) the tax required to be collected; and

7 (ii) taxable sales; and

8 (2) use the rates in computing the tax liability of a  
9 taxpayer.

10 (e) Tax rate.--

11 (1) Except as set forth in paragraph (2), an assessment  
12 based upon the rates shall be prima facie correct.

13 (2) If a taxpayer establishes that the rate is based on  
14 a sample inapplicable to the taxpayer, the rate shall not be  
15 considered.

16 § 1533. Reassessment.

17 A taxpayer against whom an assessment is made may petition  
18 the department for a reassessment under Article XXVII of the Tax  
19 Reform Code of 1971.

20 § 1534. Assessment to recover erroneous refunds.

21 The department may file an assessment to recover an erroneous  
22 refund. The assessment must be filed within the later of:

23 (1) two years of granting a refund or credit; or

24 (2) the period in which an assessment could have been  
25 filed by the department with respect to the transaction  
26 pertaining to which the refund was granted.

27 § 1535. Burden of proof.

28 In a petition for reassessment, review or appeal, the burden  
29 of proof shall be upon the petitioner or appellant.

30 § 1536. Collection of tax.

1 (a) Collection by department.--The department shall collect  
2 the tax in the manner provided by law.

3 (b) Remitters.--

4 (1) This subsection applies to all of the following:

5 (i) A person that:

6 (A) maintains a place of business in this  
7 Commonwealth; and

8 (B) sells or leases tangible personal property  
9 or services, with the exception of a marketplace  
10 seller who solely makes sales through a marketplace  
11 facilitator that is required to collect sales tax on  
12 the marketplace seller's behalf and receives a  
13 certification from the marketplace facilitator that  
14 the marketplace facilitator will collect, report and  
15 remit the proper sales tax, the sale or use of which  
16 is subject to tax.

17 (ii) A person not otherwise required to collect tax  
18 that:

19 (A) delivers tangible personal property to a  
20 location within this Commonwealth; and

21 (B) unpacks, positions, places or assembles the  
22 tangible personal property.

23 (2) Except as set forth in section 1537(a) (relating to  
24 collection of tax on motor vehicles, trailers and  
25 semitrailers), a person subject to paragraph (1)(i) shall:

26 (i) collect the tax from the purchaser or lessee at  
27 the time of making the sale or lease; and

28 (ii) remit the tax to the department.

29 (3) All of the following apply to a person subject to  
30 paragraph (1)(ii):

1           (i) The person shall collect the tax from the  
2 purchaser at the time of delivery. The person is deemed  
3 to be selling or leasing tangible personal property or  
4 services, the sale or use of which is subject to the tax  
5 imposed under this subpart.

6           (ii) The person shall remit the tax to the  
7 department if:

8                   (A) the person delivering the tangible personal  
9 property is responsible for collecting any portion of  
10 the purchase price of the tangible personal property  
11 delivered; and

12                   (B) the purchaser has not provided the person  
13 with proof that:

14                           (I) the tax imposed by this chapter has been  
15 or will be collected by the seller; or

16                           (II) the purchaser provided the seller with  
17 a valid exemption certificate.

18 (4) The following shall apply:

19           (i) A vendor maintaining a place of business within  
20 this Commonwealth under paragraph (1)(vii) of the  
21 definition of "maintaining a place of business in this  
22 Commonwealth" under section 1102 (relating to  
23 definitions) in calendar year 2018 shall collect sales  
24 tax from July 1, 2019, through March 31, 2020.

25           (ii) A vendor maintaining a place of business within  
26 this Commonwealth under paragraph (1)(vii) of the  
27 definition of "maintaining a place of business in this  
28 Commonwealth" under section 1102 in calendar years after  
29 2018 shall collect sales tax from the second quarter,  
30 beginning April 1, of the following calendar year through

1 the first quarter, ending March 31, of the next calendar  
2 year.

3 (5) Each person that is required under this chapter to  
4 collect tax from another person and that fails to collect the  
5 proper amount of tax shall be liable for the full amount of  
6 the tax which should have been collected.

7 (b.1) Collection by marketplace facilitators.--A marketplace  
8 facilitator maintaining a place of business in this Commonwealth  
9 must collect and remit the sales tax on all sales, leases and  
10 deliveries of tangible personal property, and all sales of  
11 services, by marketplace sellers whose sales are facilitated  
12 through the marketplace facilitator's forum.

13 (c) Exemption certificates.--

14 (1) Except as provided under paragraph (2), if the tax  
15 does not apply to the sale or lease of tangible personal  
16 property or services, the purchaser or lessee shall furnish  
17 to the vendor a certificate indicating that the sale is not  
18 legally subject to the tax. The certificate shall be in the  
19 form prescribed by the department.

20 (2) An exemption certificate under paragraph (1) need  
21 not be furnished if:

22 (i) the tangible personal property or service is of  
23 a type which is never subject to the tax imposed; or

24 (ii) the sale or lease is in interstate commerce.

25 (3) If a series of transactions are not subject to tax,  
26 a purchaser or user may furnish the vendor with a single  
27 exemption certificate in the form, and valid for the period  
28 of time, prescribed by the department.

29 (4) The department shall provide each school district  
30 and intermediate unit with a permanent tax exemption number.

1           (5) An exemption certificate shall relieve the vendor  
2 from liability under this section if the exemption  
3 certificate:

4           (i) is complete and regular;

5           (ii) on its face discloses a valid basis of  
6 exemption; and

7           (iii) is taken in good faith.

8           (6) An exemption certificate shall be presumed to be  
9 taken in good faith and the burden of proving otherwise shall  
10 be on the department if all of the following conditions are  
11 met:

12           (i) The exemption certificate is accepted by a  
13 vendor in the ordinary course of the vendor's business.

14           (ii) The exemption certificate is from any of the  
15 following:

16                   (A) An individual domiciled within this  
17 Commonwealth.

18                   (B) An association, fiduciary, partnership,  
19 corporation or other entity which:

20                           (I) is authorized to do business within this  
21 Commonwealth; or

22                           (II) has an established place of business  
23 within this Commonwealth.

24           (iii) The exemption certificate:

25                   (A) on its face discloses a valid basis of  
26 exemption consistent with the activity of the  
27 purchaser and character of the property or service  
28 being purchased; or

29                   (B) is provided to the vendor by a charitable,  
30 religious or educational association or by a

1 volunteer firefighters' relief association or  
2 volunteer firemen's organization and contains the  
3 charitable exemption number of the association or  
4 organization.

5 (iv) If the purchase price is at least \$200, the  
6 exemption certificate is accompanied by a sworn  
7 declaration, on a form provided by the department, of an  
8 intended usage of the property or service which would  
9 render the usage or service nontaxable.

10 (c.1) Authorization to obtain information.--In lieu of the  
11 exemption certificate required under subsection (c), the  
12 department may authorize a vendor to obtain similarly specific  
13 information from the vendor's purchasers. This information  
14 includes, but is not limited to, the name and address of the  
15 purchaser and a valid basis for exemption. The purchases made  
16 under this subsection must be made with a verifiable source of  
17 payment connected to the specific purchaser. The information  
18 regarding each purchase shall be available at the time the  
19 return is filed for the period covering the purchase. The  
20 information shall be retained in accordance with section 1592  
21 (relating to keeping of records). No authority shall be granted  
22 or exercised, except upon application to and acceptance by the  
23 department, in the department's discretion. If authority is  
24 granted, it shall be subject to conditions specified by the  
25 department.

26 (d) Direct payment permits.--

27 (1) The department may authorize a purchaser or lessee  
28 to pay the tax directly to the department and waive the  
29 collection of the tax by the vendor if the purchaser or  
30 lessee acquires tangible personal property or services under

1 circumstances which make it impossible at the time of  
2 acquisition to determine the manner in which the tangible  
3 personal property or service will be used.

4 (2) Authorization under paragraph (1) requires:

5 (i) application to the department; and

6 (ii) issuance by the department of a direct payment  
7 permit.

8 (3) If a direct payment permit is granted:

9 (i) its use shall be subject to conditions specified  
10 by the department; and

11 (ii) payment of tax on all acquisitions under the  
12 permit shall be made directly to the department by the  
13 permit holder.

14 § 1537. Collection of tax on motor vehicles, trailers and  
15 semitrailers.

16 (a) Requirement.--

17 (1) Notwithstanding section 1536(b)(1) (relating to  
18 collection of tax), except as set forth in paragraph (2),  
19 tax due on the sale at retail or use of a motor vehicle,  
20 trailer or semitrailer required by law to be registered under  
21 75 Pa.C.S. Ch. 13 (relating to registration of vehicles)  
22 shall be paid by the purchaser or user directly to the  
23 Department of Transportation under 75 Pa.C.S. § 1103.1(b)  
24 (relating to application for certificate of title).

25 (2) Paragraph (1) does not apply to a mobile home.

26 (b) Tax paid or not due.--The Department of Transportation  
27 may not issue a certificate of title under 75 Pa.C.S. § 1105  
28 (relating to issuance of certificate of title) until the tax has  
29 been paid or evidence satisfactory to the Department of  
30 Transportation has been given to establish that tax is not due.

1 (c) Cancellation or suspension of certificate of title.--The  
2 Department of Transportation may cancel or suspend a record of  
3 certificate of title or registration of a motor vehicle, trailer  
4 or semitrailer if the check received in payment of the tax is  
5 not paid upon demand.

6 (d) First encumbrance.--The tax shall be considered as a  
7 first encumbrance against a vehicle under subsection (a)(1), and  
8 the vehicle may not be transferred without payment in full of  
9 the tax and interest or penalties which have accrued.

10 (e) Definitions.--As used in this section, the following  
11 words and phrases shall have the meanings given to them in this  
12 subsection unless the context clearly indicates otherwise:

13 "Mobile home." As defined in 75 Pa.C.S. § 102 (relating to  
14 definitions).

15 "Motor vehicle." As defined in 75 Pa.C.S. § 102.

16 "Semitrailer." As defined in 75 Pa.C.S. § 102.

17 "Trailer." As defined in 75 Pa.C.S. § 102.

18 § 1538. Precollection of tax.

19 (a) Precollection of tax.--

20 (1) Except as set forth in paragraph (2), the department  
21 may, by regulation, authorize or require particular  
22 categories of vendors selling tangible personal property for  
23 resale to precollect from the purchaser the tax which the  
24 purchaser will collect upon making a sale at retail of the  
25 tangible personal property.

26 (2) The department may not require a vendor to  
27 precollect tax from a purchaser who purchases for resale more  
28 than \$1,000 worth of tangible personal property from the  
29 vendor per year.

30 (b) Licensing.--If a vendor has been authorized to prepay

1 the tax to the person from whom the vendor purchased the  
2 tangible personal property for resale, the vendor prepaying the  
3 tax may, under the regulations of the department, be relieved  
4 from the vendor's duty to secure a license if the duty arises  
5 only by reason of the sale of the tangible personal property  
6 with respect to which the vendor is, under authorization of the  
7 department, to prepay the tax.

8 (c) Reimbursement.--

9 (1) On making a sale at retail of tangible personal  
10 property with respect to which the vendor has prepaid the  
11 tax, the vendor shall separately state at the time of resale  
12 the proper amount of tax on the transaction and reimburse the  
13 taxes which the vendor has previously prepaid.

14 (2) If a vendor collects a greater amount of tax in a  
15 reporting period than the vendor had previously prepaid upon  
16 purchase of the property with respect to which the vendor  
17 prepaid the tax, the vendor shall file a return and remit the  
18 balance to the Commonwealth at the time when a return would  
19 otherwise be due with respect to the sale.

20 § 1539. Bulk and auction sales.

21 A person is subject to section 1403 of the Fiscal Code if the  
22 person:

23 (1) sells or causes to be sold at auction, or sells or  
24 transfers in bulk, at least 51% of a stock of goods, wares,  
25 merchandise, fixtures, machinery, equipment, buildings or  
26 real estate involved in a business for which the person is  
27 licensed or required to be licensed under this subpart; or

28 (2) is liable for filing use tax returns under this  
29 subpart.

30 § 1540. Collection upon failure to request reassessment, review

1           or appeal.

2   (a) Collection.--The department may collect a tax:

3       (1) If, after notice to the taxpayer, an assessment of  
4 tax is not paid within 10 days, for assessments made under  
5 section 1532(a) (relating to mode and time of assessment), or  
6 30 days, for assessments made under section 1532(b), as long  
7 as no petition for reassessment has been filed.

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

10      (3) Unless an appeal is made, within 30 days from:

11          (i) the date of the decision of the Board of Finance  
12 and Revenue upon a petition for review, if no appeal has  
13 been made; or

14          (ii) expiration of the board's time for acting upon  
15 the petition, if no appeal has been made.

16      (4) In all cases of judicial sales, receiverships,  
17 assignments or bankruptcies.

18   (b) Raising defenses.--

19      (1) Except as set forth in paragraph (2), in a  
20 proceeding for the collection of tax, a taxpayer may not  
21 raise a defense which could have been determined by the  
22 department, the board or a court of competent jurisdiction.

23      (2) In a motion to stay a proceeding for the collection  
24 of tax, a taxpayer may raise any of the following defenses:

25          (i) The department's failure to mail notice of  
26 assessment or reassessment.

27          (ii) Payment of assessment or reassessment.

28 § 1541. Lien for taxes.

29   (a) Lien imposed.--

30      (1) If a person liable to pay a tax neglects or refuses

1 to pay the tax, the amount, including interest, addition or  
2 penalty, together with any other costs, shall be a lien in  
3 favor of the Commonwealth upon the property, both real and  
4 personal, of the person, but only after the lien has been  
5 entered and docketed of record by the prothonotary of the  
6 county where the property is situated.

7 (2) The department may, at any time, transmit to the  
8 prothonotaries of the respective counties certified copies of  
9 all liens for taxes imposed by this subpart and penalties and  
10 interest.

11 (3) It shall be the duty of each prothonotary receiving  
12 the lien to enter and docket the lien of record in the  
13 prothonotary's office, which shall be indexed as judgments  
14 are now indexed.

15 (4) A prothonotary may not require, as a condition  
16 precedent to the entry of the liens, the payment of the costs  
17 of entering the liens into record.

18 (b) Priority of lien and effect on judicial sale and no  
19 discharge by sale on junior lien.--

20 (1) The lien imposed under this section shall:

21 (i) have priority from the date of its recording;

22 (ii) be fully paid and satisfied out of the proceeds  
23 of a judicial sale of property subject to the lien before  
24 any other obligation, judgment, claim, lien or estate to  
25 which the property may subsequently become subject,  
26 except costs of the sale and of the writ upon which the  
27 sale was made and real estate taxes and municipal claims  
28 against the property; and

29 (iii) be subordinate to mortgages and other liens  
30 existing and duly recorded or entered of record prior to

1           the recording of the tax lien.

2           (2) For a judicial sale of property, subject to a lien  
3 imposed under this section on a lien or claim over which the  
4 lien imposed under this section has priority, the sale shall  
5 discharge the lien imposed under this section only to the  
6 extent that the proceeds are applied to its payment, and the  
7 lien shall continue in full force and effect as to the  
8 balance remaining unpaid.

9           (3) An inquisition or condemnation may not be made on a  
10 judicial sale of real estate made by the Commonwealth under  
11 this section. The following shall apply:

12           (i) The lien of the taxes, interest and penalties  
13 shall continue for five years from the date of entry and  
14 may be revived and continued in the manner provided for  
15 renewal of judgments, on or after March 4, 1971, or as  
16 may be provided in the Fiscal Code.

17           (ii) A writ of execution may directly issue on the  
18 lien without the issuance and prosecution to judgment of  
19 a writ of scire facias, if not less than 10 days before  
20 issuance of an execution on the lien, notice of the  
21 filing and the effect of the lien shall be sent by  
22 registered mail to the taxpayer at the taxpayer's last  
23 known post office address.

24           (iii) The lien shall have no effect on a stock of  
25 goods, wares or merchandise regularly sold or leased in  
26 the ordinary course of business by the person against  
27 whom the lien has been entered, until a writ of execution  
28 has been issued and a levy made upon the stock of goods,  
29 wares and merchandise.

30           (c) Duty of prothonotary.--A prothonotary who willfully

1 fails to carry out a duty imposed under this section commits a  
2 misdemeanor and shall, upon conviction, be sentenced to pay a  
3 fine of \$1,000 or to imprisonment for not more than one year, or  
4 both.

5 (d) Priority of tax.--Except as provided in this chapter,  
6 each tax imposed by this part which is due and unpaid and is not  
7 collectible under section 1525 (relating to tax held in trust  
8 for Commonwealth) shall be paid from the first money available  
9 for distribution in priority to each other claim and lien,  
10 except as the laws of the United States may give a prior claim  
11 to the Federal Government. A person charged with the  
12 administration or distribution of a property or estate who  
13 violates this section shall be personally liable for taxes  
14 imposed by this part, which are accrued and unpaid and are  
15 chargeable against the person whose property or estate is being  
16 administered or distributed.

17 (e) Other remedies.--Subject to the limitations in this  
18 subpart as to the assessment of taxes, nothing in this section  
19 shall be construed to restrict, prohibit or limit the use by the  
20 department in collecting taxes finally due and payable of  
21 another remedy or procedure available at law or equity for the  
22 collection of debts.

23 § 1542. Suit for taxes.

24 (a) Commencement.--The department may, within three years  
25 after a tax is finally due and payable, commence an action in  
26 the courts of the United States, this Commonwealth or any state  
27 in the name of the Commonwealth to collect tax due together with  
28 additions, interest, penalties and costs as provided at law or  
29 in equity for the collection of ordinary debts.

30 (b) Procedure.--The Attorney General shall prosecute the

1 action and, except as provided in this subpart, the Rules of  
2 Civil Procedure and the laws of this Commonwealth relating to  
3 civil procedures and remedies shall be available in the  
4 proceedings.

5 (c) Other remedies.--The provisions of this section are in  
6 addition to any process, remedy or procedure for the collection  
7 of taxes provided by this subpart or by the laws of this  
8 Commonwealth. This section shall not be limited by nor is  
9 intended to limit any process, remedy or procedure.

10 § 1543. Tax suit comity.

11 The courts of this Commonwealth shall recognize and enforce a  
12 liability for sales and use tax lawfully imposed by another  
13 state, if the other state extends a like comity to this  
14 Commonwealth.

15 § 1544. Service.

16 A person maintaining a place of business within this  
17 Commonwealth shall appoint the Secretary of the Commonwealth as  
18 the person's agent for the acceptance of service of process or  
19 notice in proceedings for the enforcement of the civil  
20 provisions of this part. The following shall apply:

21 (1) Service made upon the Secretary of the Commonwealth  
22 as the agent shall have the same legal force and validity as  
23 if the service had been personally made upon the person.

24 (2) If service cannot be made upon the person in the  
25 manner provided by other laws of this Commonwealth relating  
26 to service of process, service may be made upon the Secretary  
27 of the Commonwealth, and a copy of the process or notice  
28 shall also be personally served upon an agent or  
29 representative of the person who may be found within this  
30 Commonwealth.

1           (3) If no agent or representative may be found, a copy  
2           of the process or notice shall be sent by registered mail to  
3           the person at the last known address of the person's  
4           principal place of business, home office or residence.

5 § 1545. Collection and payment of tax on credit sales.

6           If a sale subject to tax under this subpart is wholly or  
7           partly on credit, the vendor shall require the purchaser to pay  
8           in cash at the time the sale is made, or within 30 days  
9           thereafter, the total amount of tax due upon the entire purchase  
10           price. The vendor shall remit the tax to the department,  
11           notwithstanding whether payment was made by the purchaser to the  
12           vendor, and the next return must be filed under section 1513  
13           (relating to time for filing returns).

14 § 1546. Prepayment of tax.

15           If a vendor is forbidden by law to charge and collect the  
16           purchase price in advance of or at the time of delivery, the  
17           vendor shall prepay the tax as required by section 1522  
18           (relating to time of payment). If the purchaser fails to pay to  
19           the vendor the total amount of the purchase price and the tax,  
20           and the amount is written off as uncollectible by the vendor,  
21           the vendor shall not be liable for the tax and shall be entitled  
22           to a credit or refund of the tax paid. The following shall  
23           apply:

24           (1) If the purchase price is later collected, in whole  
25           or in part, the amount collected shall be first applied to  
26           the payment of the entire tax portion of the bill and shall  
27           be remitted to the department by the vendor with the first  
28           return filed after the collection.

29           (2) For tax prepaid prior to March 4, 1971, credit may  
30           be claimed on returns filed for the periods prior to March 4,

1 1971.

2 (3) Tax prepaid after March 4, 1971, shall be subject to  
3 refund upon petition to the department under section 1561  
4 (relating to refunds), filed within 105 days of the close of  
5 the fiscal year in which the accounts are written off.

6 § 1547. Refund of sales tax attributed to bad debt.

7 (a) Conditions.--A vendor may file a petition for refund of  
8 sales tax paid to the department that is attributed to a bad  
9 debt if all of the following apply:

10 (1) The purchaser fails to pay the total purchase price.

11 (2) The purchase price is written off, either in whole  
12 or in part, as a bad debt on the books and records of the  
13 vendor or an affiliate of the vendor.

14 (3) The debt has been deducted for Federal income tax  
15 purposes under section 166 of the Internal Revenue Code of  
16 1986.

17 (b) Petition.--A petition for refund under this section must  
18 be filed with the department within the time limitations  
19 prescribed by section 3003.1(a) of the Tax Reform Code of 1971.

20 (c) Private-label credit card accounts.--In the case of  
21 private-label credit card accounts not qualifying under  
22 subsection (a), a vendor or lender that makes an election under  
23 subsection (d) may file a petition for refund of sales tax that  
24 the vendor has previously reported and paid to the department if  
25 all of the following conditions are met:

26 (1) No refund was previously allowed with respect to the  
27 portion of the account written off as a bad debt.

28 (2) The account has been found worthless and written  
29 off, either in whole or in part, as bad debt on the books and  
30 records of the lender or an affiliate of the lender.

1           (3) The account has been deducted for Federal income tax  
2           purposes under section 166 of the Internal Revenue Code of  
3           1986 by the lender or an affiliate of the lender.

4           (d) Joint election for refund.--In order to be eligible for  
5           a refund under subsection (c), the lender and the vendor must  
6           execute and file with the department a joint election, signed by  
7           both parties, designating which party is entitled to claim the  
8           refund. The election may not be revoked unless a written notice  
9           is signed by the party that signed the election being revoked  
10           and is filed with the department.

11           (e) Payment of refund.--The refund authorized by this  
12           section is limited to the sales tax paid to the department that  
13           is attributed to the bad debt, less any discount under section  
14           1526 (relating to discount). The following apply:

15           (1) Partial payments by the purchaser shall be prorated  
16           between the original purchase price and the sales tax due on  
17           the sale.

18           (2) Payments made on a transaction which includes both  
19           taxable and nontaxable components shall be allocated  
20           proportionally between the taxable and nontaxable components.

21           (f) Assignment of right to petition.--A vendor or a lender  
22           may assign the vendor's or lender's right to petition and  
23           receive a refund of sales tax attributed to a bad debt to an  
24           affiliate.

25           (g) Exceptions.--No refund shall be granted under this  
26           section for any of the following:

27           (1) Interest.

28           (2) Finance charges.

29           (3) Expenses incurred in attempting to collect an  
30           account receivable.

1 (h) Documentation.--Documentation requirements are as  
2 follows:

3 (1) A person claiming a refund under this section shall,  
4 on request, make available documentation supporting the  
5 claimed refund, including:

6 (i) The date of the original sale and the name and  
7 Pennsylvania sales tax license number of the retailer.

8 (ii) The name and address of the purchaser.

9 (iii) The amount that the purchaser paid or agreed  
10 to pay.

11 (iv) Taxable and nontaxable charges.

12 (v) The amount on which the retailer reported and  
13 paid sales tax.

14 (vi) All payments or other credits applied to the  
15 account of the purchaser.

16 (vii) Evidence that the uncollected amount was:

17 (A) designated as a bad debt in the books and  
18 records of the vendor or lender, as appropriate; and

19 (B) claimed as a bad debt deduction for Federal  
20 income tax purposes.

21 (viii) The county in which local sales tax was  
22 incurred.

23 (ix) The unpaid portion of the sales price.

24 (x) A certification, under penalty of perjury, that  
25 no person collected money on the bad debt for which the  
26 refund is claimed.

27 (xi) Any other information required by the  
28 department.

29 (2) A person claiming a refund under this section may  
30 provide alternative forms of documentation to the department

1 if appropriate in light of the volume and character of  
2 uncollectible accounts. The following apply:

3 (i) If a vendor remits sales or use tax to the  
4 Commonwealth and to another state, the entity claiming a  
5 refund under this section may use an apportionment method  
6 to substantiate the amount of Pennsylvania tax included  
7 in the bad debts to which the refund applies.

8 (ii) The apportionment method must use the vendor's  
9 Pennsylvania and non-Pennsylvania sales, the vendor's  
10 taxable and nontaxable sales and the amount of tax the  
11 vendor remitted to Pennsylvania.

12 (i) Collection of tax of prior bad debt.--

13 (1) If the purchase price which is attributed to a prior  
14 bad debt refund is collected in whole or in part by the  
15 vendor or lender or an affiliate of the vendor or lender, the  
16 entity claiming the refund shall remit the proportional tax  
17 to the department with the first return filed after the  
18 collection. If the entity is not required to file periodic  
19 returns, the entity shall remit the proportional tax to the  
20 department with another return under section 1513 (relating  
21 to time for filing returns).

22 (2) Consideration received for the assignment, sale or  
23 other transfer of a bad debt with respect to which a refund  
24 has been granted shall be deemed to be a collection of a  
25 prior bad debt. This paragraph does not apply to a transfer  
26 to an entity that is part of the same affiliated group, as  
27 defined by section 1504 of the Internal Revenue Code of 1986.

28 (3) A person that collects, in whole or in part, the  
29 purchase price attributed to a prior bad debt refund is  
30 required to maintain adequate documentation to allow the

1 department to determine whether the purchase price attributed  
2 to a prior bad debt refund has been collected. Information  
3 under this paragraph includes the pertinent facts required by  
4 subsection (h).

5 (4) If the department determines that a prior bad debt  
6 has been collected, in whole or in part, and that the  
7 proportional tax has not been properly reported and paid to  
8 the department, the person that claimed the refund on the  
9 transaction shall report and pay the proportional tax to the  
10 department plus applicable interest and penalty under this  
11 chapter.

12 (j) Interest.--Notwithstanding section 806.1 of the Fiscal  
13 Code, no interest shall be paid by the Commonwealth on refunds  
14 of sales tax attributed to bad debt under this section.

15 (k) Procedure.--

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

19 (2) No deduction or credit for bad debt may be taken on  
20 a return filed with the department.

21 (3) This section provides the exclusive procedure for  
22 claiming a refund or credit of sales tax attributed to  
23 uncollected purchase price or bad debt.

24 (l) Bad debts.--A private-label credit card does not  
25 authorize a refund with respect to a bad debt attributable to a  
26 sale by a person not related to the private-label credit card.

27 (m) Definitions.--As used in this section, the following  
28 words and phrases shall have the meanings given to them in this  
29 subsection:

30 "Affiliate." A person that is:

1           (1) an affiliated entity, under section 1504 of the  
2 Internal Revenue Code of 1986, of a vendor; or

3           (2) a person described under paragraph (1) or (2) of the  
4 definition of "lender" that would be an affiliated entity,  
5 under section 1504 of the Internal Revenue Code of 1986, of a  
6 vendor but for the fact the person is not a corporation, an  
7 assignee or another transferee of a person described under  
8 paragraph (1) or (2) of the definition of "lender."

9 "Lender." Any of the following:

10           (1) A person that owns or has owned a private-label  
11 credit card account purchased directly from a vendor that  
12 reported the tax under this subpart.

13           (2) A person that owns or has owned a private-label  
14 credit card account under a contract directly with a vendor  
15 that reported the tax under this subpart.

16           (3) A person that is:

17           (i) an affiliate of a person described under  
18 paragraph (1) or (2); or

19           (ii) an assignee or other transferee of a person  
20 described under paragraph (1) or (2).

21 "Private-label credit card." As follows:

22           (1) A charge card, credit card or other instrument  
23 -serving a similar purpose which:

24           (i) carries, refers to or is branded with the name  
25 or logo of a vendor; and

26           (ii) can be used for purchases from the vendor.

27           (2) The term does not include a card or instrument which  
28 may also be used to make purchases from a person other than  
29 the vendor whose name or logo appears on the card or  
30 instrument or that vendor's affiliates.

1 § 1548. Registration of transient vendors.

2 (a) Registration required.--Prior to conducting business or  
3 commencing operations within this Commonwealth, a transient  
4 vendor shall register with the department. The application for  
5 registration must be in the form and contain information the  
6 department prescribes and shall set forth truthfully and  
7 accurately the information required by the department. The  
8 registration must be renewed and updated annually.

9 (b) Certificate.--Upon registration and the posting of the  
10 bond required by section 1549 (relating to bond), the department  
11 shall issue to a transient vendor a certificate valid for one  
12 year. Upon renewal of registration, the department shall issue a  
13 new certificate, valid for one year, if the department is  
14 satisfied that the transient vendor has complied with this  
15 chapter.

16 (c) Possession of certificate.--The transient vendor must  
17 possess the certificate at all times when conducting business  
18 within this Commonwealth and shall exhibit the certificate upon  
19 demand by authorized employees of the department or a law  
20 enforcement officer.

21 (d) Information on certificate.--The certificate issued by  
22 the department shall state that the transient vendor named on  
23 the certificate has registered with the department and shall  
24 provide notice to the transient vendor of all of the following:

25 (1) The requirements of section 1550(a) (relating to  
26 notification to department and inspection of records).

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

30 (3) Conducting business within this Commonwealth after a

1 certificate has been suspended or revoked may result in  
2 criminal conviction and the imposition of fines or other  
3 penalties.

4 § 1549. Bond.

5 (a) Posting.--Upon registration with the department, a  
6 transient vendor must post a bond with the department in the  
7 amount of \$500 as surety for compliance with the provisions of  
8 this subpart.

9 (b) Reduction or elimination.--After a period of  
10 demonstrated compliance with the provisions of this subpart, or  
11 if the transient vendor provides the license number of a  
12 promoter that has notified the department of a show under  
13 section 1554(a) (relating to promoters), the department may  
14 reduce the amount of bond required of a transient vendor or may  
15 eliminate the bond entirely.

16 (c) Voluntary suspension of certificate.--A transient vendor  
17 may file a request for voluntary suspension of certificate with  
18 the department. If the provisions of this subpart have been  
19 complied with and the department has possession of the transient  
20 vendor's certificate, the department shall return the bond  
21 posted to the transient vendor.

22 § 1550. Notification to department and inspection of records.

23 (a) Notification.--Prior to entering this Commonwealth to  
24 conduct business, a transient vendor shall notify the department  
25 in writing of each location where the transient vendor intends  
26 to conduct business and each date on which the transient vendor  
27 intends to conduct business.

28 (b) Inspection of sales records.--When conducting business  
29 in this Commonwealth, a transient vendor shall permit authorized  
30 employees of the department to inspect the transient vendor's

1 sales records, including sales receipts and inventory or price  
2 lists, and tangible personal property offered for sale at  
3 retail.

4 (c) Suspension or revocation of certificate.--The department  
5 may suspend or revoke a certificate issued to a transient vendor  
6 if the transient vendor:

7 (1) fails to notify the department under subsection (a);

8 (2) provides the department with false information  
9 regarding the conduct of business within this Commonwealth;

10 (3) fails to collect sales tax on all tangible personal  
11 property or services sold which are subject to the sales tax;  
12 or

13 (4) fails to file with the department a tax return as  
14 required by section 1513 (relating to time for filing  
15 returns).

16 (d) Regulations.--The department shall promulgate  
17 regulations necessary to implement this section.

18 § 1551. Seizure of property.

19 (a) Seizure for noncompliance.--If a transient vendor  
20 conducting business in this Commonwealth fails to exhibit a  
21 valid certificate upon demand by an authorized employee of the  
22 department, the authorized employee may seize, without warrant,  
23 the tangible personal property and the means of transportation  
24 used to transport or carry the property. Except as set forth in  
25 subsection (b), property seized shall be deemed contraband and  
26 shall be subject to immediate forfeiture proceedings instituted  
27 by the department under procedures promulgated by regulation.

28 (b) Release of seized property.--Property seized under  
29 subsection (a) shall be released upon any of the following:

30 (1) Presentation of a valid certificate to an authorized

1 employee of the department.

2 (2) Registration by the transient vendor with the  
3 department and the posting of a bond in the amount of \$500,  
4 either immediately or within 15 days after the property is  
5 seized.

6 § 1552. Fines.

7 A transient vendor conducting business within this  
8 Commonwealth when the transient vendor's certificate is  
9 suspended or revoked under sections 1549(b) (relating to bond)  
10 and 1550(c) (relating to notification to department and  
11 inspection of records), commits a misdemeanor of the third  
12 degree for each offense.

13 § 1553. Transient vendors subject to subpart.

14 A transient vendor shall be subject to the provisions of this  
15 subpart in the same manner as a vendor who maintains a place of  
16 business within this Commonwealth.

17 § 1554. Promoters.

18 (a) Application for license.--A promoter of a show in this  
19 Commonwealth may file with the department an application for a  
20 promoter's license stating the location and dates of each show.  
21 The application must be filed at least 30 days prior to the  
22 opening of the first show and be in the form as the department  
23 may prescribe.

24 (b) Issuance.--Except as otherwise provided, within 15 days  
25 after receipt of an application for a license, the department  
26 shall issue to the promoter, without charge, a license to  
27 operate a show. If application for a license under this section  
28 has been timely filed and if the license has not been received  
29 by the promoter prior to the opening of the show, the  
30 authorization contained in this section with respect to the

1 obtaining of a promoter's license shall be deemed to have been  
2 complied with, unless the promoter receives notice from the  
3 department denying the application for a promoter's license.

4 (c) Compliance.--A promoter who is a vendor under section  
5 1102 (relating to definitions) shall comply with all the  
6 provisions of this subpart applicable to vendors and with the  
7 provisions of this section applicable to promoters.

8 (d) License required.--A licensed promoter may not permit a  
9 person to display for sale or sell tangible personal property or  
10 services subject to tax under Subchapter A of Chapter 13  
11 (relating to imposition of tax) at a show unless the person is  
12 licensed under Subchapter D of Chapter 13 (relating to licenses)  
13 and provides to the promoter the information required under  
14 section 1593 (relating to reports and records of promoters).

15 (e) Penalties.--

16 (1) A licensed promoter is subject to denial of a  
17 license or revocation of an existing license issued under  
18 this section for any of the following:

19 (i) Permitting a person to display for sale or to  
20 sell tangible personal property or service without first  
21 having been licensed under Subchapter D of Chapter 13.

22 (ii) Failing to maintain records of a show under  
23 section 1593.

24 (iii) Knowingly maintaining false records.

25 (iv) Failing to comply with this section or a  
26 regulation promulgated by the department pertaining to  
27 shows.

28 (2) In addition to the penalties under paragraph (1),  
29 the department may deny a promoter a license certificate to  
30 operate a show for a period of not more than six months from

1 the date of the denial. The penalty shall be in addition to  
2 any other penalty imposed by this subpart.

3 (3) Within 20 days of notice of denial or revocation of  
4 a license by the department, the promoter may petition the  
5 department for a hearing under 2 Pa.C.S. (relating to  
6 administrative law and procedure).

7 SUBCHAPTER E

8 REFUNDS AND CREDITS

9 Sec.

10 1561. Refunds.

11 1562. Refund petition.

12 1563. Extended time for filing special petition for refund.

13 § 1561. Refunds.

14 The following apply:

15 (1) The department shall, under Article XXVII of the Tax  
16 Reform Code of 1971, refund all taxes, interest and penalties  
17 paid to the Commonwealth under this subchapter to which the  
18 Commonwealth is not rightfully entitled.

19 (2) Refunds shall be made to the person or the person's  
20 heir, successor, assign or other personal representative who  
21 paid the tax.

22 (3) A refund shall not be made under this section with  
23 respect to a payment made by reason of an assessment with  
24 respect to which a taxpayer has filed a petition for  
25 reassessment under section 2702 of the Tax Reform Code of  
26 1971 to the extent that the petition has been determined  
27 adversely to the taxpayer by a decision which is no longer  
28 subject to further review or appeal.

29 (4) Nothing in this section shall prohibit a taxpayer  
30 who has filed a timely petition for reassessment from

1 amending the petition to a petition for refund if the  
2 petitioner has paid the tax assessed.

3 § 1562. Refund petition.

4 (a) General rule.--Except as provided for in section 1563  
5 (relating to extended time for filing special petition for  
6 refund) and subsection (b), the refund or credit of tax,  
7 interest or penalty provided for in section 1561 (relating to  
8 refunds) shall be made only if the person who has paid the tax  
9 files a petition for refund with the department under Article  
10 XXVII of the Tax Reform Code of 1971 within the time limits of  
11 section 3003.1 of the Tax Reform Code of 1971.

12 (b) Payment.--A refund or credit of tax, interest or penalty  
13 paid as a result of an assessment made by the department under  
14 section 1532 (relating to mode and time of assessment) shall be  
15 made only if the person who has paid the tax files a petition  
16 for a refund with the department under Article XXVII of the Tax  
17 Reform Code of 1971 within the time limits of section 3003.1 of  
18 the Tax Reform Code of 1971. The filing of a petition for refund  
19 under this subsection shall not affect the abatement of  
20 interest, additions or penalties to which the person may be  
21 entitled by reason of payment of the assessment.

22 § 1563. Extended time for filing special petition for refund.

23 (a) Filing.--A party to a transaction who has paid tax by  
24 reason of a transaction with respect to which the department is  
25 assessing tax against another person may, within six months  
26 after the filing by the department of the assessment against the  
27 other person, file a special petition for refund,  
28 notwithstanding the person's failure to timely file a petition  
29 under section 3003.1 of the Tax Reform Code of 1971.

30 (b) Applicability.--Article XXVII of the Tax Reform Code of

1 1971 shall apply to a special petition for refund, except that  
2 the department may not act on the petition until there is a  
3 final determination as to the propriety of the assessment filed  
4 against the other party to the transaction.

5 (c) Overpayments.--If a petition is filed under this section  
6 to take advantage of the extended period of limitations,  
7 overpayments by the petitioner shall be refunded to the extent  
8 of the actual tax, without consideration of interest and  
9 penalties, paid by the other party to the transaction.

10 (d) Construction.--The purpose of this section is to avoid  
11 duplicate payment of tax if a determination is made by the  
12 department that one party to a transaction is subject to tax,  
13 and another party to the transaction has previously paid tax  
14 with respect to the transaction. This section shall be construed  
15 as extending a right beyond that provided for by section 1562  
16 (relating to refund petition) and not to limit section 1562.

17 SUBCHAPTER F

18 LIMITATIONS

19 Sec.

20 1571. Limitation on assessment and collection.

21 1572. Failure to file return.

22 1573. False or fraudulent return.

23 1574. Extension of limitation period.

24 § 1571. Limitation on assessment and collection.

25 The amount of the tax imposed by this subpart shall be  
26 assessed within three years after the date when the return under  
27 section 1513(a) or (c) (relating to time for filing returns) is  
28 filed or the end of the year in which the tax liability arises,  
29 whichever occurs later. An assessment may be made at any time  
30 during the period, notwithstanding that the department may have

1 made one or more previous assessments against the taxpayer for  
2 the year in question, or for any part of the year. Credit may  
3 not be given for a penalty previously assessed or paid.

4 § 1572. Failure to file return.

5 If no return is filed, the amount of the tax due may be  
6 assessed and collected at any time as to taxable transactions  
7 not reported.

8 § 1573. False or fraudulent return.

9 If a taxpayer willfully files a false or fraudulent return  
10 with intent to evade the tax imposed by this subpart, the amount  
11 of tax due may be assessed and collected at any time.

12 § 1574. Extension of limitation period.

13 Notwithstanding any other provision of this subpart, if,  
14 before the expiration of the period in section 1571 (relating to  
15 limitation on assessment and collection) for the assessment of a  
16 tax, a taxpayer has consented in writing that the period be  
17 extended, the amount of tax due may be assessed at any time  
18 within the extended period. The extended period may be extended  
19 further by subsequent consents in writing made before the  
20 expiration of the extended period.

21 SUBCHAPTER G

22 INTEREST, ADDITIONS, PENALTIES AND CRIMES

23 Sec.

24 1581. Interest.

25 1582. Additions to tax.

26 1583. Penalties.

27 1584. Crimes.

28 1585. Abatement of additions or penalties.

29 § 1581. Interest.

30 If an amount of tax imposed by this subpart is not paid to

1 the department on or before the last date prescribed for  
2 payment, interest on the amount at the rate of 0.75% per month  
3 for each month, or fraction of a month, shall be paid for the  
4 period from the last date to the date paid. The last date  
5 prescribed for payment shall be determined under section 1522(a)  
6 or (c) (relating to time of payment) without regard to any  
7 extension of time for payment. For an amount assessed as a  
8 deficiency or as an estimated assessment, the date prescribed  
9 for payment shall be 30 days after notice of the assessment.  
10 § 1582. Additions to tax.

11 (a) Failure to file return.--For a failure to file a return  
12 required by section 1511 (relating to persons required to make  
13 returns) on the date prescribed for filing the return, including  
14 any extensions, and for a return filed which understates the  
15 true amount due by more than 50%, 5% of the amount of the tax  
16 shall be added to the amount of tax due if the failure to file a  
17 proper return is for not more than one month and an additional  
18 5% for each additional month, or fraction of a month, during  
19 which the failure continues, not to exceed 25% in the aggregate.  
20 At least \$2 shall be added to each failure to file a proper  
21 return under this subsection.

22 (b) Addition for understatement.--There shall be added to  
23 every assessment under section 1532(b) (relating to mode and  
24 time of assessment) 5% of the amount of the understatement and  
25 no addition to the tax shall be paid under section 1532(a).

26 (c) Interest.--If the department assesses a tax under  
27 section 1532(a), (b) or (c), there shall be added to the amount  
28 of the deficiency interest at the rate of 0.75% per month for  
29 each month, or fraction of a month, from the date prescribed by  
30 section 1522(a) or (c) (relating to time of payment) for the

1 payment of the tax to the date of notice of the assessment.

2 § 1583. Penalties.

3 (a) Penalty assessed as tax.--The penalties, additions,  
4 interest and liabilities provided by this subpart shall be paid  
5 upon notice and demand by the department and shall be assessed  
6 and collected in the same manner as taxes. Except as otherwise  
7 provided, any reference in this chapter to tax imposed by this  
8 subpart shall also be deemed to refer to the penalties,  
9 additions, interest and liabilities provided by this chapter.

10 (b) Attempt to evade or defeat tax.--

11 (1) A person who willfully attempts to evade or defeat  
12 the tax or the payment of the tax imposed by this subpart or  
13 to assist another person to evade or defeat the tax or the  
14 payment of the tax imposed by this subpart, or to receive a  
15 refund improperly, shall, in addition to other penalties  
16 provided by law, be liable for a penalty equal to one-half of  
17 the total amount of the tax evaded.

18 (2) In a direct proceeding arising out of a petition for  
19 reassessment or refund as provided in this chapter in which  
20 an issue of fact is raised with respect to whether a return  
21 is fraudulent or with respect to the propriety of the  
22 imposition by the department of the penalty prescribed in  
23 this subsection, the burden of proof shall be on the  
24 department.

25 § 1584. Crimes.

26 (a) Fraudulent return.--A person who, with intent to defraud  
27 the Commonwealth, willfully makes or causes to be made a return  
28 required by this subpart which is false commits a misdemeanor  
29 and shall, upon conviction, be sentenced to pay a fine not  
30 exceeding \$2,000 or to imprisonment for not more than three

1 years, or both.

2 (b) Other crimes.--

3 (1) A person commits a misdemeanor and shall, upon  
4 conviction, be sentenced to pay a fine not exceeding \$1,000  
5 and costs of prosecution or to imprisonment for not more than  
6 one year, or both, for any of the following:

7 (i) Except as otherwise provided under subsection  
8 (a), advertising, holding out or stating to the public or  
9 to a purchaser or user, directly or indirectly, that the  
10 tax or any part of the tax imposed by this subpart will  
11 not be added to the purchase price of the tangible  
12 personal property or services described under paragraph  
13 (1)(ii), (iii), (iv), (vi), (vii), (viii), (ix), (x),  
14 (xi) and (xii) of the definition of "sale at retail" in  
15 section 1102 (relating to definitions) or that the tax or  
16 any part of the tax will be refunded, other than when the  
17 person refunds the purchase price because of the property  
18 being returned to the vendor.

19 (ii) For a person selling or leasing tangible  
20 personal property or services subject to tax under this  
21 subpart, except as otherwise provided, willfully failing  
22 to collect the tax from the purchaser and timely  
23 remitting the tax to the department or willfully failing  
24 or neglecting to timely file a return or report required  
25 by this subpart.

26 (iii) Refusing to timely pay a tax, penalty or  
27 interest imposed or provided for under this subpart.

28 (iv) Willfully failing to preserve books, papers and  
29 records as directed by the department or refusing to  
30 permit the department or the department's authorized

1 agents to examine books, records or papers.

2 (v) Knowingly making an incomplete, false or  
3 fraudulent return or report.

4 (vi) Preventing the full disclosure of the amount or  
5 character of taxable sales purchases or use made by the  
6 person or any other person.

7 (vii) Providing a person with a false statement as  
8 to the payment of tax with respect to particular tangible  
9 personal property or services.

10 (viii) Creating or issuing a false or fraudulent  
11 exemption certificate.

12 (2) Notwithstanding paragraph (1), a person may  
13 advertise or hold out or state to the public or to a  
14 purchaser or user, directly or indirectly, that the tax or  
15 any part thereof imposed by this subpart will be absorbed and  
16 paid by the person subject to the following conditions:

17 (i) The person shall expressly state on a receipt,  
18 invoice, sales slip or other similar document evidencing  
19 the sale given to the purchaser that the person will pay  
20 the tax imposed by this subpart on behalf of the  
21 purchaser and shall not indicate or imply that the  
22 transaction is exempt or excluded from tax imposed by  
23 this subpart.

24 (ii) A receipt, invoice, sales slip or other similar  
25 document evidencing a sale given to the purchaser shall  
26 separately state the amount of tax.

27 (iii) The person, when recording the sale in the  
28 person's books and records, shall separately state the  
29 purchase price and the tax.

30 (iv) The amount of tax shall be calculated by

1 multiplying the total purchase price by the rate of tax  
2 imposed by subchapter A (relating to imposition of tax).

3 (3) If a person advertises or holds out or states to the  
4 public or to a purchaser or user, directly or indirectly,  
5 that the person will absorb and pay the tax, subject to the  
6 conditions of this subsection, the person shall be solely  
7 responsible and liable for a tax imposed by this subpart,  
8 notwithstanding any provisions of this subpart to the  
9 contrary, and shall not be entitled to a refund of tax.

10 (c) Sales suppression devices and phantomware.--

11 (1) Subject to paragraph (2), notwithstanding any other  
12 provision of this subpart, a person who purchases, installs  
13 or uses in this Commonwealth an automated sales suppression  
14 device or zapper or phantomware with the intent to defeat or  
15 evade the determination of an amount due under this part  
16 commits a misdemeanor. The following apply:

17 (i) A person who, for commercial gain, sells,  
18 purchases, installs, transfers or possesses in this  
19 Commonwealth an automated sales suppression device or  
20 zapper or phantomware with the knowledge that the sole  
21 purpose of the device is to defeat or evade the  
22 determination of an amount due under this part commits a  
23 misdemeanor and shall, upon conviction, be sentenced to  
24 pay a fine specified under subparagraph (ii) or to  
25 imprisonment for not more than one year, or both. A  
26 person who uses an automated sales suppression device or  
27 zapper or phantomware shall be liable for all taxes,  
28 interest and penalties due as a result of the use of the  
29 device.

30 (ii) If a person is guilty of an offense under this

1 paragraph and the person sold, installed, transferred or  
2 possessed not more than three automated sales suppression  
3 devices or zappers or phantomware, the person commits an  
4 offense punishable by a fine of not more than \$5,000.

5 (iii) If a person commits an offense under this  
6 paragraph and the person sold, installed, transferred or  
7 possessed more than three automated sales suppression  
8 devices or zappers or phantomware, the person commits an  
9 offense punishable by a fine of not more than \$10,000.

10 (2) This subsection shall not apply to a corporation  
11 that possesses an automated sales suppression device or  
12 zapper or phantomware for the sole purpose of developing  
13 hardware or software to combat the evasion of taxes by use of  
14 automated sales suppression devices or zappers or  
15 phantomware.

16 (3) As used in this subsection, the following words and  
17 phrases shall have the meanings given to them in this  
18 paragraph unless the context clearly indicates otherwise:

19 "Automated sales suppression device" or "zapper." A  
20 software program carried on a memory stick or removable  
21 compact disc, accessed through an Internet link or through  
22 any other means, that falsifies the electronic records of  
23 electronic cash registers and other point-of-sale systems,  
24 including, but not limited to, transaction data and  
25 transaction reports.

26 "Electronic cash register." A device that keeps a  
27 register or supporting document through the means of an  
28 electronic device or computer system designed to record  
29 transaction data for the purpose of computing, compiling or  
30 processing retail sales transaction data in whatever manner.

1 "Phantomware." A hidden programming option, which is  
2 either preinstalled or installed at a later time, embedded in  
3 the operating system of an electronic cash register or  
4 hardwired into the electronic cash register that can be used  
5 to create a virtual second till or may eliminate or  
6 manipulate a transaction record that may or may not be  
7 preserved in digital formats to represent the true or  
8 manipulated record of transactions in the electronic cash  
9 register.

10 "Transaction data." Includes information regarding items  
11 purchased by a customer, the price for each item, a  
12 taxability determination for each item, a segregated tax  
13 amount for each of the taxed items, the amount of cash or  
14 credit tendered, the net amount returned to the customer in  
15 change, the date and time of the purchase, the name, address  
16 and identification number of the vendor and the receipt or  
17 invoice number of the transaction.

18 (d) Prosecution.--This section shall not preclude  
19 prosecution under any other law.

20 (e) Penalties.--The penalties imposed by this section shall  
21 be in addition to any other penalties imposed by this  
22 subchapter.

23 § 1585. Abatement of additions or penalties.

24 Upon the filing of a petition for reassessment or a petition  
25 for refund as provided under this subpart by a taxpayer,  
26 additions or penalties imposed upon the taxpayer by this part  
27 may be waived or abated, in whole or in part, if the petitioner  
28 has established that the petitioner has acted in good faith,  
29 without negligence and with no intent to defraud.

30 SUBCHAPTER H

1 ENFORCEMENT AND EXAMINATIONS

2 Sec.

3 1591. Rules and regulations.

4 1592. Keeping of records.

5 1593. Reports and records of promoters.

6 1594. Examinations.

7 1595. Records and examinations of delivery agents.

8 1596. Unauthorized disclosure.

9 1597. Cooperation with other governments.

10 1598. Interstate compacts.

11 1599. Bonds.

12 1599.1. Remote sales reports.

13 1599.2. Class actions.

14 § 1591. Rules and regulations.

15 (a) General rule.--The department is charged with the  
16 enforcement of this chapter and may prescribe, adopt, promulgate  
17 and enforce rules and regulations consistent with this chapter  
18 relating to any matter or thing pertaining to the administration  
19 and enforcement 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 the rules and  
22 regulations shall be applied without retroactive effect.

23 (b) Sales between affiliated interests.--The following  
24 apply:

25 (1) In determining the purchase price of taxable sales  
26 where, because of affiliation of interests between the vendor  
27 and the purchaser or irrespective of an affiliation, or for  
28 any other reason, the purchase price of the sale is not  
29 indicative of the true value or fair price of the article,  
30 the department shall determine the amount of constructive

1 purchase price upon which the tax shall be computed and  
2 levied.

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

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

15 § 1592. Keeping of records.

16 (a) General rule.--Every person liable for a tax imposed by  
17 this chapter or for the collection of a tax shall keep records,  
18 render statements, make returns and comply with rules and  
19 regulations as the department may prescribe. The department as  
20 it deems necessary may require a person, by notice served upon  
21 the person or by regulations, to make returns, render statements  
22 or keep records as the department deems sufficient to show  
23 whether or not the person is liable to pay or collect tax under  
24 this chapter.

25 (b) Persons collecting tax from others.--A person liable to  
26 collect tax from another person under this chapter shall file  
27 reports, keep records, make payments and be subject to interest  
28 and penalties provided for under this chapter in the same manner  
29 as if the person was directly subject to the tax.

30 (c) Records of nonresidents.--

1           (1) A nonresident who does business in this Commonwealth  
2           as a retail dealer shall keep adequate records of each  
3           business and of the tax due, which shall be retained within  
4           this Commonwealth unless retention outside this Commonwealth  
5           is authorized by the department.

6           (2) Taxes collected from purchasers may not be sent  
7           outside this Commonwealth without the written consent of, and  
8           in accordance with conditions prescribed by, the department.

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

12           (d) Keeping of separate records.--A person doing business as  
13           a retail dealer who at the same time is engaged in another  
14           business which does not involve the making of sales taxable  
15           under this chapter shall keep separate books and records of each  
16           business to show the sales taxable under this chapter separately  
17           from the sales not taxable under this chapter. If a person fails  
18           to keep separate books and records, the person shall be liable  
19           for tax at the rate designated under Subchapter A of Chapter 13  
20           (relating to imposition of tax) on the entire purchase price of  
21           sales from each business.

22           (e) Other methods.--If a vendor gives no sales memoranda or  
23           uses registers showing only total sales, the vendor shall adopt  
24           some method of segregating tax from sales receipts and keep  
25           records showing the segregation, in accordance with proper  
26           accounting and business practices.

27           (f) Collection and recording procedure.--The following shall  
28           apply:

29           (1) A vendor may apply to the department for permission  
30           to use a collection and recording procedure which will show

1 the information required by law with reasonable accuracy and  
2 simplicity.

3 (2) The application shall contain a detailed description  
4 of the procedure to be adopted.

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

8 (4) The department may revoke the permission upon 30  
9 days' notice to the vendor.

10 (5) Refusal of the department to grant permission in  
11 advance to use the procedure shall not be construed to  
12 invalidate a procedure which, upon examination, shows the  
13 information required by law.

14 § 1593. Reports and records of promoters.

15 Every licensed promoter shall keep a record of the date and  
16 place of each show and the name, address, sales, use and hotel  
17 occupancy license number of every person whom the promoter  
18 permits to display for sale or sell tangible personal property  
19 or services subject to tax under Subchapter A of Chapter 13  
20 (relating to imposition of tax) at the show. The records shall  
21 be open for inspection and examination at any reasonable time by  
22 the department or a duly authorized representative, and the  
23 records shall, unless the department consents in writing to an  
24 earlier destruction, be preserved for three years after the date  
25 the report was filed or the date it was due, whichever occurs  
26 later, except that the department may by regulation require that  
27 the records be kept for a longer period of time.

28 § 1594. Examinations.

29 The following apply:

30 (1) The department or an authorized agent may examine

1 the books, papers and records of a taxpayer in order to  
2 verify the accuracy and completeness of a return made or, if  
3 no return was made, to ascertain and assess the tax imposed  
4 by this chapter.

5 (2) The department may require the preservation of each  
6 book, paper and record for a period deemed proper by the  
7 department but not to exceed three years from the end of the  
8 calendar year to which the records relate.

9 (3) Every taxpayer shall give to the department, or its  
10 agent, the means, facilities and opportunity for examination  
11 and investigation. The department may examine any person,  
12 under oath, concerning taxable sales or use by a taxpayer or  
13 concerning any other matter relating to the enforcement or  
14 administration of this chapter and for this purpose may  
15 compel the production of books, papers and records and the  
16 attendance of all persons, whether as parties or witnesses,  
17 whom the department believes to have knowledge of the  
18 matters.

19 (4) The procedure for hearings or examinations shall be  
20 the same as that provided by the Fiscal Code relating to  
21 inquisitorial powers of fiscal officers.

22 § 1595. Records and examinations of delivery agents.

23 Every agent, for the purpose of delivery of goods shipped  
24 into this Commonwealth by a nonresident, including, but not  
25 limited to, common carriers, shall maintain adequate records of  
26 the deliveries under rules and regulations adopted by the  
27 department and shall make the records available to the  
28 department upon request.

29 § 1596. Unauthorized disclosure.

30 (a) Confidentiality and exceptions.--Information gained by

1 the department as a result of a return, examination,  
2 investigation, hearing or verification required or authorized by  
3 this chapter shall be confidential, except:

- 4       (1) for official purposes; or  
5       (2) in accordance with proper judicial order or as  
6 otherwise provided by law.

7       (b) Penalty.--A person unlawfully divulging information  
8 commits a misdemeanor and shall, upon conviction, be sentenced  
9 to pay a fine of not more than \$1,000 along with the costs of  
10 prosecution, or to imprisonment for not more than one year, or  
11 both.

12 § 1597. Cooperation with other governments.

13       (a) General rule.--Subject to subsection (b),  
14 notwithstanding section 1596 (relating to unauthorized  
15 disclosure), the department may:

- 16           (1) permit the Commissioner of Internal Revenue of the  
17 United States, the proper officer of any state or the  
18 authorized representative of either officer to inspect the  
19 tax returns of a taxpayer; or

20           (2) furnish to the officer or to an authorized  
21 representative under paragraph (1) an abstract of the return  
22 of a taxpayer or information concerning an item contained in  
23 a return or disclosed by the report of an examination or  
24 investigation of the return of a taxpayer.

25       (b) Condition.--Permission under subsection (a) shall be  
26 granted only if Federal law or the statutes of another state  
27 grant substantially similar privileges to the proper officer of  
28 the Commonwealth charged with the administration of this  
29 chapter.

30 § 1598. Interstate compacts.

1 (a) General authority.--The Governor, or an authorized  
2 representative, may confer with the Governor or authorized  
3 representatives of other states regarding reciprocal use tax  
4 collection between the Commonwealth and other states.

5 (b) Use of compacts and agreements.--The Governor, or an  
6 authorized representative, may join with the authorities of  
7 other states to conduct joint investigations, exchange  
8 information, hold joint hearings and enter into compacts or  
9 interstate agreements with other states to accomplish uniform  
10 reciprocal use tax collections between those states who are  
11 parties to a compact or interstate agreement and the  
12 Commonwealth.

13 § 1599. Bonds.

14 (a) Taxpayer to file bond.--The following apply:

15 (1) If the department deems it necessary to protect the  
16 revenues to be obtained under this chapter, the department  
17 may require a nonresident individual or a foreign  
18 corporation, association, fiduciary, partnership or other  
19 entity not authorized to do business in this Commonwealth or  
20 not having an established place of business in this  
21 Commonwealth and subject to the tax imposed by Subchapter A  
22 of Chapter 13 (relating to imposition of tax) to file a bond  
23 issued by a surety company authorized to do business in this  
24 Commonwealth and approved by the Insurance Commissioner as to  
25 solvency and responsibility, in an amount fixed by the  
26 department, to secure the payment of tax or penalties due or  
27 which may become due, from the individual or entity.

28 (2) To protect the revenues to be obtained under this  
29 subchapter, the department shall require a nonresident  
30 individual or foreign corporation, association, fiduciary,

1 partnership or other entity that is a building contractor or  
2 supplier delivering building materials for work in this  
3 Commonwealth and is not authorized to do business within this  
4 Commonwealth or does not have an established place of  
5 business in this Commonwealth and is subject to the tax  
6 imposed by Subchapter A of Chapter 13, to file a bond issued  
7 by a surety company authorized to do business in this  
8 Commonwealth and approved by the Insurance Commissioner as to  
9 solvency and responsibility, in an amount fixed by the  
10 department to secure the payments of tax or penalties due or  
11 which may become due, from the individual or entity.

12 (3) In addition to a bond under paragraph (1) or (2),  
13 the department may require a bond of a person petitioning the  
14 department for reassessment in the case of an assessment of  
15 more than \$500 or where the ultimate collection is in  
16 jeopardy.

17 (4) The department may, for a period of three years,  
18 require a bond of a person who has, on three or more  
19 occasions within a 12-month period, either filed a return or  
20 made payment to the department more than 30 days late. The  
21 following shall apply:

22 (i) If the department determines that a taxpayer is  
23 to file a bond, the department shall give notice to the  
24 taxpayer and specify the amount of the bond required.

25 (ii) The taxpayer shall file the bond within five  
26 days after notice is given by the department unless,  
27 within those five days, the taxpayer requests in writing  
28 a hearing before the secretary or a representative.

29 (iii) The necessity, propriety and amount of the  
30 bond shall be determined by the secretary or a

1 representative of the department at the hearing.

2 (iv) The determination shall be final and shall be  
3 complied with within 15 days after notice is mailed to  
4 the taxpayer.

5 (b) Securities in lieu of bond.--

6 (1) In lieu of the bond required by this section,  
7 securities approved by the department or cash in an amount as  
8 the department may prescribe may be deposited.

9 (2) Securities or cash shall be kept in the custody of  
10 the department, which may, at any time, without notice to the  
11 depositor, apply the securities or cash to tax, interest or  
12 penalties due, and for that purpose the securities may be  
13 sold by the department at public or private sale upon five  
14 days' written notice to the depositor.

15 (c) Failure to file bond.--The department may file a lien  
16 under section 1541 (relating to lien for taxes) against a  
17 taxpayer who fails to file a bond when required to do so under  
18 this section. All funds received upon execution of the judgment  
19 on the lien shall be refunded to the taxpayer with 3% interest  
20 if a final determination is made that the taxpayer does not owe  
21 any payment to the department.

22 § 1599.1. Remote sales reports.

23 (a) Report.--

24 (1) Within 90 days of the publication of the notice  
25 under subsection (b), the Independent Fiscal Office, in  
26 conjunction with the department, shall submit a detailed  
27 report outlining the plans concerning the implementation of  
28 the legislation referenced in subsection (b) or other  
29 substantially similar Federal legislation which would grant  
30 the Commonwealth the authority to impose and collect the tax

1 under this chapter due on sales from remote sellers.

2 (2) The report under paragraph (1) shall be submitted to  
3 the following:

4 (i) The chairperson and minority chairperson of the  
5 Appropriations Committee of the Senate.

6 (ii) The chairperson and minority chairperson of the  
7 Finance Committee of the Senate.

8 (iii) The chairperson and minority chairperson of  
9 the Appropriations Committee of the House of  
10 Representatives.

11 (iv) The chairperson and minority chairperson of the  
12 Finance Committee of the House of Representatives.

13 (3) The report under paragraph (1) shall include all of  
14 the following:

15 (i) The amount of State money necessary to implement  
16 the legislation described under subsection (b) or other  
17 substantially similar legislation. The amount shall be  
18 itemized, and all costs, including personnel, office  
19 expenses and other related costs, shall be included.

20 (ii) The amount of State tax revenue expected to  
21 result from the implementation of the legislation  
22 described under subsection (b) or other substantially  
23 similar legislation for the fiscal year and for the five  
24 subsequent fiscal years.

25 (iii) The source of money that will be utilized to  
26 pay for the legislation described under subsection (b) or  
27 other substantially similar legislation implementation  
28 program.

29 (iv) The legal and practical issues concerning the  
30 propriety of collecting and enforcing the tax imposed

1 under this chapter from remote sellers.

2 (v) The number of other states which have a similar  
3 law in effect and the success or deficiency of the law.

4 (vi) Proposed draft legislation concerning the  
5 implementation of the legislation described under  
6 subsection (b) or other substantially similar  
7 legislation.

8 (vii) A detailed timetable on when separate tasks  
9 must be completed for full implementation on an estimated  
10 start date.

11 (b) Notice.--The secretary shall transmit notice to the  
12 Legislative Reference Bureau for publication in the Pennsylvania  
13 Bulletin that Federal legislation relating to remote sellers has  
14 been enacted.

15 (c) Definition.--As used in this section, the term "remote  
16 seller" shall have the same meaning as defined in section 1351  
17 (relating to definitions).

18 § 1599.2. Class actions.

19 A class action may not be brought against a marketplace  
20 facilitator on behalf of purchasers arising from or in any way  
21 related to an overpayment of sales or use tax collected by the  
22 marketplace facilitator, regardless of whether the action is  
23 characterized as a tax refund claim. Nothing in this section  
24 shall affect a purchaser's right to seek a refund from the  
25 department under other provisions of this subpart.

26 SUBCHAPTER I

27 MISCELLANEOUS PROVISIONS

28 Sec.

29 1599.11. Appropriation for special purposes.

30 1599.12. Transfers to Public Transportation Assistance Fund.

1 § 1599.11. Appropriation for special purposes.

2 The proceeds of the tax imposed under this part necessary for  
3 the payment of refunds, enforcement or administration are  
4 appropriated for those purposes.

5 § 1599.12. Transfers to Public Transportation Assistance Fund.

6 (a) Transfer.--Revenues received on or after July 1, 1992,  
7 from the imposition of the tax on periodicals shall be  
8 transferred to the Public Transportation Assistance Fund  
9 according to the formula described under subsection (b).

10 (b) Formula.--Within 30 days of the close of any calendar  
11 month, 0.44% of the taxes received in the previous month under  
12 this subchapter, less amounts collected in the previous calendar  
13 month under former 74 Pa.C.S. § 1314(d) (relating to Public  
14 Assistance Transportation Fund), shall be transferred to the  
15 Public Transportation Assistance Fund.

16 (c) Transfer to Public Assistance Transportation Fund.--In  
17 fiscal year 1991-1992, the secretary shall deposit \$10,000,000  
18 into the Public Assistance Transportation Fund from the  
19 combination of money received under former 74 Pa.C.S. § 1314(d)  
20 and transfers of periodical taxes received under this section.

21 (d) Further transfer.--Within 30 days of the close of any  
22 calendar month, 0.09% of the taxes received in the previous  
23 month under this chapter shall be transferred to the Public  
24 Transportation Assistance Fund.

25 (e) Other transfer.--Within 30 days of the close of any  
26 calendar month, 0.417% of the taxes received in the previous  
27 month under this chapter shall be transferred to the Public  
28 Transportation Assistance Fund.

29 SUBPART B

30 PERSONAL INCOME TAX

1 Chapter  
2 21. Preliminary Provisions  
3 22. Taxation Generally  
4 23. Credits Against Tax  
5 24. Contributions of Refunds by Checkoff  
6 25. Withholding of Tax  
7 26. Estimated Tax  
8 27. Returns and Payment of Tax  
9 28. Procedure and Administration  
10 29. Miscellaneous Provisions

11 CHAPTER 21

12 PRELIMINARY PROVISIONS

13 Sec.

14 2101. Scope of subpart.

15 2102. Definitions.

16 § 2101. Scope of subpart.

17 This subpart relates to personal income tax.

18 § 2102. Definitions.

19 The following words and phrases when used in this subpart  
20 shall have the meanings given to them in this section unless the  
21 context clearly indicates otherwise:

22 "Accepted accounting principles and practices." Unless  
23 otherwise provided for in this subpart, the accounting  
24 principles, systems or practices, including the installment  
25 sales method of reporting, which are acceptable by standards of  
26 the accounting profession and which are consistent with the  
27 regulations of the department providing the principles and  
28 practices.

29 "Association." As follows:

30 (1) A form of unincorporated enterprise which:

1           (i) is subject to the tax imposed under Article IV  
2           of the Tax Reform Code of 1971; or

3           (ii) is required to make a return under section 6042  
4           of the Internal Revenue Code of 1986.

5           (2) The term shall not include a partnership or  
6           investment company.

7           "Business." An enterprise, activity, profession, vocation,  
8           trade, joint venture, commerce or other undertaking of any  
9           nature when engaged in as commercial enterprise and conducted  
10           for profit or ordinarily conducted for profit, whether by an  
11           individual, partnership, Pennsylvania S corporation, association  
12           or other unincorporated entity.

13           "Charitable trust." A trust operated exclusively for  
14           religious, charitable, scientific, literary or educational  
15           purposes.

16           "Claimant." A person who:

17           (1) is subject to the tax imposed under this subpart;

18           (2) is not a dependent of another taxpayer for purposes  
19           of section 151 of the Internal Revenue Code of 1986; and

20           (3) is entitled to claim against the tax the poverty tax  
21           provisions as provided under this subpart.

22           "Compensation." As follows:

23           (1) The term means and shall include salaries, wages,  
24           commissions, bonuses and incentive payments, whether based on  
25           profits or otherwise, fees, tips and similar remuneration  
26           received for services rendered, whether directly or through  
27           an agent, and whether in cash or in property.

28           (2) The term shall include:

29           (i) Any part of a distribution under a plan  
30           described in section 409A(d)(1) of the Internal Revenue

1 Code of 1986, as amended, attributable to an elective  
2 deferral of income or the income on an elective deferral  
3 of income, whether paid or payable during employment or  
4 to a retired individual upon or after retirement from  
5 service.

6 (ii) Distributions or other payments commonly  
7 recognized as old age or retirement benefits paid to  
8 persons retired from service after reaching a specific  
9 age or after a stated period of employment to the extent  
10 that the distributions or payments, including investment  
11 earnings, exceed previously taxed contributions. The term  
12 with respect to these benefits shall not mean or include  
13 the following:

14 (A) Benefits paid under the Social Security Act  
15 (49 Stat. 620, 42 U.S.C. § 301 et seq.).

16 (B) A pension that is provided in lieu of old  
17 age and survivor benefit payments under the Social  
18 Security Act to a person whose employment was not  
19 covered under the Social Security Act. The total  
20 amount of a Social Security substitute pension may  
21 not exceed the maximum Federal old age and survivor  
22 benefit payments, less any Federal old age and  
23 survivor benefit payments received under the Social  
24 Security Act for employment covered under the Social  
25 Security Act.

26 (C) Military pension payments or military  
27 survivor's benefit payments paid to individuals by  
28 the United States with respect to service in the  
29 Armed Forces of the United States.

30 (D) Distributions from a pension plan of an

1 employee of money contributed by the employee, but if  
2 the employee cannot determine the basis of the money  
3 contributed to the pension plan, 15% of the amount of  
4 the distributions shall be deemed compensation.

5 (3) The term shall not include any of the following:

6 (i) Periodic payments for sickness and disability  
7 other than regular wages received during a period of  
8 sickness or disability.

9 (ii) Disability, retirement or other payments  
10 arising under worker's compensation acts, occupational  
11 disease acts and similar legislation by a government.

12 (iii) (Reserved).

13 (iii.1) Beginning after December 31, 2024,  
14 contributions made to a plan commonly recognized as an  
15 old age or retirement benefit plan paid to persons  
16 retired from service after reaching a specific age or  
17 after a stated period of employment.

18 (iv) Payments commonly known as public assistance or  
19 unemployment compensation payments by a governmental  
20 agency.

21 (v) Payments to reimburse actual expenses.

22 (vi) Payments made by employers or labor unions,  
23 including payments made under a cafeteria plan qualifying  
24 under section 125 of the Internal Revenue Code of 1986,  
25 for employee benefit programs covering hospitalization,  
26 sickness, disability or death, supplemental unemployment  
27 benefits or strike benefits if the program does not  
28 discriminate in favor of highly compensated individuals  
29 as to eligibility to participate, payments or program  
30 benefits.

1           (vii) Compensation received by a member of the armed  
2           forces of the United States serving in a combat zone.

3           (viii) Payments received by a foster parent for in-  
4           home care of foster children from an agency or political  
5           subdivision of the Commonwealth or an organization exempt  
6           from Federal tax under section 501(c)(3) of the Internal  
7           Revenue Code of 1954 which is licensed by the  
8           Commonwealth or a political subdivision as a placement  
9           agency.

10           (ix) Payments made by employers or labor unions for  
11           employee benefit programs covering Social Security or  
12           retirement.

13           (x) Personal use of an employer's owned or leased  
14           property or employer-provided services.

15           "Corporate item." An item, including income, gain or loss,  
16           deduction or credit, determined at the Pennsylvania S  
17           corporation level, which is required to be taken into account  
18           for a Pennsylvania S corporation's taxable year.

19           "Corporation." For purposes of applying the provisions of  
20           section 2203(a) (relating to classes of income) with respect to  
21           a "reorganization" as defined in that section, the term shall  
22           include any of the following:

23           (1) A business trust to which 15 Pa.C.S. Ch. 95  
24           (relating to business trusts) applies.

25           (2) A common law business trust.

26           (3) A limited liability company that, for Federal income  
27           tax purposes, is taxable as a corporation or an investment  
28           company.

29           "Dependent." A child who is the dependent of a claimant for  
30           purposes of section 151 of the Internal Revenue Code of 1986.

1 "Dividends." As follows:

2 (1) A distribution in cash or property made by a  
3 corporation, association, business trust or investment  
4 company with respect to the corporation's, association's,  
5 business trust's or investment company's stock out of  
6 accumulated earnings and profits or out of earnings and  
7 profits of the year in which the dividend is paid.

8 (2) The term shall not include any of the following:

9 (i) A distribution of the stock of a corporation  
10 made by the corporation originally issuing the stock to  
11 its stockholders if the distribution is not treated as  
12 personal income for Federal individual income tax  
13 purposes.

14 (ii) For taxable years beginning on or after January  
15 1, 1993, a distribution made by an investment company out  
16 of earnings and profits derived from interest that is  
17 statutorily free from State and local taxation under  
18 Article XXIX of the Tax Reform Code of 1971 or the laws  
19 of the United States.

20 "Employee." An individual from whose wages an employer is  
21 required under the Internal Revenue Code of 1986 to withhold  
22 Federal income tax.

23 "Employer." An individual, partnership, association,  
24 corporation, governmental body or agency or other entity that is  
25 required under the Internal Revenue Code of 1986 to withhold  
26 Federal income tax from wages paid to an employee.

27 "Fiduciary." A guardian, trustee, executor, administrator,  
28 receiver, conservator or person acting in a trust or similar  
29 capacity, whether domiciliary or ancillary.

30 "Health savings account." As defined in section 223(d) of

1 the Internal Revenue Code of 1986, as amended.

2 "Income." For a resident individual, estate or trust, the  
3 term shall mean the same as compensation, net profits, gains,  
4 dividends, interest or income under section 2203.

5 "Income from sources within this Commonwealth." As follows:

6 (1) For a nonresident individual, estate or trust, the  
7 term shall mean the same as compensation, net profits, gains,  
8 dividends, interest or income under section 2203 to the  
9 extent that the income is earned, received or acquired from  
10 sources within this Commonwealth:

11 (i) by reason of ownership or disposition of an  
12 interest in real or tangible personal property in this  
13 Commonwealth;

14 (ii) in connection with a trade, profession,  
15 occupation carried on in this Commonwealth or for the  
16 rendition of personal services performed in this  
17 Commonwealth;

18 (iii) as a distributive share of the income of an  
19 unincorporated business, Pennsylvania S corporation,  
20 profession, enterprise, undertaking or other activity as  
21 the result of work done, services rendered or other  
22 business activities conducted in this Commonwealth,  
23 except as allocated to another state under regulations  
24 promulgated by the department under this subpart;

25 (iv) from intangible personal property employed in a  
26 trade, profession, occupation or business carried on in  
27 this Commonwealth; or

28 (v) as gambling and lottery winnings by reason of a  
29 wager placed in this Commonwealth, the conduct of a game  
30 of chance or other gambling activity located in this

1 Commonwealth or the redemption of a lottery prize from a  
2 lottery conducted in this Commonwealth, other than  
3 noncash prizes of the Pennsylvania State Lottery.

4 (2) For a nonresident individual, estate or trust, the  
5 term shall not include items of income specified in paragraph  
6 (1) received or acquired from an investment company  
7 registered with the Securities and Exchange Commission under  
8 the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §  
9 80a-1 et seq.).

10 "Individual." As follows:

11 (1) A natural person.

12 (2) The term shall include a member of a partnership or  
13 association and a shareholder of a Pennsylvania S  
14 corporation.

15 "Installment sales method of reporting." As follows:

16 (1) The method by which a taxpayer reports the gain upon  
17 the sale of tangible personal property or real property when  
18 at least one payment is to be received in a taxable year  
19 following the taxable year of sale, whether the property is  
20 sold or otherwise disposed of in an isolated transaction or  
21 from the inventory of a dealer or broker.

22 (2) Taxpayers may elect to allocate the gain upon the  
23 transactions in equal proportion to each payment to be  
24 received. Taxpayers who do not elect to allocate the gain  
25 upon the transactions in equal proportion to each payment  
26 received shall report all gains upon the sale in the taxable  
27 year in which the transaction occurred.

28 (3) For the purposes of this definition:

29 (i) The gain upon the transaction shall be the  
30 difference between the sales price and the seller's basis

1 in the property.

2 (ii) The sales price shall be the face amount of the  
3 evidence of indebtedness given in exchange for the  
4 property sold or otherwise disposed of together with the  
5 value of other consideration received by the seller. If  
6 the evidence of indebtedness fails to state a price, the  
7 evidence of indebtedness shall be valued at the fair  
8 market value of the property sold, less the value of  
9 other property or cash received in the same transaction.

10 (iii) The installment sales method of reporting  
11 shall not be used for transactions made to lend money or  
12 render services.

13 "Internal Revenue Code of 1986." The Internal Revenue Code  
14 of 1986, as amended to January 1, 1997, unless the reference  
15 contains the phrase "as amended" and refers to no other date, in  
16 which case the reference shall be to the Internal Revenue Code  
17 of 1986 as it exists as of the time of application of this  
18 subpart.

19 "Investment company." An incorporated or unincorporated  
20 enterprise registered with the Securities and Exchange  
21 Commission under the Investment Company Act of 1940.

22 "Nonresident estate or trust." An estate or trust which is  
23 not a resident estate or trust. The term shall not include a  
24 charitable trust or pension or profit sharing trust.

25 "Nonresident individual." An individual who is not a  
26 resident of this Commonwealth.

27 "Partnership." A domestic or foreign general partnership,  
28 joint venture, limited partnership, limited liability company,  
29 business trust or other unincorporated entity that for Federal  
30 income tax purposes is classified as a partnership.

1 "Partnership item." An item, including income, gain or loss,  
2 deduction or credit determined at the partnership level, which  
3 is required to be taken into account for a partnership's taxable  
4 year.

5 "Pennsylvania S corporation." As follows:

6 (1) A small corporation that does not have a valid  
7 election under section 2231 (relating to election by small  
8 corporation) in effect.

9 (2) A qualified Subchapter S subsidiary owned by a  
10 Pennsylvania S corporation shall be treated as a Pennsylvania  
11 S corporation without regard to whether an election under  
12 section 2231 has been made with respect to the subsidiary.

13 "Person." An individual, employer, association, fiduciary,  
14 partnership, corporation or other entity, estate or trust,  
15 resident or nonresident. For the purpose of determining  
16 eligibility for special tax provisions, the term shall mean an  
17 individual.

18 "Poverty." An economic condition where the total amount of  
19 poverty income is insufficient to adequately provide a claimant,  
20 the claimant's spouse and dependent children with the  
21 necessities of life.

22 "Poverty income." For the purpose of determining eligibility  
23 for special tax provisions, all money or property, including  
24 interest, gains or income derived from obligations which are  
25 statutorily free from State or local taxation under the laws of  
26 the United States or this Commonwealth, received of any nature  
27 and from any source, but not including any of the following:

28 (1) Periodic payments for sickness and disability other  
29 than regular wages received during a period of sickness or  
30 disability.

1       (2) Disability, retirement or other payments arising  
2 under workers' compensation acts, occupational disease acts  
3 and similar legislation by a government.

4       (3) Payments commonly recognized as old age or  
5 retirement benefits that are excluded under paragraph (2)(ii)  
6 of the definition of "compensation" under this section.

7       (4) Payments commonly known as public assistance, or  
8 unemployment compensation payments by a governmental agency.

9       (5) Payments to reimburse actual expenses.

10       (6) Payments made by employers or labor unions for  
11 programs covering hospitalization, sickness, disability or  
12 death, supplemental unemployment benefits, strike benefits,  
13 Social Security and retirement.

14       (7) Compensation received by a member of the armed  
15 forces of the United States serving in a combat zone.

16       "Publicly traded partnership." An entity defined under  
17 section 7704 of the Internal Revenue Code of 1986 with equity  
18 securities registered with the Securities and Exchange  
19 Commission under section 12 of the Securities Exchange Act of  
20 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.).

21       "Qualified Subchapter S subsidiary." A domestic or foreign  
22 corporation which, for Federal income tax purposes, is treated  
23 as a qualified Subchapter S subsidiary as defined in section  
24 1361(b)(3)(B) of the Internal Revenue Code of 1986, as amended  
25 to January 1, 2005.

26       "Received." For the purpose of computation of income subject  
27 to tax under this subpart, the term shall mean "received, earned  
28 or acquired," and the phrase "received, earned or acquired"  
29 shall be construed according to the method of accounting  
30 required by the department under this subpart for computing and

1 reporting income subject to the tax.

2 "Resident estate." The estate of a decedent who, at the time  
3 of the decedent's death, was a resident individual.

4 "Resident individual." An individual who:

5 (1) is domiciled in this Commonwealth, unless the  
6 individual maintains no permanent place of abode in this  
7 Commonwealth, maintains a permanent place of abode elsewhere  
8 and spends in the aggregate not more than 30 days of the  
9 taxable year in this Commonwealth; or

10 (2) is not domiciled in this Commonwealth but maintains  
11 a permanent place of abode in this Commonwealth and spends in  
12 the aggregate more than 183 days of the taxable year in this  
13 Commonwealth.

14 "Resident trust." Any of the following:

15 (1) A trust created by the will of a decedent who, at  
16 the time of the decedent's death, was a resident individual.

17 (2) A trust created by, or consisting in whole or in  
18 part of property transferred to a trust by a person who at  
19 the time of the creation or transfer was a resident. The term  
20 under this paragraph shall not include a charitable trust or  
21 pension or profit-sharing trust.

22 "Small corporation." A corporation that has a valid election  
23 in effect under Subchapter S of Chapter 1 of the Internal  
24 Revenue Code of 1986, as amended to January 1, 2005.

25 "Social Security substitute pension." A pension that is  
26 provided in lieu of old age and survivor benefit payments under  
27 the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.)  
28 to a person whose employment was not covered under the Social  
29 Security Act.

30 "Special tax provisions." A refund or forgiveness of all or

1 part of a claimant's liability under the provisions of this  
2 subpart.

3 "State." Except as provided under section 2303(a) (relating  
4 to income taxes imposed by other states), a state or  
5 commonwealth of the United States, the District of Columbia, the  
6 Commonwealth of Puerto Rico, a territory or possession of the  
7 United States or a foreign country.

8 "Tax." Includes interest, penalties, additions to tax and  
9 the tax required to be withheld by an employer on compensation  
10 paid, unless a more limited meaning is disclosed by the context.

11 "Taxable year." Any of the following:

12 (1) The taxable period on the basis of which a taxpayer  
13 or claimant is required to file a Federal income tax return  
14 under the Internal Revenue Code of 1986.

15 (2) If a taxpayer or claimant is not required to or does  
16 not file a Federal income tax return, the calendar year. The  
17 following shall apply:

18 (i) For the initial period during which the tax is  
19 first imposed, the term shall mean the period beginning  
20 June 1, 1971, and ending with the taxable period on the  
21 basis of which a taxpayer or claimant is required to file  
22 the taxpayer's Federal income tax return under the  
23 Internal Revenue Code of 1986.

24 (ii) If the taxpayer or claimant is not required to  
25 or does not file a Federal income tax return, December  
26 31, 1971.

27 "Taxpayer." As follows:

28 (1) An individual, estate or trust subject to the tax  
29 imposed by this subpart.

30 (2) A partnership having a partner who is a taxpayer

1 under this title.

2 (3) A Pennsylvania S corporation having a shareholder  
3 who is a taxpayer under this subpart and a person required to  
4 withhold tax under this subpart.

5 CHAPTER 22

6 TAXATION GENERALLY

7 Subchapter

8 A. Imposition of Tax

9 B. Estates and Trusts

10 C. Partnerships

11 D. Pennsylvania S Corporations

12 E. Other Entities

13 F. Nonresident Individuals

14 SUBCHAPTER A

15 IMPOSITION OF TAX

16 Sec.

17 2201. Imposition of tax.

18 2202. Rate changes occurring during taxable year.

19 2203. Classes of income.

20 2204. Special tax provisions for poverty.

21 2205. Alternative special tax provision for poverty study.

22 2206. Pennsylvania ABLE Savings Program tax exemption.

23 § 2201. Imposition of tax.

24 (a) Resident taxation.--Each resident individual, estate or  
25 trust shall be subject to, and shall pay for the privilege of  
26 receiving each of the classes of income enumerated in section  
27 2203 (relating to classes of income), a tax upon each dollar of  
28 income received by the resident during the resident's taxable  
29 year at the rate of 3.07%.

30 (b) Nonresident taxation.--Each nonresident individual,

1 estate or trust shall be subject to, and shall pay for the  
2 privilege of receiving each of the classes of income enumerated  
3 in section 2203 from sources within this Commonwealth, a tax  
4 upon each dollar of income received by the nonresident during  
5 the nonresident's taxable year at the rate of 3.07%.

6 § 2202. Rate changes occurring during taxable year.

7 Notwithstanding the provisions of section 2201 (relating to  
8 imposition of tax), the tax rate used for the computation of tax  
9 for a taxable year where the rate changes during the taxable  
10 year shall be the monthly weighted average of the rates  
11 applicable during the taxable year, regardless of when during  
12 the taxable year the income is received.

13 § 2203. Classes of income.

14 (a) Classes of income specified.--The classes of income are  
15 as follows:

16 (1) Compensation, which shall be defined as salaries,  
17 wages, commissions, bonuses and incentive payments, whether  
18 based on profits or otherwise, fees, tips and similar  
19 remuneration received for services rendered, whether directly  
20 or through an agent and whether in cash or in property,  
21 except income derived from the United States Government for  
22 active duty outside this Commonwealth as a member of the  
23 armed forces of the United States and income from the United  
24 States Government or the Commonwealth for active State duty  
25 for emergency within or outside this Commonwealth, including  
26 duty ordered under 35 Pa.C.S. Ch. 76 (relating to Emergency  
27 Management Assistance Compact). The following shall apply:

28 (i) Compensation of a cash-basis taxpayer shall be  
29 considered received if the compensation is actually or  
30 constructively received for Federal income tax purposes

1 consistent with United States Treasury regulations and  
2 rulings under the Internal Revenue Code of 1986, as  
3 amended, except that, for purposes of computing tax under  
4 this subpart:

5 (A) Amounts lawfully deducted, not deferred, and  
6 withheld from the compensation of employees shall be  
7 considered received by the employee as compensation  
8 at the time the deduction is made.

9 (B) Contributions to an employees' trust, pooled  
10 fund or other arrangement which is not subject to the  
11 claims of creditors of the employer made by an  
12 employer on behalf of an employee or self-employed  
13 individual at the election of the employee or self-  
14 employed individual under a cash or deferred  
15 arrangement or salary reduction agreement shall be  
16 deemed received by the employee or individual as  
17 compensation at the time the contribution is made,  
18 regardless of when the election is made or a payment  
19 is received.

20 (C) A contribution to a plan by, on behalf of or  
21 attributable to a self-employed person shall be  
22 deemed received at the time the contribution is made.

23 (D) Employer contributions to a Roth IRA  
24 custodial account or employee annuity shall be deemed  
25 received, earned or acquired only when distributed,  
26 when the plan fails to meet the requirements of  
27 section 408A of the Internal Revenue Code of 1986, as  
28 amended, or when the plan is not operated in  
29 accordance with the requirements of section 408A of  
30 the Internal Revenue Code of 1986, as amended.

1           (E) Employee contributions to an employees'  
2           trust, pooled fund, custodial account or contract or  
3           employee annuity may not be deducted or excluded from  
4           compensation.

5           (F) This subparagraph shall not apply to  
6           compensation excluded under paragraph (3)(iii.1) of  
7           the definition of "compensation" in section 2102  
8           (relating to definitions).

9           (ii) For purposes of determining when deferred  
10          compensation of employees other than employees of exempt  
11          organizations and State and local governments is required  
12          to be included in income, the rules of sections 83, 451  
13          and 409A of the Internal Revenue Code of 1986, as  
14          amended, shall apply.

15          (iii) For purposes of determining when deferred  
16          compensation of employees of exempt organizations and  
17          State and local governments is required to be included in  
18          income, the rules of sections 83, 451, 457 and 409A of  
19          the Internal Revenue Code of 1986, as amended, shall  
20          apply.

21          (2) Net profits, which shall be defined as the net  
22          income from the operation of a business, profession or other  
23          activity, after provision for all costs and expenses incurred  
24          in the conduct of the business, profession or other activity,  
25          determined either on a cash or accrual basis in accordance  
26          with accepted accounting principles and practices but without  
27          deduction of taxes based on income. For purposes of  
28          calculating net income under this paragraph, to the extent a  
29          taxpayer properly deducts an amount under section 195(b)(1)  
30          (A) of the Internal Revenue Code of 1986, as amended, and the

1 regulations promulgated under section 195(b)(1)(A) of the  
2 Internal Revenue Code of 1986, as amended, the taxpayer shall  
3 be permitted a deduction in equal amount in the same taxable  
4 year.

5 (3) Net gains or income from disposition of property as  
6 follows:

7 (i) The term shall be defined as net gains or net  
8 income, less net losses, derived from the sale, exchange  
9 or other disposition of property, including real  
10 property, tangible personal property, intangible personal  
11 property or obligations issued on or after the effective  
12 date of this paragraph by any of the following:

13 (A) The Commonwealth.

14 (B) A public authority, commission, board or  
15 other agency created by the Commonwealth.

16 (C) A political subdivision of the Commonwealth  
17 or a public authority created by a political  
18 subdivision.

19 (D) The Federal Government as determined in  
20 accordance with accepted accounting principles and  
21 practices.

22 (ii) For the purpose of this subpart:

23 (A) For the determination of the basis of any  
24 property, real and personal, if acquired prior to  
25 June 1, 1971, the date of acquisition shall be  
26 adjusted to June 1, 1971, as if the property had been  
27 acquired on that date. If the property was acquired  
28 after June 1, 1971, the actual date of acquisition  
29 shall be used in determination of the basis.

30 (B) The terms "net gains or income" and "net

1 losses" shall not include gains or income or loss  
2 derived from obligations which are statutorily free  
3 from State or local taxation under Article XXIX of  
4 the Tax Reform Code of 1971 or the laws of the United  
5 States.

6 (iii) For the purpose of this subpart, the term  
7 "sale, exchange or other disposition" shall not include  
8 the exchange of stock or securities in a corporation that  
9 is a party to a reorganization in pursuance of a plan of  
10 reorganization, solely for stock or securities in the  
11 corporation or in another corporation that is a party to  
12 the reorganization and the transfer of property to a  
13 corporation by one or more persons solely in exchange for  
14 stock or securities in the corporation if, immediately  
15 after the exchange, the person or persons are in control  
16 of the corporation. The following shall apply:

17 (A) For purposes of this subparagraph, stock or  
18 securities issued for services shall not be  
19 considered as issued in return for property.

20 (B) For purposes of this subparagraph, the term  
21 "reorganization" shall mean any of the following:

22 (I) A statutory merger or consolidation.

23 (II) The acquisition by one corporation in  
24 exchange solely for all or a part of its voting  
25 stock, or in exchange solely for all or a part of  
26 the voting stock of a corporation which is in  
27 control of the acquiring corporation, of stock of  
28 another corporation if, immediately after the  
29 acquisition, the acquiring corporation has  
30 control of the other corporation, whether or not

1           the acquiring corporation had control immediately  
2           before the acquisition.

3           (III) The acquisition by one corporation, in  
4           exchange solely for all or a part of its voting  
5           stock, or in exchange solely for all or a part of  
6           the voting stock of a corporation which is in  
7           control of the acquiring corporation, of  
8           substantially all of the properties of another  
9           corporation. In determining whether the exchange  
10           is solely for stock, the assumption by the  
11           acquiring corporation of a liability of the other  
12           or the fact that property acquired is subject to  
13           a liability shall be disregarded.

14           (IV) A transfer by a corporation of all or a  
15           part of its assets to another corporation if,  
16           immediately after the transfer, the transferor,  
17           or one or more of the transferor's shareholders,  
18           including persons who were shareholders  
19           immediately before the transfer, or any  
20           combination thereof, is in control of the  
21           corporation to which the assets are transferred.

22           (V) A recapitalization.

23           (VI) A mere change in identity, form or  
24           place of organization.

25           (C) The acquisition by one corporation, in  
26           exchange for stock of a corporation, referred to in  
27           this clause as a "controlling corporation," which is  
28           in control of the acquiring corporation, of  
29           substantially all of the properties of another  
30           corporation which in the transaction is merged into

1 the acquiring corporation shall not disqualify a  
2 transaction under clause (B) (I) if the transaction  
3 would have qualified under clause (B) (I) if the  
4 merger had been into the controlling corporation and  
5 no stock of the acquiring corporation is used in the  
6 transaction.

7 (D) A transaction otherwise qualifying under  
8 clause (B) (I) shall not be disqualified by reason of  
9 the fact that stock of a corporation, referred to in  
10 this clause as a "controlling corporation," which,  
11 before the merger, was in control of the merged  
12 corporation is used in the transaction if, after the  
13 transaction, the corporation surviving the merger  
14 holds substantially all of its properties and of the  
15 properties of the merged corporation, other than  
16 stock of the controlling corporation distributed in  
17 the transaction, and, in the transaction, former  
18 shareholders of the surviving corporation exchanged,  
19 for an amount of voting stock of the controlling  
20 corporation, an amount of stock in the surviving  
21 corporation which constitutes control of the  
22 corporation.

23 (E) For purposes of this subparagraph:

24 (I) The term "control" shall mean the  
25 ownership of stock possessing at least 80% of the  
26 total combined voting power of all classes of  
27 stock entitled to vote and at least 80% of the  
28 total number of shares of all other classes of  
29 stock of the corporation.

30 (II) The term "a party to a reorganization"

1           shall include a corporation resulting from a  
2           reorganization, and both corporations, in the  
3           case of a reorganization resulting from the  
4           acquisition by one corporation of stock or  
5           properties of another. In the case of a  
6           reorganization qualifying under clause (B)(I) by  
7           reason of clause (C), the term "a party to a  
8           reorganization" shall include the controlling  
9           corporation referred to in clause (C).

10           (F) Notwithstanding any other provisions of this  
11           subparagraph, upon every exchange or conversion, the  
12           taxpayer's base for the stock or securities received  
13           shall be the same as the taxpayer's actual or  
14           attributed base for the stock, securities or property  
15           surrendered in exchange for the stock or securities  
16           received.

17           (iv) For the purpose of this subpart, the term  
18           "sale, exchange or other disposition" shall not include  
19           any of the following:

20           (A) A transfer by a common trust fund described  
21           in section 584 of the Internal Revenue Code of 1986  
22           of all or substantially all of its assets to one or  
23           more companies described in section 851 of the  
24           Internal Revenue Code of 1986 in exchange for stock  
25           or units of beneficial interest in the company or  
26           companies to which the assets are transferred and the  
27           distribution of the stock or units by the fund to its  
28           participants in exchange for the participants'  
29           interest in the fund, if no gain or loss is  
30           recognized on the transfer or distribution for

1 Federal income tax purposes. Upon each exchange, the  
2 taxpayer's base for the assets, stock or units  
3 received shall be the same as the taxpayer's actual  
4 or attributed base for the assets, stock, units or  
5 interest surrendered in exchange for the assets,  
6 stock or units.

7 (B) A transfer of an interest in an enterprise  
8 treated as a partnership for purposes of this subpart  
9 in exchange for an interest in another enterprise  
10 treated as a partnership for purposes of this  
11 subpart, a liquidation made in connection with a  
12 transfer or an exchange made under a statutory  
13 merger, consolidation or division of enterprises so  
14 treated unless taxable income or gain is recognized  
15 for Federal income tax purposes. Upon each exchange,  
16 the taxpayer's base for the interest received shall  
17 be the same as the taxpayer's actual or attributed  
18 base for the interest surrendered in exchange.

19 (v) For the purpose of this subpart, the term "net  
20 gains or net income, less net losses," shall not include  
21 a gain or loss from the sale, exchange or other  
22 disposition of the taxpayer's principal residence. The  
23 following shall apply:

24 (A) For purposes of this subparagraph, the term  
25 "principal residence" shall mean the property that  
26 has been owned and used by the taxpayer as the  
27 taxpayer's principal residence for periods  
28 aggregating two years or more during the five-year  
29 period ending on the date of the sale, exchange or  
30 disposition. The following apply:

1           (I) In the case of property only a portion  
2           of which, during the five-year period ending on  
3           the date of the sale, exchange or disposition,  
4           has been owned or used by the taxpayer as the  
5           taxpayer's principal residence for periods  
6           aggregating two years or more, this subparagraph  
7           shall apply with respect to the portion of the  
8           gain from the sale, exchange or disposition of  
9           the property as determined under regulations  
10           prescribed by the department to be attributable  
11           to that portion.

12           (II) In the case of a principal residence a  
13           portion of which has never been subject to the  
14           allowance for depreciation, this subparagraph  
15           shall apply with respect to the portion of the  
16           gain from the sale, exchange or disposition of  
17           the property as is determined under regulations  
18           prescribed by the department to be attributable  
19           to that portion.

20           (B) The provisions of this subparagraph shall  
21           not apply to a sale, exchange or disposition if,  
22           during the two-year period ending upon the date of  
23           the sale, exchange or disposition, there was a prior  
24           sale, exchange or disposition by the taxpayer of a  
25           principal residence unless the sale, exchange or  
26           disposition is by reason of a change in employment,  
27           health or, to the extent provided in regulations,  
28           unforeseen circumstances.

29           (C) This subparagraph shall not apply to any  
30           sale, exchange or disposition made prior to January

1           1, 1998.

2           (vi) For purposes of this subpart, the term "net  
3 gains or income" and "net losses" shall not include gains  
4 or income or losses which are excluded from Federal  
5 taxation under section 1400Z-2 of the Internal Revenue  
6 Code of 1986, as amended. Net gains or net income, less  
7 net losses, which are excluded under this subparagraph  
8 shall be included in income to the extent they are  
9 included in gross income under section 1400Z-2(b) of the  
10 Internal Revenue Code of 1986, as amended. Section 1400Z-  
11 2(c) of the Internal Revenue Code of 1986, as amended,  
12 shall apply in the computation of net gains or net income  
13 and net losses.

14           (4) Net gains or income derived from or in the form of  
15 rents, royalties, patents and copyrights.

16           (5) Dividends. The term "dividends" shall not include  
17 gains or income or losses which are excluded from Federal  
18 taxation under section 1400Z-2 of the Internal Revenue Code  
19 of 1986, as amended. Gains or income or losses which are  
20 excluded under this paragraph shall be included in income to  
21 the extent they are included in gross income under section  
22 1400Z-2(b) of the Internal Revenue Code of 1986, as amended.  
23 Section 1400Z-2(c) of the Internal Revenue Code of 1986, as  
24 amended, shall apply in the computation of net gains or net  
25 income and net losses.

26           (6) Interest derived from obligations which are not  
27 statutorily free from State or local taxation under the laws  
28 of the United States or this Commonwealth, an amount paid  
29 under contract of life insurance or endowment or annuity  
30 contract which is includable in gross income for Federal

1 income tax purposes and an amount paid out of the Archer  
2 Medical Savings Account (Archer MSA) or health savings  
3 account that is includable in the gross income of an account  
4 beneficiary for Federal income tax purposes.

5 (7) Gambling and lottery winnings other than noncash  
6 prizes of the Pennsylvania State Lottery.

7 (8) Net gains or income derived through estates or  
8 trusts. To the extent that income or gain is subject to tax  
9 under one of the classes of income enumerated in this  
10 section, the income or gain shall not be subject to tax under  
11 another class.

12 (b) Computation of income.--Income shall be computed under  
13 the method of accounting on the basis of which the taxpayer  
14 regularly computes income in keeping the taxpayer's books. If  
15 the department determines that no method has been regularly used  
16 or the method used does not clearly reflect income, the  
17 computation of income shall be made under a method which, in the  
18 opinion of the department, clearly reflects income.

19 (c) Depreciation deduction.--The following shall apply:

20 (1) In computing income, a depreciation deduction shall  
21 be allowed for the exhaustion, wear and tear and obsolescence  
22 of property being employed in the operation of a business or  
23 held for the production of income.

24 (2) Except as provided in paragraph (3), the deduction  
25 must be reasonable and shall be computed in accordance with  
26 the property's adjusted basis at the time placed in service,  
27 reasonably estimated useful life and net salvage value at the  
28 end of the property's reasonably estimated useful economic  
29 life under the straight-line method or other method  
30 prescribed by the department.

1       (3) A taxpayer may use any depreciation method, recovery  
2 method or convention that is also used by the taxpayer in  
3 determining Federal net taxable income if, when placed in  
4 service, the property has the same adjusted basis for Federal  
5 income tax purposes and the method or convention is allowable  
6 for Federal income tax purposes at the time the property is  
7 placed in service or under the Internal Revenue Code of 1986,  
8 whichever is earlier.

9       (4) The basis of property shall be reduced, but not  
10 below zero, for depreciation by the greater of the following:

11       (i) The amount deducted on a return and not  
12 disallowed, but only to the extent the deduction results  
13 in a reduction of income.

14       (ii) The amount allowable using the straight-line  
15 method of depreciation computed on the basis of the  
16 property's adjusted basis at the time placed in service,  
17 reasonably estimated useful life and net salvage value at  
18 the end of the property's reasonably estimated useful  
19 economic life, regardless of whether the deduction  
20 results in a reduction of income.

21       (d) Section 179 Property.--The cost of property commonly  
22 referred to as Section 179 Property may be treated as a  
23 deductible expense only to the extent allowable under the  
24 version of section 179 of the Internal Revenue Code in effect at  
25 the time the property is placed in service or under section 179  
26 of the Internal Revenue Code of 1986, whichever is earlier. The  
27 basis of Section 179 Property shall be reduced, but not below  
28 zero, for costs treated as a deductible expense. The amount of  
29 the reduction shall be the amount deducted on a return and not  
30 disallowed, regardless of whether the deduction results in a

1 reduction of income.

2 (e) Federal limitations.--This subpart shall be subject to  
3 applicable Federal limitations on State income taxation.

4 (f) Applicability of Internal Revenue Code of 1986.--

5 (1) The requirements of section 1035 of the Internal  
6 Revenue Code of 1986, as amended, shall be applicable.

7 (2) Except as provided in this subpart and without  
8 regard to sections 220(f)(4) and 223(f)(4) of the Internal  
9 Revenue Code of 1986, the requirements of sections 106(b) and  
10 (d), 220 and 223 of the Internal Revenue Code of 1986 shall  
11 be applicable.

12 (3) The provisions of section 1033 of the Internal  
13 Revenue Code of 1986, as amended, shall be applicable.

14 (g) Qualified tuition programs.--The following shall apply:

15 (1) An amount paid as a contribution to a qualified  
16 tuition program shall be deductible from taxable income on  
17 the annual personal income tax return. The amount paid as a  
18 contribution to a qualified tuition program allowable as a  
19 deduction under this subsection shall be subject to an annual  
20 limitation not to exceed the threshold for exclusion from  
21 gifts as provided in section 2503(b) of the Internal Revenue  
22 Code of 1986, as amended, per designated beneficiary. The  
23 deduction shall not result in taxable income being less than  
24 zero.

25 (2) The following shall apply:

26 (i) The following shall not be subject to tax under  
27 this subpart:

28 (A) An amount distributed from a qualified  
29 tuition program that is excludable from tax under  
30 section 529(c)(3)(B) of the Internal Revenue Code of

1 1986, as amended.

2 (B) A rollover that is excludable from tax under  
3 section 529(c) (3) (C) of the Internal Revenue Code of  
4 1986, as amended.

5 (C) Undistributed earnings on a qualified  
6 tuition program.

7 (D) The value of a medal awarded by or prize  
8 money received from the United States Olympic  
9 Committee on account of competition in the Olympic  
10 Games or Paralympic Games.

11 (ii) A change in designated beneficiaries under  
12 section 529(c) (3) (C) of the Internal Revenue Code of  
13 1986, as amended, shall not constitute a taxable event  
14 under this subpart.

15 (3) An amount distributed from a qualified tuition  
16 program that is not described under paragraph (2) shall be  
17 taxable under this subpart.

18 (4) For purposes of this subsection:

19 (i) The term "designated beneficiary" shall have the  
20 same meaning as provided in section 529(e) (1) of the  
21 Internal Revenue Code of 1986, as amended.

22 (ii) The term "qualified tuition program" shall have  
23 the same meaning as provided in section 529(b) (1) of the  
24 Internal Revenue Code of 1986, as amended.

25 (h) Drilling and development costs.--

26 (1) Except as provided in paragraph (2), a person who  
27 incurs intangible drilling and development costs as defined  
28 in section 263(c) of the Internal Revenue Code of 1986, as  
29 amended, and regulations under the Internal Revenue Code of  
30 1986, as amended, shall capitalize the costs and recover them

1 over a 10-year period in the taxable year the costs are  
2 incurred.

3 (2) A person may elect to currently expense up to one-  
4 third of the costs in the taxable year in which the costs are  
5 incurred and recover the remaining costs over a 10-year  
6 period beginning in the taxable year the costs are incurred.

7 (i) Unconstitutional classes severable.--If one or more or  
8 part of one or more classes of income under subsection (a) are  
9 held to be unconstitutional by a final decision of a court of  
10 last resort, the unconstitutional class or classes or part of a  
11 class or classes of income shall be deemed severable, and the  
12 tax imposed by this subpart shall apply with respect to all the  
13 remaining classes of income or parts of classes of income  
14 enumerated in subsection (a) as if the unconstitutional class or  
15 classes of income or part or parts of classes of income had not  
16 been included in this subpart.

17 § 2204. Special tax provisions for poverty.

18 (a) Intent.--The General Assembly, in recognition of the  
19 powers contained in section 2(b)(ii) of Article VIII of the  
20 Constitution of Pennsylvania which provides for the  
21 establishment as a class or classes of subjects of taxation the  
22 property or privileges of persons who, because of poverty, are  
23 determined to be in need of special tax provisions, declares as  
24 its legislative intent and purpose to establish special tax  
25 provisions as provided in this subpart.

26 (b) Public policy determination.--The General Assembly,  
27 having determined that there are individuals in this  
28 Commonwealth whose incomes are at a level that imposition of a  
29 tax on those incomes would deprive the individuals and the  
30 individuals' dependents of the bare necessities of life, and

1 having further determined that poverty is a relative concept  
2 inextricably joined with actual income and the number of  
3 individuals dependent upon the income, deems it to be a matter  
4 of public policy to provide special tax provisions for that  
5 class of individuals designated to relieve the individuals'  
6 economic burden.

7 (c) Eligibility.--For the taxable year 1974 and each year  
8 thereafter, a claimant who meets the standards of eligibility  
9 for poverty specified in this section shall be deemed a separate  
10 class of subject of taxation and shall be entitled to the  
11 benefit of the special provisions of this subpart.

12 (d) Determination of poverty.--A claim for special tax  
13 provisions under this section shall be determined in accordance  
14 with the following:

15 (1) If the poverty income of a claimant during an entire  
16 taxable year is \$6,500 or less, or, in the case of a married  
17 claimant, if the joint poverty income of the claimant and the  
18 claimant's spouse during an entire taxable year is \$13,000 or  
19 less, the claimant shall be entitled to a refund or  
20 forgiveness of money which has been paid over to, or would  
21 except for the provisions of this subpart be payable to, the  
22 Commonwealth under this subpart, with an additional income  
23 allowance of \$9,500 for each dependent of the claimant. For  
24 purposes of this subsection, a claimant shall not be  
25 considered to be married if all of the following apply:

26 (i) The claimant and the claimant's spouse file  
27 separate returns.

28 (ii) The claimant and the claimant's spouse lived  
29 apart at all times during the last six months of the  
30 taxable year or are separated pursuant to a written

1 separation agreement.

2 (2) If the poverty income of the claimant during an  
3 entire taxable year does not exceed the poverty income  
4 limitations under paragraph (1) by more than the dollar  
5 categories contained in this paragraph, the claimant shall be  
6 entitled to a refund or forgiveness based on the percentage  
7 prescribed in this paragraph of money which has been paid  
8 over to, or would except for the provisions of this subpart  
9 be payable to the Commonwealth under this subpart:

10 (i) Ninety percent if not more than \$250.

11 (ii) Eighty percent if not more than \$500.

12 (iii) Seventy percent if not more than \$750.

13 (iv) Sixty percent if not more than \$1,000.

14 (v) Fifty percent if not more than \$1,250.

15 (vi) Forty percent if not more than \$1,500.

16 (vii) Thirty percent if not more than \$1,750.

17 (viii) Twenty percent if not more than \$2,000.

18 (ix) Ten percent if not more than \$2,250.

19 (3) If an individual has a taxable year of less than 12  
20 months, the poverty income of the individual shall be  
21 annualized in a manner as the department may prescribe.

22 § 2205. Alternative special tax provision for poverty study.

23 (a) Study.--The General Assembly directs the Joint State  
24 Government Commission to conduct or provide for a comprehensive  
25 study to determine whether alternative forms of special tax  
26 provisions for poverty would be more beneficial to persons who,  
27 because of poverty, are determined to be in need of special tax  
28 provisions.

29 (b) Comparison study.--The study shall include a comparison  
30 between the special tax provisions for poverty specified under

1 section 2204 (relating to special tax provisions for poverty)  
2 and the earned income credit allowable under section 32 of the  
3 Internal Revenue Code of 1986, as amended.

4 (c) Effects of Federal law.--The study shall consider any  
5 effects of linking the alternative special tax provisions for  
6 poverty to Federal law, including misuse that may be inherent in  
7 the Federal program.

8 (d) Fiscal costs.--The study shall ascertain any differences  
9 between the fiscal costs to the Commonwealth of the special tax  
10 provisions for poverty specified under section 2204 and  
11 projected fiscal costs of other alternative provisions.

12 (e) Consultants.--The Joint State Government Commission may  
13 hire or retain consultants, utilizing a request for proposal  
14 procedure, as necessary to assist in the performance of its  
15 duties under this section.

16 (f) Report.--The executive director of the Joint State  
17 Government Commission shall present a report summarizing the  
18 results of this study to the chairperson and minority  
19 chairperson of the Finance Committee of the Senate and the  
20 chairperson and minority chairperson of the Finance Committee of  
21 the House of Representatives after August 1, 2009, and before  
22 September 1, 2009.

23 § 2206. Pennsylvania ABLE Savings Program tax exemption.

24 (a) Exempt amounts.--The following shall be exempt from all  
25 taxation by the Commonwealth and its political subdivisions:

26 (1) Undistributed earnings on an account.

27 (2) An amount distributed from an account that is not  
28 included in gross income under section 529A(c)(1) of the  
29 Internal Revenue Code of 1986.

30 (b) Contributions.--The following shall apply:

1       (1) An amount contributed to an account shall be  
2       deductible from the taxable income of the contributor under  
3       this subpart for the tax year the contribution was made.

4       (2) The total contributions made by a contributor during  
5       a taxable year to all accounts that are allowable as a  
6       deduction under this section may not exceed the dollar amount  
7       under section 2503(b) of the Internal Revenue Code of 1986.

8       (3) The deduction may not result in the contributor's  
9       taxable income being less than zero.

10       (4) The department and the Treasury Department shall  
11       cooperate in verifying account information relating to  
12       contributions to an account itemized by a contributor and the  
13       contributor's specific contributions.

14       (c) Taxable income.--An amount that is distributed from an  
15       account and not otherwise exempt from taxation under this  
16       section shall be taxable income to the designated beneficiary  
17       under this subpart.

18       (d) Change in beneficiaries.--A change in designated  
19       beneficiaries under section 529A(c) of the Internal Revenue Code  
20       of 1986 shall not constitute a taxable event.

21       (e) Definitions.--As used in this section, the following  
22       words and phrases shall have the meanings given to them in this  
23       subsection unless the context clearly indicates otherwise:

24       "Account." An ABLE savings account as defined in section 102  
25       of the Pennsylvania ABLE Act.

26       "Contributor." An individual who makes a contribution to an  
27       account as defined in section 102 of the Pennsylvania ABLE Act.

28       "Designated beneficiary." As defined in section 102 of the  
29       Pennsylvania ABLE Act.

30       "Pennsylvania ABLE Act." The act of April 18, 2016 (P.L.128,

1 No.17), known as the Pennsylvania ABLE Act.

2 "Pennsylvania ABLE Savings Program." The program established  
3 under the Pennsylvania ABLE Act.

4 "Qualified disability expense." As defined in section 102 of  
5 the Pennsylvania ABLE Act.

6 SUBCHAPTER B

7 ESTATES AND TRUSTS

8 Sec.

9 2211. Taxability of estates, trusts and their beneficiaries.

10 § 2211. Taxability of estates, trusts and their beneficiaries.

11 The income of a beneficiary of an estate or trust with  
12 respect to the estate or trust shall consist of the part of the  
13 income or gains received by the estate or trust for the estate's  
14 or trust's taxable year ending within or with the beneficiary's  
15 taxable year which, under the governing instrument and  
16 applicable State law, is required to be distributed, paid or  
17 credited to the beneficiary. The income or gains of the estate  
18 or trust, if any, taxable to the estate or trust shall consist  
19 of the income or gains received by the estate or trust which has  
20 not been distributed or credited to the estate's or trust's  
21 beneficiaries.

22 SUBCHAPTER C

23 PARTNERSHIPS

24 Sec.

25 2221. Taxability of partners.

26 2222. Tax treatment determined at partnership level.

27 2223. Tax imposed at partnership level.

28 § 2221. Taxability of partners.

29 Except as provided under section 2223 (relating to tax  
30 imposed at partnership level), a partnership as an entity shall

1 not be subject to the tax imposed by this subpart, but the  
2 income or gain of a member of a partnership with respect to the  
3 partnership shall be subject to the tax, and the tax shall be  
4 imposed on the member's share, whether or not distributed, of  
5 the income or gain received by the partnership for the  
6 partnership's taxable year ending within or with the member's  
7 taxable year.

8 § 2222. Tax treatment determined at partnership level.

9 The classification or character of a partnership item shall  
10 be determined at the partnership level. This section shall not  
11 prohibit the department from adjusting a partner's return.

12 § 2223. Tax imposed at partnership level.

13 (a) Underreported income.--The following shall apply:

14 (1) A partnership underreporting income by more than  
15 \$1,000,000 for a tax year shall be liable for the tax,  
16 excluding interest, penalties or additions at the tax rate  
17 applicable to the tax year, on the underreported income  
18 without regard to the tax liability of the partners for the  
19 underreported income.

20 (2) The department shall assess the partnership for the  
21 tax on the underreported income.

22 (3) The department may not assess the partners for the  
23 underreported income or the tax on the underreported income.

24 The partnership shall be required to provide an amended  
25 statement to each partner as required under section 2707(c)

26 (3) (relating to requirements concerning returns, notices,  
27 records and statements) of the partner's pro rata share of  
28 the underreported income within 90 days of the assessment  
29 becoming final.

30 (4) Nothing in this subsection shall relieve the

1 partners of the partners' tax liability on the underreported  
2 income.

3 (b) Credit.--Each partner shall be allowed a credit for the  
4 partner's share of the tax assessed against the partnership  
5 under subsection (a) and paid by the partnership. The credit  
6 shall be allowed for the partner's taxable year in which the  
7 underreported income was required to be reported.

8 (c) Applicability.--Subsection (a) shall apply to the  
9 following partnerships:

10 (1) A partnership that has 11 or more partners who are  
11 natural persons.

12 (2) A partnership that has at least one partner which is  
13 a corporation, limited liability company, partnership or  
14 trust.

15 (3) A partnership that has only partners who are natural  
16 persons and elects to be subject to this subsection. The  
17 election must be included on the partnership return to be  
18 filed with the department.

19 (d) Publicly traded partnership.--This section shall not  
20 apply to a publicly traded partnership.

21 (e) Tax liability.--Nothing under this section shall require  
22 one partner to be liable for the payment of a tax liability of  
23 another partner.

24 (f) Appeals.--Appeals involving a deficiency assessed under  
25 this section may only be pursued by the partnership. A  
26 reassessment of tax liability shall be binding on the partners.

27 SUBCHAPTER D

28 PENNSYLVANIA S CORPORATIONS

29 Sec.

30 2231. Election by small corporation.

1 2232. Manner of making election.

2 2233. Effective years of election.

3 2234. Revocation of election.

4 2235. Termination by corporation ceasing to be small  
5 corporation.

6 2236. Termination year.

7 2237. Taxable year of Pennsylvania S corporation.

8 2238. Income of Pennsylvania S corporation.

9 2239. Income of Pennsylvania S corporations taxed to  
10 shareholders.

11 2240. Limitation on pass-through of losses to shareholders.

12 2241. Adjustments to basis of stock of shareholders.

13 2242. Distributions.

14 § 2231. Election by small corporation.

15 A small corporation may elect not to be taxed as a  
16 Pennsylvania S corporation. The election requires the consent of  
17 100% of the outstanding shares of the small corporation on the  
18 day on which the election is made. A qualified Subchapter S  
19 subsidiary owned by a Pennsylvania S corporation shall be  
20 treated as a Pennsylvania S corporation whether or not an  
21 election has been made with respect to the subsidiary.

22 § 2232. Manner of making election.

23 (a) General rule.--An election made under section 2231  
24 (relating to election by small corporation) shall be made in the  
25 manner prescribed by the department.

26 (b) Election.--An election under section 2231 may be made  
27 for any taxable year at any time during the preceding taxable  
28 year or at any time on or before the due date or extended due  
29 date of the small corporation's tax return under Article IV of  
30 the Tax Reform Code of 1971.

1 § 2233. Effective years of election.

2 An election made under section 2231 (relating to election by  
3 small corporation) shall be effective for the taxable year for  
4 which the election is made and for each succeeding taxable year  
5 unless revoked or terminated.

6 § 2234. Revocation of election.

7 (a) Revocation of election.--An election under section 2231  
8 (relating to election by small corporation) may be revoked if  
9 shareholders holding more than one-half of the shares of stock  
10 of the corporation consent to the revocation. The corporation  
11 and a successor corporation shall not be eligible to revoke an  
12 election under this section for a taxable year prior to the  
13 corporation's fifth taxable year which begins after the first  
14 taxable year for which an election is effective unless the  
15 corporation becomes a qualified Subchapter S subsidiary.

16 (b) Effective date of revocation.--A revocation under  
17 subsection (a) shall be effective on the first day of the  
18 taxable year if made on or before the 15th day of the third  
19 month of the taxable year. If the revocation is made after that  
20 date, the revocation shall be effective for the following  
21 taxable year.

22 § 2235. Termination by corporation ceasing to be small  
23 corporation.

24 (a) Termination of status.--If a corporation ceases to be a  
25 small corporation, the corporation's status as a Pennsylvania S  
26 corporation shall terminate.

27 (b) Effective date of termination.--The termination shall be  
28 effective on the date on which the corporation ceases to be a  
29 small corporation.

30 § 2236. Termination year.

1 (a) Termination year generally.--The portion of the  
2 termination year of a Pennsylvania S corporation ending before  
3 the first day the termination is effective shall be treated as a  
4 short taxable year for which the corporation is a Pennsylvania S  
5 corporation.

6 (b) Termination year as short taxable year.--The portion of  
7 the year beginning on the first day the termination is effective  
8 shall be treated as a short taxable year for purposes of the tax  
9 imposed under Article IV of the Tax Reform Code of 1971.

10 (c) Income and expenses.--The allocation of income and  
11 expense items to be taken into consideration in each short year  
12 shall be made in accordance with regulations as may be issued by  
13 the department.

14 § 2237. Taxable year of Pennsylvania S corporation.

15 The taxable year of a Pennsylvania S corporation shall be the  
16 same taxable year that the corporation uses for Federal income  
17 tax purposes.

18 § 2238. Income of Pennsylvania S corporation.

19 (a) General rule.--A Pennsylvania S corporation shall not be  
20 subject to the tax imposed under this subpart, except as  
21 provided under subsection (f), but the shareholders of the  
22 Pennsylvania S corporation shall be subject to the tax imposed  
23 under this subpart.

24 (b) Imposed tax treated as loss.--If a tax is imposed on a  
25 Pennsylvania S corporation or a qualified Subchapter S  
26 subsidiary owned by a Pennsylvania S corporation under section  
27 1374 of the Internal Revenue Code of 1986, as amended to January  
28 1, 1997, or under Article IV or former Article VI of the Tax  
29 Reform Code of 1971 for a taxable year, for purposes of section  
30 2239 (relating to income of Pennsylvania S corporations taxed to

1 shareholders), the amount of tax imposed shall be treated as a  
2 loss sustained by the Pennsylvania S corporation during that  
3 year. In the case of taxes imposed under section 1374 of the  
4 Internal Revenue Code of 1986, as amended to January 1, 1997, or  
5 former Article VI of the Tax Reform Code of 1971, the character  
6 of the loss shall be determined by allocating the loss  
7 proportionately among the recognized built-in gains giving rise  
8 to the tax.

9 (c) Distribution of property.--If a Pennsylvania S  
10 corporation makes a distribution of property, other than an  
11 obligation of the corporation, with respect to the Pennsylvania  
12 S corporation's stock and the fair market value of the property  
13 exceeds the property's adjusted basis in the hands of the  
14 corporation, gain shall be recognized on the distribution as if  
15 the property had been sold to the distributee at its fair market  
16 value.

17 (d) Computation of items.--An election which may affect the  
18 computation of items derived from a Pennsylvania S corporation  
19 shall be made by the corporation.

20 (e) Deduction.--A deduction, except a net loss deduction,  
21 which was disallowed when a corporation was subject to the tax  
22 imposed under Article IV of the Tax Reform Code of 1971 shall be  
23 allowed in years in which the corporation is a Pennsylvania S  
24 corporation to the same extent and in the same manner that the  
25 deduction would have been allowed if the corporation had  
26 remained subject to the tax imposed under Article IV of the Tax  
27 Reform Code of 1971.

28 (f) Underreported income.--A Pennsylvania S corporation with  
29 underreported income shall be subject to the following:

30 (1) The following apply:

1           (i) A Pennsylvania S corporation underreporting  
2           income by more than \$1,000,000 for any tax year shall be  
3           liable for the tax, excluding interest, penalties or  
4           additions, at the tax rate applicable to the tax year, on  
5           the underreported income without regard to the tax  
6           liability of the shareholders for the underreported  
7           income.

8           (ii) The department shall assess the Pennsylvania S  
9           corporation for the tax on the underreported income. The  
10           department shall not assess the shareholders for the  
11           underreported income or the tax on the underreported  
12           income. The Pennsylvania S corporation shall be required  
13           to provide an amended statement to each shareholder as  
14           required under section 2702 (relating to return of  
15           Pennsylvania S corporation) of the shareholder's pro rata  
16           share of the underreported income within 90 days of the  
17           assessment becoming final.

18           (iii) Nothing in this subsection shall relieve the  
19           shareholders of the shareholders' tax liability on the  
20           underreported income.

21           (2) Each shareholder shall be allowed a credit for the  
22           shareholder's share of the tax assessed against the  
23           Pennsylvania S corporation under paragraph (1) and paid by  
24           the Pennsylvania S corporation. The credit shall be allowed  
25           for the shareholder's taxable year in which the underreported  
26           income was required to be reported.

27           (3) Paragraph (1) shall apply to the following  
28           Pennsylvania S corporations:

29           (i) A Pennsylvania S corporation which has 11 or  
30           more shareholders.

1           (ii) A Pennsylvania S corporation which elects to be  
2           subject to this subsection. The election must be included  
3           on the Pennsylvania S corporation return filed with the  
4           department.

5           (4) Nothing in this section shall require one  
6           shareholder to be liable for the payment of a tax liability  
7           of another shareholder.

8           (5) Appeals involving the deficiency assessed under this  
9           section may be filed only by the Pennsylvania S corporation.  
10          A reassessment of tax liability shall be binding on the  
11          shareholders.

12 § 2239. Income of Pennsylvania S corporations taxed to  
13           shareholders.

14          (a) Shareholder income or loss.--Each shareholder of a  
15          Pennsylvania S corporation shall take into income the  
16          shareholder's pro rata share of the income or loss in each  
17          applicable class of income received by the corporation for its  
18          taxable year ending within or with the shareholder's taxable  
19          year.

20          (b) Calculation.--Each shareholder's pro rata share of an  
21          item for any taxable year shall be the sum of the amounts  
22          determined with respect to the shareholder by assigning an equal  
23          portion of all items to each day of the taxable year and then  
24          dividing that portion pro rata among the shares outstanding on  
25          that day.

26          (c) Determination of items.--The character of an item  
27          included in the shareholder's pro rata share shall be determined  
28          as if the item were realized directly by the shareholder from  
29          the source from which the item was realized by the corporation  
30          or incurred in the same manner as incurred by the corporation.

1 (d) Deduction.--With respect to a deduction allowed under  
2 section 2238(e) (relating to income of Pennsylvania S  
3 corporation), a nonresident shareholder shall be allowed the  
4 deduction only to the extent that the previously disallowed  
5 deduction would have been considered a deduction related to  
6 income from sources within this Commonwealth, within the meaning  
7 of section 2102 (relating to definitions), during the taxable  
8 year when the deduction was disallowed.

9 (e) Subsidiary not separate corporation.--For the purposes  
10 of this subpart, a qualified Subchapter S subsidiary owned by a  
11 Pennsylvania S corporation shall not be treated as a separate  
12 corporation. All assets, liabilities and items of income,  
13 deduction and credit of the qualified Subchapter S subsidiary  
14 shall be treated as assets, liabilities and items of income,  
15 deduction and credit of the parent Pennsylvania S corporation.  
16 § 2240. Limitation on pass-through of losses to shareholders.

17 (a) Aggregate losses.--The aggregate amount of losses taken  
18 into account by a shareholder of a Pennsylvania S corporation  
19 under section 2239 (relating to income of Pennsylvania S  
20 corporations taxed to shareholders) shall not exceed the sum of  
21 the adjusted basis of the shareholder's stock in the  
22 Pennsylvania S corporation, determined after applying section  
23 2241(a) (relating to adjustments to basis of stock of  
24 shareholders) for the taxable year and the shareholder's  
25 adjusted basis of indebtedness of the Pennsylvania S corporation  
26 to the shareholder, determined before applying section 2241(d)  
27 for the taxable year.

28 (b) Carryover of losses prohibited.--There shall be no  
29 carryover of losses by the shareholders of a Pennsylvania S  
30 corporation.

1 § 2241. Adjustments to basis of stock of shareholders.

2 (a) Increase of basis.--The basis of the stock of a  
3 shareholder in a Pennsylvania S corporation shall be increased  
4 for any period by the shareholder's share of the corporation's  
5 income, including nontaxable income, as determined under section  
6 2239 (relating to income of Pennsylvania S corporations taxed to  
7 shareholders).

8 (b) Decrease of basis.--The basis of a shareholder's stock  
9 in a Pennsylvania S corporation shall be decreased for any  
10 period, but not below zero, by a distribution by the corporation  
11 to the shareholder which was not included in the income of the  
12 shareholder under section 2242 (relating to distributions) and  
13 by the shareholder's share of the corporation's losses as  
14 determined under section 2239 to the extent that the loss  
15 reduced the shareholder's income subject to the tax imposed  
16 under this subpart or a tax measured by net income, imposed on  
17 the shareholder by another state.

18 (c) Excess losses.--If for a taxable year a shareholder's  
19 basis in the stock of a Pennsylvania S corporation is reduced to  
20 zero, excess losses will reduce the shareholder's basis, but not  
21 below zero, in any indebtedness of the Pennsylvania S  
22 corporation to the shareholder.

23 (d) Reduced basis.--If a shareholder's basis in any  
24 indebtedness is reduced under subsection (c), the reduction  
25 shall be restored before the shareholder's basis in the  
26 Pennsylvania S corporation's stock is increased.

27 § 2242. Distributions.

28 (a) Distribution of property to shareholder.--A distribution  
29 of property by a Pennsylvania S corporation which has no  
30 accumulated earnings and profits to a shareholder of the

1 corporation shall not be included in the shareholder's income to  
2 the extent that it does not exceed the shareholder's adjusted  
3 basis in the stock. An amount of the distribution in excess of  
4 the adjusted basis in the stock shall be treated as a gain from  
5 the sale, exchange or other disposition of property.

6 (b) Excess treated as dividend.--

7 (1) A distribution of property by a Pennsylvania S  
8 corporation which has accumulated earnings and profits shall  
9 be treated in the same manner as a distribution by a  
10 Pennsylvania S corporation without earnings and profits to  
11 the extent of the corporation's accumulated adjustment  
12 account.

13 (2) The portion of the distribution in excess of the  
14 accumulated adjustment account will be treated as a dividend  
15 to the extent of the accumulated earnings and profits of the  
16 corporation.

17 (3) A portion of the distribution in excess of the  
18 accumulated earnings and profits of the corporation shall be  
19 treated in the same manner as a distribution from a  
20 Pennsylvania S corporation without accumulated earnings and  
21 profits.

22 (c) Non-pro rata distribution.--In the case of a non-pro  
23 rata distribution of property, the adjustment shall be limited  
24 to an amount which bears the same ratio to the balance in the  
25 account as the number of shares sold, exchanged or otherwise  
26 disposed of bears to the number of shares in the corporation  
27 outstanding immediately before the sale, exchange or  
28 disposition.

29 (d) Definitions.--As used in this section, the following  
30 words and phrases shall have the meanings given to them in this

1 subsection unless the context clearly indicates otherwise:

2 "Accumulated adjustment account." An account of the  
3 Pennsylvania S corporation which is cumulatively adjusted for  
4 the most recent continuous period during which the corporation  
5 has been a Pennsylvania S corporation by increasing the account  
6 for corporate income and decreasing the account for corporate  
7 losses and all distributions of property by the corporation to  
8 the shareholders which were not included in the income of the  
9 shareholders, provided that no adjustment shall be made for  
10 income or loss not in any of the classes of income enumerated in  
11 section 2203 (relating to classes of income) or for a  
12 nondeductible expense.

13 SUBCHAPTER E

14 OTHER ENTITIES

15 Sec.

16 2251. Treatment of unincorporated entities with single owners.

17 § 2251. Treatment of unincorporated entities with single  
18 owners.

19 Unless subject to tax under Article IV of the Tax Reform Code  
20 of 1971, an unincorporated entity that has a single owner shall  
21 be disregarded as an entity separate from the entity's owner.

22 SUBCHAPTER F

23 NONRESIDENT INDIVIDUALS

24 Sec.

25 2261. Nonresident individuals and taxable income.

26 2262. Spouses.

27 2263. Allocation of income of nonresident.

28 § 2261. Nonresident individuals and taxable income.

29 The income of a nonresident individual shall be the part of  
30 the nonresident individual's income derived from sources within

1 this Commonwealth as defined in this subpart.

2 § 2262. Spouses.

3 (a) Separate return.--For spouses who are both nonresidents  
4 of this Commonwealth and subject to tax under this subpart, if  
5 the income of either spouse is determined on a separately filed  
6 return, each spouse's income from sources within this  
7 Commonwealth shall be separately determined.

8 (b) One spouse a nonresident.--If a spouse is a nonresident  
9 of this Commonwealth and the other spouse is a resident of this  
10 Commonwealth, separate taxes shall be determined on the spouses'  
11 separate incomes on forms as the department shall prescribe,  
12 unless both spouses elect to determine the spouses' joint income  
13 as if both spouses were residents of this Commonwealth, in which  
14 case the spouses' tax liabilities shall be joint and several.

15 § 2263. Allocation of income of nonresident.

16 If a nonresident taxpayer earns, receives or acquires income  
17 from sources partly within and partly outside this Commonwealth  
18 or engages in a business, trade, profession or occupation partly  
19 within and partly outside this Commonwealth and that portion of  
20 the income derived from or connected with sources within this  
21 Commonwealth cannot readily or accurately be ascertained, the  
22 department shall by regulation prescribe uniform rules for  
23 apportionment or allocation of the amount of the taxpayer's  
24 income as fairly and equitably represents income derived from  
25 sources within this Commonwealth and subject to tax under this  
26 subpart.

27 CHAPTER 23

28 CREDITS AGAINST TAX

29 Sec.

30 2301. Tax withheld.

1 2302. Tax paid under previous act.

2 2303. Income taxes imposed by other states.

3 § 2301. Tax withheld.

4 The amount withheld under section 2502 (relating to  
5 requirement of withholding tax) shall be allowed to the taxpayer  
6 from whose income the tax was withheld as a credit against the  
7 tax imposed on the taxpayer by this subpart.

8 § 2302. Tax paid under previous act.

9 The amount of tax withheld from an employee and paid over to  
10 the Commonwealth or paid over by a taxpayer as an estimated  
11 payment under repealed Article III of the act of March 4, 1971  
12 (P.L.6, No.2), known as the Tax Reform Code of 1971, which was  
13 repealed by the act of August 31, 1971 (P.L.362, No.93), shall  
14 be held as a credit against the tax imposed by former Article  
15 III of the Tax Reform Code of 1971.

16 § 2303. Income taxes imposed by other states.

17 (a) Credit.--The following shall apply:

18 (1) A resident taxpayer, before allowance of a credit  
19 under section 2301 (relating to tax withheld), shall be  
20 allowed a credit against the tax otherwise due under this  
21 subpart for the amount of income tax, wage tax or tax on or  
22 measured by gross or net earned or unearned income imposed on  
23 the resident taxpayer or on a Pennsylvania S corporation in  
24 which the resident taxpayer is a shareholder, to the extent  
25 of the resident taxpayer's pro rata share of the tax  
26 determined under section 2239 (relating to income of  
27 Pennsylvania S corporations taxed to shareholders), by  
28 another state with respect to income which is also subject to  
29 tax under this subpart.

30 (2) For purposes of this subsection, the term "state"

1 shall only include a state of the United States, the District  
2 of Columbia, the Commonwealth of Puerto Rico and a territory  
3 or possession of the United States.

4 (b) Credit limit.--The credit provided under this section  
5 shall not exceed the proportion of the tax otherwise due under  
6 this subpart that the amount of the taxpayer's income subject to  
7 tax by the other jurisdiction bears to the taxpayer's entire  
8 taxable income.

9 CHAPTER 24

10 CONTRIBUTIONS OF REFUNDS BY CHECKOFF

11 Subchapter

12 A. Preliminary Provisions

13 B. Contributions

14 SUBCHAPTER A

15 PRELIMINARY PROVISIONS

16 Sec.

17 2401. Definitions.

18 2402. Operational provisions.

19 § 2401. Definitions.

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

23 "Individual income tax." The tax imposed under this subpart.

24 § 2402. Operational provisions.

25 (a) Expiration.--Except as described in subsection (b), a  
26 checkoff established under this chapter and applicable for the  
27 first time in a taxable year beginning after December 31, 2009,  
28 shall expire four years after the beginning of the first taxable  
29 year.

30 (b) No expiration.--Notwithstanding subsection (a), the

1 checkoffs established under the following sections shall not  
2 expire:

3 (1) Section 2411 (relating to contributions to breast  
4 and cervical cancer research).

5 (2) Section 2412 (relating to contributions for wild  
6 resource conservation).

7 (3) Section 2413 (relating to contributions for organ  
8 and tissue donation awareness).

9 (4) Section 2414 (relating to contributions for juvenile  
10 diabetes cure research).

11 (5) Section 2415 (relating to contributions for military  
12 family relief assistance).

13 (6) Section 2416 (relating to contributions for  
14 Children's Trust Fund).

15 (7) Section 2417 (relating to contributions for American  
16 Red Cross).

17 SUBCHAPTER B

18 CONTRIBUTIONS

19 Sec.

20 2411. Contributions for breast and cervical cancer research.

21 2412. Contributions for wild resource conservation.

22 2413. Contributions for organ and tissue donation awareness.

23 2414. Contributions for juvenile diabetes cure research.

24 2415. Contributions for military family relief assistance.

25 2416. Contributions for Children's Trust Fund.

26 2417. Contributions for American Red Cross.

27 2418. Contributions for tuition account programs.

28 2419. Contributions for pediatric cancer research.

29 2420. Contributions for Veterans' Trust Fund.

30 § 2411. Contributions for breast and cervical cancer research.

1 (a) Contribution.--The department shall provide a space on  
2 the Pennsylvania individual income tax return form where an  
3 individual may voluntarily designate a contribution of any  
4 amount to breast and cervical cancer research.

5 (b) Deduction from refund.--The amount designated on the  
6 Pennsylvania individual income tax return form shall be deducted  
7 from the tax refund to which the individual is entitled and  
8 shall not constitute a charge against the income tax revenues  
9 due to the Commonwealth.

10 (c) Total designation.--The department shall determine  
11 annually the total amount designated under this section, less  
12 reasonable administrative costs, and shall report the amount to  
13 the State Treasurer who shall transfer the amount from the  
14 General Fund to the Pennsylvania Breast Cancer Coalition.

15 (d) Instructions for contributions.--The department shall  
16 provide adequate information concerning the checkoff for breast  
17 and cervical cancer research in the instructions which accompany  
18 State income tax return forms, which shall include the listing  
19 of an address furnished to it by the Department of Health to  
20 which contributions may be sent by taxpayers wishing to  
21 contribute to this effort but who do not receive refunds. The  
22 Pennsylvania Breast Cancer Coalition shall conduct a public  
23 information campaign on the opportunity to contribute to breast  
24 and cervical cancer research to Pennsylvania taxpayers.

25 (e) Report.--The Pennsylvania Breast Cancer Coalition shall  
26 report annually to the chairperson and minority chairperson of  
27 the Health and Human Services Committee of the Senate and the  
28 chairperson and minority chairperson of the Health Committee of  
29 the House of Representatives the amount received from the  
30 checkoff plan and how the money was utilized.

1 (f) Appropriation.--The General Assembly may appropriate  
2 funds for breast and cervical cancer research.  
3 § 2412. Contributions for wild resource conservation.

4 (a) Contribution.--The department shall provide a space on  
5 the Pennsylvania individual income tax return form where an  
6 individual may voluntarily designate a contribution of any  
7 amount to the Wild Resource Conservation Fund established under  
8 section 5 of the act of June 23, 1982 (P.L.597, No.170), known  
9 as the Wild Resource Conservation Act.

10 (b) Deduction from refund.--The amount designated by an  
11 individual on the income tax return form shall be deducted from  
12 the tax refund to which the individual is entitled and shall not  
13 constitute a charge against the income tax revenues due to the  
14 Commonwealth.

15 (c) Total designation.--The department shall determine  
16 annually the total amount designated under this section and  
17 shall report the amount to the State Treasurer who shall  
18 transfer the amount from the General Fund to the Wild Resource  
19 Conservation Fund for use as provided in the Wild Resource  
20 Conservation Act. The department shall be reimbursed from the  
21 fund for administrative costs incurred above and beyond the cost  
22 savings the department realizes as a result of individual total  
23 refund designations.

24 (d) Instructions for contributions.--The department shall  
25 provide adequate information concerning the Wild Resource  
26 Conservation Fund in the instructions which accompany State  
27 income tax return forms, which shall include the listing of an  
28 address furnished to it by the Wild Resource Conservation Board  
29 to which contributions may be sent by taxpayers wishing to  
30 contribute to the fund but who do not receive refunds.

1 (e) Applicability.--This section shall apply to taxable  
2 years beginning on or after January 1, 1997.

3 § 2413. Contributions for organ and tissue donation awareness.

4 (a) Contribution.--The department shall provide a space on  
5 the Pennsylvania individual income tax return form where an  
6 individual may voluntarily designate a contribution of any  
7 amount to the Governor Robert P. Casey Memorial Organ and Tissue  
8 Donation Awareness Trust Fund established under 20 Pa.C.S. §  
9 8622 (relating to the Governor Robert P. Casey Memorial Organ  
10 and Tissue Donation Awareness Trust Fund).

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

16 (c) Total designation.--The department shall annually  
17 determine the total amount designated under this section and  
18 shall report the amount to the State Treasurer who shall  
19 transfer the amount to the Governor Robert P. Casey Memorial  
20 Organ and Tissue Donation Awareness Trust Fund.

21 (d) Instructions for contributions.--The department shall  
22 provide on its forms or in the instructions which accompany  
23 Pennsylvania individual income tax return forms adequate  
24 information concerning the Governor Robert P. Casey Memorial  
25 Organ and Tissue Donation Awareness Trust Fund, which shall  
26 include the listing of an address furnished to it by the Organ  
27 Donation Advisory Committee to which contributions may be sent  
28 by taxpayers wishing to contribute to the fund but who do not  
29 receive refunds.

30 (e) Applicability.--This section shall apply to taxable

1 years beginning on or after January 1, 1997.

2 § 2414. Contributions for juvenile diabetes cure research.

3 (a) Contribution.--The department shall provide a space on  
4 the Pennsylvania individual income tax return form where an  
5 individual may voluntarily designate a contribution of any  
6 amount for juvenile diabetes cure research related to:

7 (1) Restoring normal blood sugar levels.

8 (2) Preventing and reversing complications.

9 (3) Preventing juvenile diabetes.

10 (b) Deduction from refund.--The amount designated on the  
11 Pennsylvania individual income tax return form shall be deducted  
12 from the tax refund to which the individual is entitled and  
13 shall not constitute a charge against the income tax revenues  
14 due to the Commonwealth.

15 (c) Total designation.--

16 (1) The department shall determine annually the total  
17 amount designated under this section, less reasonable  
18 administrative costs, and shall report the amount to the  
19 State Treasurer, who shall transfer the amount to a  
20 restricted revenue account within the General Fund to be used  
21 by the Department of Health for aiding juvenile diabetes cure  
22 research.

23 (2) The Department of Health shall distribute the  
24 amounts to institutions of higher education and independent  
25 research institutes of this Commonwealth to support projects  
26 that have been subject to an established peer and scientific  
27 review process identical or similar to the National  
28 Institutes of Health review system.

29 (d) Instructions for contributions.--The department shall  
30 provide adequate information concerning the checkoff for

1 juvenile diabetes cure research in the instructions which  
2 accompany the Pennsylvania income tax return forms, which shall  
3 include the listing of an address furnished to it by the  
4 Department of Health to which contributions may be sent by  
5 taxpayers wishing to contribute to this effort but who do not  
6 receive refunds.

7 (e) Report.--The Department of Health shall report annually  
8 to the chairperson and minority chairperson of the Health and  
9 Human Services Committee of the Senate and the chairperson and  
10 minority chairperson of the Health Committee of the House of  
11 Representatives the amount received from the checkoff plan and  
12 how the money was utilized.

13 § 2415. Contributions for military family relief assistance.

14 (a) Contribution.--Beginning with taxable years ending after  
15 December 31, 2004, the department shall provide a space on the  
16 Pennsylvania individual income tax return form where an  
17 individual may voluntarily designate a contribution of any  
18 amount to a fund for military family relief assistance.

19 (b) Deduction from refund.--The amount designated on the  
20 Pennsylvania individual income tax return form shall be deducted  
21 from the tax refund to which the individual is entitled and  
22 shall not constitute a charge against the income tax revenues  
23 due to the Commonwealth.

24 (c) Total designation.--The department shall determine  
25 annually the total amount designated under this section, less  
26 reasonable administrative costs, and shall report the amount to  
27 the State Treasurer who shall transfer the amount to a  
28 restricted revenue account within the General Fund to be used by  
29 the Department of Military and Veterans Affairs for  
30 contributions to military family relief assistance as provided

1 by statute.

2 (d) Instructions for contributions.--The department shall  
3 provide adequate information concerning the checkoff for  
4 military family relief assistance in the instructions which  
5 accompany the Pennsylvania income tax return forms, which shall  
6 include the listing of an address furnished to it by the  
7 Department of Military and Veterans Affairs to which  
8 contributions may be sent by taxpayers wishing to contribute to  
9 this effort but who do not receive refunds.

10 (e) Report.--The Department of Military and Veterans Affairs  
11 shall report annually to the chairperson and minority  
12 chairperson of the Veterans Affairs and Emergency Preparedness  
13 Committee of the Senate and the chairperson and minority  
14 chairperson of the Veterans Affairs and Emergency Preparedness  
15 Committee of the House of Representatives the amount received  
16 from the checkoff plan and how the money was utilized.  
17 § 2416. Contributions for Children's Trust Fund.

18 (a) Contribution.--The department shall provide a space on  
19 the Pennsylvania individual income tax return form where an  
20 individual may voluntarily designate a contribution of any  
21 amount to the Children's Trust Fund established in section 8 of  
22 the act of December 15, 1988 (P.L.1235, No.151), known as the  
23 Children's Trust Fund Act.

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

29 (c) Total designation.--The department shall determine  
30 annually the total amount designated under this section, less

1 reasonable administrative costs, and shall report the amount to  
2 the State Treasurer, who shall transfer the amount from the  
3 General Fund to the Children's Trust Fund.

4 § 2417. Contributions for American Red Cross.

5 (a) Contribution.--The department shall provide a space on  
6 the Pennsylvania individual income tax return form where an  
7 individual may voluntarily designate a contribution of any  
8 amount to the American Red Cross established under 36 U.S.C. Ch.  
9 3001 (relating to the American National Red Cross).

10 (b) Deduction from refund.--The amount designated under  
11 subsection (a) by an individual on the income tax return form  
12 shall be deducted from the tax refund to which the individual is  
13 entitled and shall not constitute a charge against the income  
14 tax revenues due to the Commonwealth.

15 (c) Total designation.--The department shall determine  
16 annually the total amount designated under this section, less  
17 reasonable administrative costs, and shall report the amount to  
18 the State Treasurer, who shall transfer the amount from the  
19 General Fund to the American Red Cross.

20 § 2418. Contributions for tuition account programs.

21 (a) Contribution.--Beginning with the 2016 Pennsylvania  
22 individual income tax return, the department shall provide a  
23 space on the income tax return form by which a taxpayer who is  
24 an account owner may voluntarily designate a contribution to a  
25 beneficiary's Tuition Account Guaranteed Savings Program or the  
26 Tuition Account Investment Program established under the act of  
27 April 3, 1992 (P.L.28, No.11), known as the Tuition Account  
28 Programs and College Savings Bond Act.

29 (b) Deduction from refund.--The amount designated under  
30 subsection (a) by a taxpayer on the income tax return form shall

1 be deducted from the tax refund to which the individual is  
2 entitled and shall not constitute a charge against the income  
3 tax revenues due to the Commonwealth.

4 (c) Total designation.--The department shall determine  
5 annually the amount designated under this section and shall  
6 report the amount to the State Treasurer, who shall transfer the  
7 amount from the General Fund to the appropriate account within  
8 the Tuition Account Guaranteed Savings Program or the Tuition  
9 Account Investment Program.

10 (d) Definitions.--As used in this section, the following  
11 words and phrases shall have the meanings given to them in this  
12 subsection unless the context clearly indicates otherwise:

13 "Account owner." As defined in section 302 of the Tuition  
14 Account Programs and College Savings Bond Act.

15 "Beneficiary." As defined in section 302 of the Tuition  
16 Account Programs and College Savings Bond Act.

17 § 2419. Contributions for pediatric cancer research.

18 (a) Contribution.--The department shall provide a space on  
19 the Pennsylvania individual income tax return form where an  
20 individual may voluntarily designate a contribution of any  
21 amount to be utilized for pediatric cancer research. On or  
22 before December 1 of each year, the Secretary of Health shall  
23 designate hospitals within this Commonwealth conducting  
24 pediatric cancer research that are eligible to receive funding  
25 under this section for the following calendar year.

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

1 (c) Total designation.--The department shall determine  
2 annually the total amount designated under this section, less  
3 reasonable administrative costs, and shall report the amount to  
4 the State Treasurer, who shall transfer the amount from the  
5 General Fund to the Pennsylvania Cancer Control, Prevention and  
6 Research Advisory Board within the Department of Health.

7 (d) Instructions for contributions.--The department shall  
8 provide adequate information concerning the checkoff for  
9 pediatric cancer research in the instructions that accompany  
10 State income tax return forms, which shall include the listing  
11 of an address furnished to it by the Department of Health to  
12 which contributions may be sent by taxpayers wishing to  
13 contribute to this effort but who do not receive refunds. The  
14 Department of Health shall conduct a public information campaign  
15 on the availability of this opportunity to Pennsylvania  
16 taxpayers.

17 (e) Report.--The Department of Health shall report annually  
18 to the chairperson and minority chairperson of the Health and  
19 Human Services Committee of the Senate and the chairperson and  
20 minority chairperson of the Health Committee of the House of  
21 Representatives the amount received from the checkoff plan and  
22 how the money was utilized.

23 § 2420. Contributions for Veterans' Trust Fund.

24 (a) Contribution.--For taxable years beginning after  
25 December 31, 2019, the department shall provide a space on the  
26 Pennsylvania individual income tax return form where an  
27 individual may voluntarily designate a contribution, in any  
28 amount, to the Veterans' Trust Fund.

29 (b) Deduction from refund.--The amount designated on the  
30 individual income tax return shall be deducted from the tax

1 refund to which the individual is entitled and shall not  
2 constitute a charge against the income tax revenues due to the  
3 Commonwealth.

4 (c) Total designation.--The department shall determine  
5 annually the total amount designated under this section, less  
6 reasonable administrative costs, and shall report the amount to  
7 the State Treasurer who shall transfer the amount to the  
8 Veterans' Trust Fund.

9 (d) Instructions for contributions.--The department shall  
10 provide adequate information concerning the checkoff for the  
11 Veterans' Trust Fund in its instructions that accompany the  
12 State income tax return forms, which shall include the listing  
13 of an address furnished by the Department of Military and  
14 Veterans Affairs to which contributions may be sent by taxpayers  
15 wishing to contribute to this effort but who do not receive  
16 refunds.

17 (e) Report.--The Department of Military and Veterans Affairs  
18 shall report annually to the respective committees of the Senate  
19 and the House of Representatives which have jurisdiction over  
20 military and veterans affairs on the amount received from the  
21 checkoff plan and how the funds were utilized.

22 CHAPTER 25

23 WITHHOLDING OF TAX

24 Subchapter

25 A. Withholding Tax Generally

26 B. Withholding Tax on Income from Sources Within  
27 Commonwealth

28 SUBCHAPTER A

29 WITHHOLDING TAX GENERALLY

30 Sec.

1 2501. Definitions.  
2 2502. Requirement of withholding tax.  
3 2503. Withholding tax requirement for nonemployer payors.  
4 2504. Information statement.  
5 2505. Information statement for nonemployer payors.  
6 2506. Information statement for payees.  
7 2507. Time for filing withholding returns.  
8 2508. Time for filing payors' returns.  
9 2509. Payment of taxes withheld.  
10 2510. Payment of taxes withheld for nonemployer payors.  
11 2511. Liability for withheld taxes.  
12 2512. Payor's liability for withheld taxes.  
13 2513. Failure to withhold.  
14 2514. Bulk and auction sales and transfers and notice.  
15 2515. Payor's failure to withhold.  
16 2516. Designation of third parties to perform acts required of  
17 employers.  
18 2517. When withholding not required.  
19 § 2501. Definitions.  
20 The following words and phrases when used in this subchapter  
21 shall have the meanings given to them in this section unless the  
22 context clearly indicates otherwise:  
23 "Payee." The person receiving the payments subject to  
24 withholding under this subchapter.  
25 "Payments." The term shall not include a partner or  
26 shareholder's distributive share of income from a partnership or  
27 Pennsylvania S corporation.  
28 "Payor." The person required to withhold under this  
29 subchapter.  
30 § 2502. Requirement of withholding tax.

1     (a) General rule.--An employer maintaining an office or  
2 transacting business within this Commonwealth and making payment  
3 of compensation to a resident individual or a nonresident  
4 individual taxpayer performing services on behalf of the  
5 employer within this Commonwealth shall deduct and withhold from  
6 the employee's compensation for each payroll period a tax  
7 computed in a manner as to result in withholding from the  
8 employee's compensation during each calendar year an amount  
9 substantially equivalent to the tax reasonably estimated to be  
10 due for the year with respect to the compensation. The method of  
11 determining the amount to be withheld shall be prescribed by  
12 regulations of the department.

13     (b) Lottery winnings.--If the Pennsylvania State Lottery or  
14 a person making a Pennsylvania State Lottery prize payment in  
15 the form of an annuity is required to withhold Federal income  
16 tax under section 3402 of the Internal Revenue Code of 1986 or  
17 backup withholding under section 3406 of the Internal Revenue  
18 Code of 1986 from a gambling or lottery prize payment awarded by  
19 the Pennsylvania State Lottery that is taxable under this  
20 chapter, the Pennsylvania State Lottery or the person making the  
21 annuity payment shall deduct and withhold from the prize payment  
22 an amount equal to the amount of the prize payment subject to  
23 withholding under section 3402 or 3406 of the Internal Revenue  
24 Code of 1986 multiplied by the tax rate in effect under this  
25 subpart at the time the prize payment is made.

26 § 2503. Withholding tax requirement for nonemployer payors.

27     (a) General requirements.--Notwithstanding the provisions of  
28 section 2502 (relating to requirement of withholding tax), a  
29 person shall deduct and withhold from the payments an amount  
30 equal to the net amount of the payments multiplied by the tax

1 rate specified under section 2201(b) (relating to imposition of  
2 tax) if the person:

3 (1) makes payments of income from sources within this  
4 Commonwealth described in section 2203(a)(1) or (2) (relating  
5 to classes of income) to either a nonresident individual or  
6 an entity that is disregarded under section 2251 (relating to  
7 treatment of unincorporated entities with single owners) that  
8 has a nonresident member; and

9 (2) is required under section 2707(f)(1) (relating to  
10 requirements concerning returns, notices, records and  
11 statements) to file a copy of form 1099-MISC with the  
12 department regarding the payments.

13 (b) Optional withholding.--Withholding of tax by payors is  
14 optional and at the discretion of the payor with respect to  
15 payees who receive payments of less than \$5,000 annually from  
16 the payor.

17 (c) Nonapplicability.--This section shall not apply to  
18 payments made by a payor to a payee if the payor is any of the  
19 following:

20 (1) The United States or an agency or instrumentality of  
21 the United States.

22 (2) The Commonwealth or an agency, instrumentality or  
23 political subdivision of the Commonwealth.

24 (d) Regulations.--The department may prescribe regulations  
25 to implement and clarify the withholding requirement specified  
26 in this section.

27 § 2504. Information statement.

28 (a) Statement.--The following shall apply:

29 (1) An employer required to deduct and withhold tax  
30 under section 2502(a) (relating to requirement of withholding

1 tax) shall furnish to each employee paid compensation during  
2 the calendar year a written statement in the manner and form  
3 prescribed by the department showing:

4 (i) The amount of compensation paid by the employer  
5 to the employee.

6 (ii) The amount deducted and withheld as tax under  
7 section 2502(a).

8 (iii) Other information as the department shall  
9 prescribe.

10 (2) Each statement required by this section for a  
11 calendar year shall be furnished to the employee on or before  
12 January 31 of the year succeeding the calendar year.

13 (3) If the employee's employment is terminated before  
14 the close of the calendar year, the employer shall furnish  
15 the statement to the employee at any time after the  
16 termination but no later than January 31 of the year  
17 succeeding the calendar year.

18 (4) If an employee who is terminated before the close of  
19 the calendar year requests the employer in writing to furnish  
20 the employee the statement at an earlier time and, if there  
21 is no reasonable expectation on the part of the employer and  
22 employee of further employment during the calendar year, the  
23 employer shall furnish the statement to the employee on or  
24 before the 30th day after the day of the request or the 30th  
25 day after the day on which the last payment of wages is made,  
26 whichever occurs later.

27 (b) Lottery winnings.--A person required to deduct and  
28 withhold tax under section 2502(b) shall report the prize and  
29 the amount of withholding to the taxpayer on Internal Revenue  
30 Service Form W-2G or similar form used for reporting Federal

1 income tax withholding from the prize.

2 § 2505. Information statement for nonemployer payors.

3 (a) Form to be furnished.--A payor required to deduct and  
4 withhold tax under section 2503 (relating to withholding tax  
5 requirement for nonemployer payors) shall furnish to a payee to  
6 whom the payor has paid income from sources within this  
7 Commonwealth during the calendar year a copy of form 1099-MISC  
8 required under section 2707(f)(1) (relating to requirements  
9 concerning returns, notices, records and statements).

10 (b) Time frame.--The copy of form 1099-MISC required by this  
11 section for each calendar year shall be forwarded to the payee  
12 on or before March 1 of the year succeeding the calendar year.

13 § 2506. Information statement for payees.

14 A payee receiving a copy of form 1099-MISC from a payor under  
15 section 2505 (relating to information statement for nonemployer  
16 payors) shall file a duplicate of the form with the payee's  
17 State income tax return.

18 § 2507. Time for filing withholding returns.

19 (a) Quarterly filing.--The following shall apply:

20 (1) An employer required to deduct and withhold tax  
21 under section 2502(a) (relating to requirement of withholding  
22 tax) shall file a quarterly withholding return on or before  
23 the last day of April, July, October and January for the  
24 three months ending the last day of March, June, September  
25 and December.

26 (2) Quarterly returns shall be filed with the department  
27 at the department's main office or at any branch office that  
28 the department designates for filing returns.

29 (b) Time frame for filing.--A person required to deduct and  
30 withhold tax under section 2502(b) shall file a withholding tax

1 return at the same time the person is required to file the  
2 person's annual return of withheld Federal income tax,  
3 designated as IRS Form 945, from nonpayroll payments. The return  
4 shall be filed with the department.

5 § 2508. Time for filing payors' returns.

6 (a) Quarterly filing.--A payor required to deduct and  
7 withhold tax under section 2503 (relating to withholding tax  
8 requirement for nonemployer payors) shall file a quarterly  
9 withholding return on or before the last day of April, July,  
10 October and January for each three-month period ending the last  
11 day of March, June, September and December.

12 (b) Manner of filing.--The quarterly returns shall be filed  
13 with the department in the manner prescribed by regulation.

14 § 2509. Payment of taxes withheld.

15 (a) Payment of tax by employer.--

16 (1) An employer withholding tax under section 2502(a)  
17 (relating to requirement of withholding tax) shall pay over  
18 to the department or to a depository designated by the  
19 department the tax required to be deducted and withheld under  
20 section 2502(a). The following shall apply:

21 (i) If the aggregated amount required to be deducted  
22 and withheld by an employer for a calendar year is  
23 expected to be less than \$1,200, the employer shall file  
24 a return and pay the tax on or before the last day for  
25 filing a quarterly return under section 2507 (relating to  
26 time for filing withholding returns).

27 (ii) If the aggregated amount required to be  
28 deducted and withheld by an employer for a calendar year  
29 is expected to be \$1,200 or more but less than \$4,000,  
30 the employer shall pay the tax monthly on or before the

1 15th day of the month succeeding the months of January to  
2 November, inclusive, and on or before the last day of  
3 January following the month of December.

4 (iii) If the aggregated amount required to be  
5 deducted and withheld by an employer for a calendar year  
6 is expected to be \$4,000 or more but less than \$20,000,  
7 the employer shall pay the tax semimonthly within three  
8 banking days after the close of the semimonthly period.

9 (iv) If the aggregated amount required to be  
10 deducted and withheld by an employer for a calendar year  
11 is expected to be \$20,000 or more, the employer shall pay  
12 the tax on the Wednesday after payday if the payday falls  
13 on a Wednesday, Thursday or Friday and on the Friday  
14 after payday if the payday falls on a Saturday, Sunday,  
15 Monday or Tuesday.

16 (2) The following shall apply:

17 (i) Notwithstanding any provision to the contrary,  
18 if an employer fails to deduct, truthfully account for or  
19 pay the tax withheld or file returns as prescribed by  
20 this chapter, the department may serve a notice on the  
21 employer requiring the employer to:

22 (A) withhold taxes which are required to be  
23 deducted under section 2502(a);

24 (B) deposit the taxes in a bank approved by the  
25 department in a separate account in trust for and  
26 payable to the department; and

27 (C) keep the amount of the tax in the account  
28 until payment is made to the department.

29 (ii) The notice under subparagraph (i) shall remain  
30 in effect until the department serves a notice of

1 cancellation on the employer.

2 (b) Frequency of remittance.--A person deducting and  
3 withholding tax under section 2502(b) shall remit the tax to the  
4 department on the same frequency that the person is required to  
5 remit Federal income tax withheld from nonpayroll payments.

6 § 2510. Payment of taxes withheld for nonemployer payors.

7 A payor withholding tax under section 2503 (relating to  
8 withholding tax requirement for nonemployer payors) shall pay  
9 over to the department or a depository designated by the  
10 department the tax required to be deducted and withheld under  
11 section 2503. The time for paying over the withheld tax shall be  
12 as specified in section 2509(a) (1) (i), (ii), (iii) and (iv)  
13 (relating to payment of taxes withheld).

14 § 2511. Liability for withheld taxes.

15 (a) Liability.--A person required to deduct and withhold tax  
16 under section 2502 (relating to requirement of withholding tax)  
17 is liable for the tax.

18 (b) Enforcement.--

19 (1) For purposes of assessment and collection, an amount  
20 required to be withheld and paid to the department and  
21 additions to tax penalties and interest shall be considered  
22 the tax of the person.

23 (2) Taxes deducted and withheld under section 2502 or  
24 under color of section 2502 shall constitute a trust fund for  
25 the Commonwealth and shall be enforceable against the person,  
26 the person's representative or any other person receiving a  
27 part of the fund.

28 § 2512. Payor's liability for withheld taxes.

29 (a) Liability.--A payor required to deduct and withhold tax  
30 under section 2503 (relating to withholding tax requirement for

1 nonemployer payors) is liable for the tax.

2 (b) Enforcement.--

3 (1) For purposes of assessment and collection, an amount  
4 required to be withheld and paid to the department and  
5 additions to tax, penalties and interest shall be considered  
6 the tax of the payor.

7 (2) Taxes deducted and withheld from payees under  
8 section 2503 or under color of section 2503 shall constitute  
9 a trust fund for the Commonwealth and shall be enforceable  
10 against the payor, the payor's representative or any other  
11 person receiving a part of the fund.

12 § 2513. Failure to withhold.

13 If a person fails to deduct and withhold tax as prescribed in  
14 this subchapter but subsequently pays the tax, the tax which was  
15 required to be deducted and withheld shall not be collected from  
16 the person, but the person shall be liable for penalties,  
17 interest or additions imposed for failure to deduct and withhold  
18 the tax.

19 § 2514. Bulk and auction sales and transfers and notice.

20 An employer liable for filing returns in accordance with this  
21 subpart who sells, causes to be sold at auction or sells or  
22 transfers in bulk 51% or more of the employer's stock of goods,  
23 wares, merchandise, fixtures, machinery, equipment, buildings or  
24 real estate held by or on behalf of the employer shall be  
25 subject to section 1403 of the Fiscal Code.

26 § 2515. Payor's failure to withhold.

27 If a payor fails to deduct and withhold tax as prescribed  
28 under section 2503 (relating to withholding tax requirement for  
29 nonemployer payors) but subsequently pays the tax, the tax which  
30 was required to be deducted and withheld shall not be collected

1 from the payor, but the payor shall be liable for penalties,  
2 interest or additions imposed for failure to deduct and  
3 withhold.

4 § 2516. Designation of third parties to perform acts required  
5 of employers.

6 If a fiduciary, agent or other person has the control,  
7 receipt, custody or disposal of or pays the compensation of an  
8 employee or a group of employees employed by one or more  
9 employers, the department may designate the fiduciary, agent or  
10 other person to perform acts required of employers under this  
11 subpart as the department may by regulation prescribe. Except as  
12 otherwise prescribed by the department, all provisions of this  
13 subpart which are applicable to an employer shall be applicable  
14 to a fiduciary, agent or other person.

15 § 2517. When withholding not required.

16 Notwithstanding any provision to the contrary, on and after  
17 January 1, 1975, an employer shall not be required to withhold  
18 tax upon payment of wages to an employee if the employee can  
19 certify that the employee:

20 (1) incurred no personal income tax liability for the  
21 preceding tax year; and

22 (2) anticipates no liability for personal income tax for  
23 the current taxable year.

24 SUBCHAPTER B

25 WITHHOLDING TAX ON INCOME FROM SOURCES

26 WITHIN COMMONWEALTH

27 Sec.

28 2521. General rule.

29 2522. Amount of withholding tax.

30 2523. Treatment of nonresident partners, members or

1           shareholders.

2 2524. Liability for tax, interest, penalties and additions.

3 2525. Withholding on income.

4 2526. Annual withholding statement.

5 § 2521. General rule.

6     (a) Time for payment.--

7           (1) If a partnership, estate, trust or Pennsylvania S  
8 corporation receives income from sources within this  
9 Commonwealth for a taxable year and a portion of the income  
10 is allocable to a nonresident partner, beneficiary, member or  
11 shareholder of the partnership, estate, trust or Pennsylvania  
12 S corporation, the partnership, estate, trust or Pennsylvania  
13 S corporation shall pay a withholding tax under this section  
14 at the time and in the manner prescribed by the department.

15           (2) Notwithstanding any other provision of this subpart,  
16 all withholding tax shall be paid on or before the 15th day  
17 of the fourth month following the end of the taxable year.

18     (b) Applicability.--This section shall not apply to a  
19 publicly traded partnership as defined under section 7704 of the  
20 Internal Revenue Code of 1986 with equity securities registered  
21 with the Securities and Exchange Commission under section 12 of  
22 the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. §  
23 78a et seq.).

24 § 2522. Amount of withholding tax.

25     (a) Calculation.--The amount of tax withheld from  
26 nonresidents and the amount of withholding tax payable under  
27 section 2521 (relating to general rule) shall be equal to the  
28 income from sources within this Commonwealth of the partnership,  
29 association or Pennsylvania S corporation which is allocable to  
30 nonresident partners, members or shareholders multiplied by the

1 tax rate specified in section 2201(b) (relating to imposition of  
2 tax).

3 (b) Income, gain, loss or deduction.--There shall not be  
4 taken into account items of income, gain, loss or deduction to  
5 the extent allocable to a partner, member or shareholder who is  
6 not a nonresident.

7 (c) Share of income.--There shall not be taken into account  
8 a share of income of a nonresident partner, member or  
9 shareholder from sources within this Commonwealth to the extent  
10 that the amount was subject to withholding under section 2526  
11 (relating to annual withholding statement) and to the extent  
12 withholding actually occurred under section 2525 (relating to  
13 withholding on income) by the time withholding is required to be  
14 made by the partnership, association or Pennsylvania S  
15 corporation under section 2521.

16 § 2523. Treatment of nonresident partners, members or  
17 shareholders.

18 (a) Credit for partner, member, shareholder or holder of  
19 beneficial interest.--The following shall apply:

20 (1) A nonresident partner, member, shareholder or holder  
21 of a beneficial interest shall be allowed a credit for the  
22 partner's, member's, shareholder's or holder of a beneficial  
23 interest's share of the withholding tax paid by the  
24 partnership, association or Pennsylvania S corporation.

25 (2) The credit shall be allowed for the partner's,  
26 member's, shareholder's or holder of a beneficial interest's  
27 taxable year in which the partnership's, association's or  
28 Pennsylvania S corporation's taxable year for which the tax  
29 was paid ends.

30 (b) Nonresident lessor credit.--The following shall apply:

1       (1) A nonresident lessor shall be allowed a credit for  
2 the nonresident lessor's share of the withholding tax paid by  
3 the lessee under section 2525 (relating to withholding on  
4 income).

5       (2) The credit under this subsection shall be allowed  
6 for the nonresident lessor's taxable year in which the lessee  
7 withheld tax.

8 § 2524. Liability for tax, interest, penalties and additions.

9       If a partnership, association or Pennsylvania S corporation  
10 fails to pay withholding tax as prescribed in this subchapter  
11 but subsequently pays the tax, the partnership, association or  
12 Pennsylvania S corporation shall be liable for penalties,  
13 interest or additions imposed for failure to properly withhold  
14 the tax.

15 § 2525. Withholding on income.

16       (a) Income tax on lease payments.--A lessee of real estate  
17 in this Commonwealth who makes a lease payment in the course of  
18 a trade or business to a nonresident lessor shall withhold  
19 Pennsylvania personal income tax on lease payments to the  
20 nonresident lessor.

21       (b) Amount of tax.--A lessee shall withhold from each  
22 payment made to a lessor an amount equal to the net amount  
23 payable to the lessor multiplied by the tax rate specified under  
24 section 2201(b) (relating to imposition of tax).

25       (c) Optional withholding.--The withholding of tax under this  
26 section is optional and at the discretion of the lessee if the  
27 lessee pays the lessor less than \$5,000 annually on a lease.

28       (d) Definitions.--As used in this section, the following  
29 words and phrases shall have the meanings given to them in this  
30 subsection unless the context clearly indicates otherwise:

1 "In the course of a trade or business." Includes a person,  
2 other than a tenant of residential property, making lease  
3 payments to a nonresident or agent of a nonresident who collects  
4 rent or lease payments on behalf of a nonresident owner.

5 "Lease payment." The following shall apply:

6 (1) The term includes rents, royalties, bonus payments,  
7 damage payments, delay rents and other payments made under a  
8 lease, other than compensation derived from intangible  
9 property having a taxable or business situs in this  
10 Commonwealth.

11 (2) Classification as a "lease payment" under this  
12 section is solely for the purposes of establishing  
13 withholding requirements and is not relevant for a  
14 determination as to the proper income classification of a  
15 lease payment.

16 "Lessor." Includes an individual, estate or trust.

17 § 2526. Annual withholding statement.

18 (a) Annual statement to lessor.--A lessee shall furnish to a  
19 lessor an annual statement at the time and in the manner  
20 prescribed by the department showing the total payments made by  
21 the lessee to the lessor during the preceding taxable year and  
22 showing the amount of the tax deducted and withheld from the  
23 payments under section 2525 (relating to withholding on income).

24 (b) Annual statement to department.--A lessee shall file  
25 with the department an annual statement at the time and in the  
26 manner prescribed by the department showing the total payments  
27 made to each lessor subject to withholding during the preceding  
28 taxable year or any portion of the preceding taxable year and  
29 the total amount of tax deducted and withheld under section  
30 2525.

1 (c) Duplicate.--A lessor shall file a duplicate of the  
2 annual statement furnished by the lessee under this section with  
3 the lessor's State income tax return.

4 CHAPTER 26

5 ESTIMATED TAX

6 Sec.

7 2601. Definitions.

8 2602. Declarations of estimated tax.

9 2603. Payments of estimated tax.

10 § 2601. Definitions.

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

14 "Estimated tax." The amount that an individual, trust or  
15 estate estimates to be the tax due under this subpart for the  
16 taxable year, less the amount estimated to be the sum of credits  
17 allowable against the tax under this subpart.

18 § 2602. Declarations of estimated tax.

19 (a) Declaration.--A resident or nonresident individual,  
20 trust or estate shall, at the time specified under this section,  
21 make a declaration of the estimated tax for the taxable year  
22 containing information as the department may prescribe by  
23 regulation, if the individual's, trust's or estate's income,  
24 other than from income on which tax is withheld under this  
25 subchapter, is expected to exceed \$8,000.

26 (b) Joint declaration.--

27 (1) Spouses may make a joint declaration of estimated  
28 tax under this section as if they were one taxpayer, in which  
29 case the liability with respect to the estimated tax shall be  
30 joint and several.

1       (2) If a joint declaration is made but the spouses elect  
2 to determine each spouse's taxes separately, the spouses may  
3 choose to treat the estimated tax for the year as the  
4 estimated tax of either spouse or to divide the estimated tax  
5 between them.

6       (c) Date for filing.--Except as otherwise provided in this  
7 section, the date for filing a declaration of estimated tax  
8 shall depend upon when the resident or nonresident individual,  
9 trust or estate determines that the income on which no tax has  
10 been withheld under this subchapter is expected to exceed \$8,000  
11 in the taxable year. The following shall apply:

12       (1) If the determination is made on or before April 1 of  
13 the taxable year, a declaration of estimated tax shall be  
14 filed no later than April 15 of the taxable year.

15       (2) If the determination is made after April 1 but  
16 before June 2 of the taxable year, the declaration shall be  
17 filed no later than June 15 of the taxable year.

18       (3) If the determination is made after June 1 but before  
19 September 2 of the taxable year, the declaration shall be  
20 filed no later than September 15 of the taxable year.

21       (4) If the determination is made after September 1 of  
22 the taxable year, the declaration shall be filed no later  
23 than January 15 of the year succeeding the taxable year.

24       (d) Income from farming.--

25       (1) Notwithstanding subsection (c), a declaration of  
26 estimated tax of an individual having an estimated gross  
27 income from farming for the taxable year which is at least  
28 two-thirds of the individual's total estimated gross income  
29 for the taxable year may be filed at any time on or before  
30 January 15 of the succeeding year.

1 (2) If a farmer files a final return and pays the entire  
2 tax by March 1, the return may be considered the declaration  
3 due on or before January 15.

4 (e) Estimated tax less than \$100.--A declaration of  
5 estimated tax of an individual, trust or estate having a total  
6 estimated tax for the taxable year of \$100 or less may be filed  
7 at any time on or before January 15 of the succeeding year under  
8 regulations of the department.

9 (f) Amendment of declaration.--An individual, trust or  
10 estate may amend a declaration under regulations of the  
11 department.

12 (g) Filing and paying for full year.--If, on or before  
13 January 31 of the year succeeding a taxable year, an individual,  
14 trust or estate files a return for the entire taxable year for  
15 which a declaration was required to be filed within the time  
16 prescribed under subsection (c) (4) and pays the full amount of  
17 the tax due on the return:

18 (1) The return shall be considered the declaration which  
19 was required to be filed no later than January 15.

20 (2) The return shall be considered as the amendment  
21 permitted under subsection (f) to be filed on or before  
22 January 15, if the amount of tax shown on the return is  
23 greater than the amount of estimated tax shown in a  
24 declaration previously made.

25 (h) Noncalendar taxable year.--This subpart shall apply to a  
26 taxable year other than a calendar year by the substitution of  
27 the months of the fiscal year for the corresponding months  
28 specified in this section.

29 (i) Short taxable year.--This subpart shall apply to an  
30 individual, trust or estate having a taxable year of less than

1 12 months in accordance with regulations of the department.

2 § 2603. Payments of estimated tax.

3 (a) Payments generally.--Subject to the provisions of  
4 section 2602(i) (relating to declarations of estimated tax), the  
5 estimated tax with respect to which a declaration is required  
6 shall be paid as follows:

7 (1) If the declaration is filed on or before April 15 of  
8 the taxable year, the estimated tax shall be paid in four  
9 equal installments as follows:

10 (i) The first installment shall be paid at the time  
11 the declaration is filed.

12 (ii) The second installment shall be paid on or  
13 before the succeeding June 15.

14 (iii) The third installment shall be paid on or  
15 before the succeeding September 15.

16 (iv) The fourth installment shall be paid on or  
17 before the succeeding January 15.

18 (2) If the declaration is not required to be filed on or  
19 before April 15 of the taxable year and is filed after April  
20 15 but before June 16 of the taxable year, the estimated tax  
21 shall be paid in three equal installments as follows:

22 (i) The first installment shall be paid at the time  
23 the declaration is filed.

24 (ii) The second installment shall be paid on the  
25 succeeding September 15.

26 (iii) The third installment shall be paid on the  
27 succeeding January 15.

28 (3) If the declaration is not required to be filed on or  
29 before June 15 of the taxable year and is filed after June 15  
30 but before September 16 of the taxable year, the estimated

1 tax shall be paid in two equal installments as follows:

2 (i) The first installment shall be paid at the time  
3 the declaration is filed.

4 (ii) The second installment shall be paid on the  
5 succeeding January 15.

6 (4) If the declaration is not required to be filed on or  
7 before September 15 of the taxable year and is filed after  
8 September 15 of the taxable year, the estimated tax shall be  
9 paid in full at the time the declaration is filed.

10 (5) If the declaration is not filed within the time  
11 prescribed in this section or after the expiration of an  
12 extension of time, paragraphs (2), (3) and (4) shall not  
13 apply, and all installments of estimated tax which were due  
14 and payable on or before the date the declaration was filed  
15 shall be paid at the time the declaration is filed. Remaining  
16 installments shall be paid at the times and in the amounts as  
17 if the declaration had been filed when due.

18 (b) Farming.--If an individual described in section 2602(d)  
19 (relating to declarations of estimated tax) makes a declaration  
20 of estimated tax after September 15 of the taxable year but  
21 before the following March 1, the estimated tax shall be paid in  
22 full at the time of the filing of the declaration.

23 (c) Amendment of declaration.--

24 (1) If an amendment of a declaration is filed, the  
25 remaining unpaid installments, if any, shall be ratably  
26 increased or decreased to reflect an increase or decrease in  
27 the estimated tax by reason of the amendment.

28 (2) If an amendment is made after September 15 of the  
29 taxable year, an increase in the estimated tax by reason of  
30 the amendment shall be paid at the time the amendment is

1 made.

2 CHAPTER 27

3 RETURNS AND PAYMENT OF TAX

4 Sec.

5 2701. Returns and liability.

6 2702. Return of Pennsylvania S corporation.

7 2703. Returns of married, deceased or disabled individuals and  
8 fiduciaries.

9 2704. Time and place for filing returns and paying tax.

10 2705. Signing of returns and other documents.

11 2706. Extension of time.

12 2707. Requirements concerning returns, notices, records and  
13 statements.

14 2708. Timely mailing treated as timely filing and payment.

15 2709. Procedure for claiming special tax provisions.

16 2710. Proof of eligibility.

17 2711. Paid tax return preparers and required information on  
18 personal income tax returns.

19 § 2701. Returns and liability.

20 (a) Tax return.--On or before the date when the taxpayer's  
21 Federal income tax return is due or would be due if the taxpayer  
22 were required to file a Federal income tax return under the  
23 Internal Revenue Code of 1954, a tax return under this subpart  
24 shall be made and filed by or for every taxpayer having income  
25 for the taxable year.

26 (b) Special provisions for members of armed forces.--

27 (1) This subsection shall apply to an individual:

28 (i) serving in the armed forces of the United States  
29 in an area designated by the President of the United  
30 States by Executive order as a "combat zone" as described

1 in section 7508 of the Internal Revenue Code of 1986, as  
2 amended, at any time during a period designated by the  
3 President by Executive order as the period of combatant  
4 activities in the combat zone;

5 (ii) hospitalized within or outside the United  
6 States as a result of injury received while serving in  
7 the combat zone during that time specified in  
8 subparagraph (i); or

9 (iii) serving in a military capacity as a result of  
10 a Federal callup to active duty or civilian capacity  
11 outside this Commonwealth in support of the armed forces.

12 (2) The period of service in the area specified in  
13 paragraph (1), plus the period of hospitalization within or  
14 outside the United States attributable to injury, and the  
15 next 180 days shall be disregarded, with respect to tax  
16 liability under this subpart, including interest, penalty,  
17 additional amount or addition to the tax of the individual,  
18 in determining any of the following:

19 (i) Whether any of the following acts were performed  
20 within the time prescribed in this paragraph:

21 (A) Filing a return of income tax, except income  
22 tax withheld at source.

23 (B) Payment of income tax, except income tax  
24 withheld at source, an installment of income tax  
25 withheld at source or any other tax liability to the  
26 Commonwealth.

27 (C) Filing a petition for redetermination of a  
28 deficiency or review of a decision rendered by the  
29 department.

30 (D) Allowance of a credit or refund of a tax.

1                   (E) Filing a claim for credit or refund of a  
2                   tax.

3                   (F) Bringing suit upon a claim for credit.

4                   (G) Assessment of a tax.

5                   (H) Giving or making a notice or demand for the  
6                   payment of a tax or a tax liability to the  
7                   Commonwealth.

8                   (I) Collection by the department of a tax  
9                   liability.

10                  (J) Bringing suit by the Commonwealth, or any  
11                  officer on its behalf, in respect of any liability in  
12                  respect of any tax.

13                  (K) Any other act required or permitted under  
14                  this subpart specified in regulations prescribed by  
15                  the department.

16                  (ii) The amount of a credit or refund, including  
17                  interest.

18                  (3) This subsection shall apply to the spouse of an  
19                  individual entitled to the benefits under this subsection.  
20                  This paragraph shall not cause this subsection to apply for a  
21                  spouse for a taxable year beginning more than one year after  
22                  the date of termination of combatant activities in a combat  
23                  zone.

24                  (4) The period of service in the area referred to in  
25                  this subsection shall include the period during which an  
26                  individual entitled to benefits under this subsection is in a  
27                  missing status.

28                  (5) If a qualified individual under paragraph (1) is  
29                  killed while serving in a combat zone, the tax liability of  
30                  the decedent for the year of death and the immediately prior

1 year shall be waived by the Commonwealth.

2 § 2702. Return of Pennsylvania S corporation.

3 (a) Annual return.--Each Pennsylvania S corporation shall  
4 make a return for each taxable year stating all of the  
5 following:

6 (1) All items of gross income and deductions.

7 (2) The names and addresses of all persons owning stock  
8 in the corporation at any time during the taxable year.

9 (3) The number of shares of stock owned by each  
10 shareholder at all times during the taxable year.

11 (4) The amount of money and other property distributed  
12 by the corporation during the taxable year to each  
13 shareholder.

14 (5) The date of each distribution.

15 (6) Each shareholder's pro rata share of each item of  
16 the corporation for the taxable year.

17 (7) Other information as the department may require.

18 (b) Time for filing.--The return shall be filed on or before  
19 30 days after the date the corporation's Federal income tax  
20 return is due.

21 (c) Copy of income tax return required.--Each Pennsylvania S  
22 corporation shall also submit to the department a true copy of  
23 the income tax return filed with the Federal Government at the  
24 time the return required under subsection (a) is filed.

25 (d) Statement to shareholders.--Each Pennsylvania S  
26 corporation required to file a return under subsection (a) for a  
27 taxable year shall, on or before the day on which the return for  
28 the taxable year was filed, furnish to each person who is a  
29 shareholder at any time during the taxable year a written  
30 statement of the shareholder's pro rata share of each item on

1 the corporate return on a form required by the department.  
2 § 2703. Returns of married, deceased or disabled individuals  
3 and fiduciaries.

4 (a) Separate liabilities.--If the income tax liability of a  
5 spouse is determined on a separate return, each spouse's tax  
6 liabilities under this subpart shall be separate.

7 (b) Joint liabilities.--If the income tax liabilities of  
8 each spouse are determined on a joint return, the spouses' tax  
9 liabilities under this subpart shall be joint and several.

10 (c) Nonresident spouse.--

11 (1) Subject to paragraph (2), if either spouse is a  
12 resident and the other is a nonresident, the spouses shall  
13 file separate returns under this subpart on a single form or  
14 separate forms as required by the department, in which event  
15 the spouses' tax liabilities under this subpart shall be  
16 separate, except as provided in subsection (d).

17 (2) Notwithstanding paragraph (1), spouses may determine  
18 their joint taxable income as if both were residents, in  
19 which event the spouses' tax liabilities under this subpart  
20 shall be joint and several.

21 (d) Excess credited to spouse.--

22 (1) Subject to paragraph (2), if spouses file separate  
23 tax returns under this subpart on a single form under  
24 subsection (a) or (c), the following shall apply:

25 (i) If the sum of the payments by either spouse,  
26 including withheld and estimated taxes, exceeds the  
27 amount of the tax for which the spouse is separately  
28 liable, the excess may be applied by the department to  
29 the credit of the other spouse if the sum of the payments  
30 by the other spouse, including withheld and estimated

1 taxes, is less than the amount of the tax for which the  
2 other spouse is separately liable.

3 (ii) If the sum of the payments made by both spouses  
4 with respect to the taxes for which the spouses are  
5 separately liable, including withheld and estimated  
6 taxes, exceeds the total of the taxes due, a refund of  
7 the excess may be made payable to both spouses or, if  
8 either is deceased, to the survivor spouse.

9 (2) Paragraph (1) shall not apply if the return of  
10 either spouse includes a demand that an overpayment made by  
11 either spouse shall be applied only on account of the  
12 separate liability.

13 (e) Return of deceased individual.--Except as provided under  
14 subsections (f) and (g), the final return for a deceased  
15 individual shall be made, signed and filed by the executor,  
16 administrator or other personal representative charged with the  
17 deceased individual's property.

18 (f) Return of surviving spouse.--

19 (1) The following shall apply:

20 (i) During the year in which a spouse dies, a  
21 surviving spouse may file a return for the year jointly  
22 with the final return of the deceased spouse if the joint  
23 return could have been filed if both spouses were living  
24 for the entire taxable year.

25 (ii) If a personal representative, executor,  
26 administrator or other fiduciary is appointed on behalf  
27 of the deceased spouse before the deceased spouse's tax  
28 return is filed, the surviving spouse may not file a  
29 joint return without the consent of the fiduciary.

30 (iii) If a joint return is filed, both the fiduciary

1 of the deceased spouse's estate and the surviving spouse  
2 must sign the joint return.

3 (2) The following shall apply:

4 (i) A surviving spouse may make, sign and file the  
5 final tax return of the deceased spouse if the deceased  
6 spouse did not previously file a return for that taxable  
7 year and if a personal representative, executor or  
8 administrator has not been appointed by the time the  
9 return is made, signed and filed.

10 (ii) If the surviving spouse properly files a final  
11 return for the deceased spouse under this paragraph, a  
12 fiduciary who is later appointed for the deceased spouse  
13 may supersede the final return filed by the surviving  
14 spouse by filing a separate return for the deceased  
15 spouse.

16 (iii) A joint return improperly filed by the  
17 surviving spouse or superseded by the fiduciary shall be  
18 treated as void.

19 (iv) If the surviving spouse files a return jointly  
20 with the deceased spouse's return under this paragraph  
21 and the return is superseded by the filing of a return by  
22 the deceased spouse's fiduciary, the surviving spouse  
23 shall be required to file a separate return within 90  
24 days of the filing of the fiduciary's return.

25 (v) The surviving spouse's separate return shall be  
26 deemed to be filed on:

27 (A) the day the joint return was filed if the  
28 joint return is filed on time; or

29 (B) the date the department receives it.

30 (g) Joint return for deceased spouses.--

1           (1) If both taxpayers die during the same tax year, a  
2           final return for each deceased spouse may be jointly filed if  
3           a joint return could have been filed had both spouses lived  
4           for the entire taxable year and with the consent of the  
5           personal representatives, executors or administrators of both  
6           deceased spouses under subsection (f) by the due date,  
7           including extensions, of the joint tax return.

8           (2) Both fiduciaries must sign the joint return under  
9           paragraph (1).

10          (h) Individual unable to complete return.--The return for an  
11          individual who is unable to make a return by reason of age or  
12          disability shall be made and filed by a guardian, committee,  
13          fiduciary or other person charged with the care of the  
14          individual and the individual's property or by a duly authorized  
15          agent.

16          (i) Estates and trusts.--The return for an estate or trust  
17          shall be made and filed by the fiduciary. If two or more  
18          fiduciaries are acting jointly, the return may be made by any  
19          one of them. If the executor of the estate and trustee of the  
20          trust make an election under section 645 of the Internal Revenue  
21          Code of 1986, as amended, to treat the income of the trust as  
22          part of the estate, the fiduciary may make and file a joint tax  
23          return for the estate and trust under this subsection for the  
24          taxable years when the trust income is reported as part of the  
25          estate income in accordance with section 645 of the Internal  
26          Revenue Code of 1986, as amended. If the income tax liabilities  
27          of the estate and trust are filed on a joint tax return under  
28          this subsection, the tax liabilities of the estate and trust  
29          shall be joint and several. The provisions of subsection (d)  
30          shall be applicable to a joint tax return filed under this

1 subsection.

2 § 2704. Time and place for filing returns and paying tax.

3 (a) Payment.--A person required to make and file a return  
4 under this subpart shall, without assessment, notice or demand,  
5 pay a tax due to the department on or before the date fixed for  
6 filing the return, as determined without regard to an extension  
7 of time for filing the return.

8 (b) Place and documents for filing.--The department shall  
9 prescribe by regulation the following:

10 (1) The place for filing a return.

11 (2) Forms for returns, declarations, statements or other  
12 documents required under this subpart.

13 (3) Payment of a tax.

14 § 2705. Signing of returns and other documents.

15 (a) Return to be signed.--A return other than an estimated  
16 return under section 2602 (relating to declarations of estimated  
17 tax), statement or other document required to be made under this  
18 subpart shall be signed in accordance with regulations or  
19 instructions prescribed by the department.

20 (b) Partnerships.--A return, statement or other document  
21 required of a partnership shall be signed by one or more  
22 partners. The fact that a partner's name is signed to a return,  
23 statement or other document shall be prima facie evidence for  
24 all purposes that the partner is authorized to sign on behalf of  
25 the partnership.

26 (c) Certification of return, declaration, statement or other  
27 document.--The making or filing of a return, declaration,  
28 statement or other document or copy of a return, declaration,  
29 statement or other document required to be made or filed under  
30 this subpart shall constitute a certification by the person

1 making or filing the return, declaration, statement or other  
2 document or copy of a return, declaration, statement or other  
3 document that the statements contained in the return,  
4 declaration, statement or other document are true and that a  
5 copy filed is a true copy.

6 § 2706. Extension of time.

7 (a) Authorization.--The department may, upon application,  
8 grant a reasonable extension of time for filing a return,  
9 declaration, statement, or other document required under this  
10 subpart on terms and conditions as the department may require.

11 (b) Limitation.--Except for a taxpayer who is outside the  
12 United States, an extension for filing a return, declaration,  
13 statement or other document shall not exceed six months.

14 § 2707. Requirements concerning returns, notices, records and  
15 statements.

16 (a) Regulations.--

17 (1) The department may prescribe by regulation for the  
18 following:

19 (i) The keeping of records.

20 (ii) The content and form of returns, declarations,  
21 statements and other documents.

22 (iii) The filing of copies of Federal income tax  
23 returns and determinations.

24 (2) The department may require a person, by regulation  
25 or notice served upon the person, to make returns, render  
26 statements or keep records as the department deems sufficient  
27 to show whether or not the person is liable for tax under  
28 this subpart.

29 (b) Identifying information.--

30 (1) When required by regulation prescribed by the

1 department:

2 (i) A person required under this subpart to make a  
3 return, declaration, statement or other document shall  
4 include in the return, declaration, statement or other  
5 document an identifying number as may be prescribed for  
6 securing proper identification of the person.

7 (ii) A person with respect to whom a return,  
8 declaration, statement or other document is required  
9 under this subpart to make a return, declaration,  
10 statement or other document with respect to another  
11 person shall request from the other person, and shall  
12 include in a return, declaration, statement or other  
13 document, an identifying number as may be prescribed for  
14 securing proper identification of the other person.

15 (2) For purposes of this section, the department may  
16 require information necessary to assign an identifying number  
17 to a person.

18 (c) Partnerships, estates and trusts.--

19 (1) The following shall apply:

20 (i) Each partnership, estate or trust having a  
21 resident partner or resident beneficiary or each  
22 partnership, estate or trust having income derived from  
23 sources within this Commonwealth shall make a return for  
24 the taxable year setting forth all items of income, loss  
25 and deduction and other pertinent information as the  
26 department may require.

27 (ii) The return shall be filed on or before the 15th  
28 day of the fourth month following the close of each  
29 taxable year.

30 (iii) For purposes of this subsection, "taxable

1 year" means the year or period which would be a taxable  
2 year of the partnership if the partnership is subject to  
3 tax under this subpart.

4 (2) Each partnership, estate or trust required to file a  
5 return under paragraph (1) shall also file with the  
6 department a true copy of the income tax return filed with  
7 the Federal Government at the time the return required under  
8 paragraph (1) is filed.

9 (3) Each partnership, estate or trust required to file a  
10 return under paragraph (1) for any taxable year shall, on or  
11 before the day the return is filed, furnish to each partner  
12 or nominee for another person or to each beneficiary to whom  
13 the income or gains of the estate or trust is taxable a  
14 written statement of the partner's pro rata share of each  
15 item on the partnership return or the beneficiary's pro rata  
16 share of income on the estate or trust return in a form  
17 required by the department.

18 (4) The following shall apply:

19 (i) A partnership required to file a return under  
20 paragraph (1) for a taxable year shall, on or before the  
21 day the return is filed, furnish to each partner  
22 classified as a corporation, partnership or disregarded  
23 entity for Federal income tax purposes a copy of the  
24 Pennsylvania income tax form reporting corporate partner  
25 apportioned business income or loss.

26 (ii) A reporting partnership shall not be required  
27 to provide a partner who is either a partnership or  
28 disregarded entity a copy of the form if the reporting  
29 partnership is able to determine that an entity  
30 classified as a corporation for Federal income tax

1 purposes is not an indirect owner of the reporting  
2 partnership.

3 (d) Returns of information.--

4 (1) The department may prescribe regulations requiring  
5 returns of information to be made and filed on or before  
6 February 28 of each year as to the payment or credit in any  
7 calendar year of amounts of \$10 or more to a taxpayer.

8 (2) Returns may be required of:

9 (i) A person, including a lessee or mortgagor of  
10 real or personal property, a fiduciary and an employer.

11 (ii) All officers and employees of this  
12 Commonwealth.

13 (iii) A municipal corporation or political  
14 subdivision of this Commonwealth having the control,  
15 receipt, custody, disposal or payment of interest, rents,  
16 salaries, wages, premiums, annuities, compensations,  
17 remunerations, emoluments or other fixed or determinable  
18 gains, profits or income, except interest coupons payable  
19 to bearer.

20 (3) A duplicate of the statement of tax withheld on  
21 compensation required to be furnished by an employer to an  
22 employee shall constitute the return of information required  
23 to be made under this section with respect to compensation.

24 (e) Gambling and lottery winnings.--A person who is required  
25 to make a form W-2G return to the United States Secretary of the  
26 Treasury in regard to taxable gambling or lottery winnings from  
27 sources within this Commonwealth shall file a copy of the form  
28 with the department by March 1 of each year or, if filed  
29 electronically, by March 31 of each year.

30 (f) Form 1099-MISC.--The following shall apply:

1           (1) A person shall file a copy of form 1099-MISC with  
2 the department and send a copy of the form to a payee by  
3 March 1 of each year or, if filed electronically, by March 31  
4 of each year if the person:

5           (i) makes payments of Pennsylvania source income  
6 that fall within any of the classes of income enumerated  
7 in section 2203(a) (relating to classes of income);

8           (ii) makes payments to an individual, an entity  
9 treated as a partnership for tax purposes or a single  
10 member limited liability company; and

11           (iii) is required to make a form 1099-MISC return to  
12 the United States Secretary of the Treasury with respect  
13 to the payments.

14           (2) If the form 1099-MISC filed by a payor with the  
15 United States Secretary of the Treasury is not completed in a  
16 manner that State income and State tax withheld information,  
17 currently boxes 16 through 18 on Federal form 1099-MISC, is  
18 reflected, the payor shall update the copies of form 1099-  
19 MISC to be provided under this section to reflect the  
20 information prior to filing the form 1099-MISC with the  
21 department and sending the form 1099-MISC to the payee.

22           (3) If the payor is required to perform electronic  
23 filing for Pennsylvania employer withholding purposes, the  
24 form 1099-MISC shall be filed electronically with the  
25 department.

26           (4) As used in this subsection, the following words and  
27 phrases shall have the meanings given to them in this  
28 paragraph unless the context clearly indicates otherwise:

29           "Payee." The person receiving the payments subject to  
30 withholding under this subsection.

1 "Payments." The term does not include a partner or  
2 shareholder's distributive share of income from a partnership  
3 or Pennsylvania S corporation.

4 "Payor." The person required to withhold under this  
5 subsection.

6 (g) List of partners, members, beneficiaries or  
7 shareholders.--

8 (1) The following shall apply:

9 (i) Each estate, trust, Pennsylvania S corporation  
10 or partnership, other than a publicly traded partnership,  
11 shall maintain at the end of the entity's taxable year an  
12 accurate list of partners, members, beneficiaries and  
13 shareholders.

14 (ii) The list shall include the name, current  
15 address and tax identification number of all existing  
16 partners, members, beneficiaries and shareholders and of  
17 all partners, members, beneficiaries and shareholders who  
18 were admitted or who withdrew during the taxable year,  
19 including the date of admittance or withdrawal.

20 (2) If the entity under paragraph (1) does not maintain  
21 an accurate list as required, the tax, penalty and interest  
22 with respect to the entity shall be considered the tax,  
23 penalty and interest of the partnership, estate, trust or  
24 Pennsylvania S corporation and of the general partner, tax  
25 matters partner, corporate officer or trustee.

26 § 2708. Timely mailing treated as timely filing and payment.

27 (a) Timely mailing.--Notwithstanding the provisions of any  
28 State tax law to the contrary, when a report or payment of all  
29 or a portion of a State tax is required by law to be received by  
30 the department or other agency of the Commonwealth on or before

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

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

10 § 2709. Procedure for claiming special tax provisions.

11 The following procedures shall be employed for claiming  
12 special tax provisions:

13 (1) A claimant may claim the special tax provisions upon  
14 the expiration of the taxable year in which the claimant  
15 filed an annual return under this subpart. Notwithstanding  
16 any other provisions of this subpart to the contrary, the  
17 department shall promulgate rules or regulations as it deems  
18 necessary to implement the provisions of this section.

19 (2) If a claimant receives income as defined in this  
20 subpart, other than compensation from an employer, the  
21 claimant may claim the special tax provisions in connection  
22 with the filing of estimated tax returns.

23 § 2710. Proof of eligibility.

24 (a) Establishment of eligibility procedures.--The department  
25 shall establish rules, regulations, schedules and other  
26 procedures necessary for the submission and establishment of  
27 proof of eligibility of persons for special tax provisions or  
28 other matters relating to the provisions of this subpart.

29 (b) Procedures.--Procedures may include, but not be limited  
30 to, the submission of requisite information and certifications

1 upon forms provided by the department, including special tax  
2 return or report forms as necessary.  
3 § 2711. Paid tax return preparers and required information on  
4 personal income tax returns.

5 (a) Signature and tax identification number.--For taxable  
6 years beginning on or after January 1, 2020, a personal income  
7 tax return prepared by a paid tax return preparer shall be  
8 signed by the paid tax return preparer and shall bear the paid  
9 tax return preparer's Internal Revenue Service preparer tax  
10 identification number.

11 (b) Administrative penalty.--The following shall apply:

12 (1) The department may impose an administrative penalty  
13 of \$50 on a paid tax return preparer each time the paid tax  
14 return preparer fails to sign the return or fails to provide  
15 the preparer's tax identification number.

16 (2) The maximum amount imposed on any individual paid  
17 tax return preparer under paragraph (1) shall not exceed  
18 \$25,000 per paid tax return preparer in a calendar year.

19 (c) Definitions.--As used in this section, the following  
20 words and phrases shall have the meanings given to them in this  
21 subsection unless the context clearly indicates otherwise:

22 "Paid tax return preparer." A person who prepares for  
23 compensation, or employs one or more persons to prepare for  
24 compensation, a personal income tax return required to be filed  
25 under this title. Preparation of a substantial portion of a  
26 personal income tax return shall be treated as if it were the  
27 preparation of the personal income tax return.

28 CHAPTER 28

29 PROCEDURE AND ADMINISTRATION

30 Sec.

1 2801. Payment on notice and demand.  
2 2802. Assessment.  
3 2803. Jeopardy assessments.  
4 2804. Procedure for reassessment.  
5 2805. Collection of tax.  
6 2806. Collection upon failure to request reassessment, review  
7 or appeal.  
8 2807. Lien for tax.  
9 2808. Refund or credit of overpayment.  
10 2809. Restrictions on refunds.  
11 2810. Limitations on assessment and collection.  
12 2811. Extension of limitation period.  
13 2812. Limitations on refund or credit.  
14 2813. Interest.  
15 2814. Additions, penalties and fees.  
16 2815. Abatement of additions or penalties.  
17 2816. Citation authority.  
18 2817. Crimes.  
19 2818. Rules and regulations.  
20 2819. Examination.  
21 2820. Cooperation with other governmental agencies.  
22 2821. Appropriation for refunds.  
23 § 2801. Payment on notice and demand.  
24 Upon receipt of notice and demand from the department, the  
25 amount of a tax due under the provisions of this subpart stated  
26 in the notice and demand shall be paid.  
27 § 2802. Assessment.  
28 (a) Duty of department.--The department shall make the  
29 inquiries, determinations and assessments of all taxes imposed  
30 by this subpart.

1 (b) Procedure or time for assessment.--If the procedure or  
2 time for the assessment of a tax is not otherwise provided for,  
3 the department may establish the procedure or time for the  
4 assessment of a tax by regulations.

5 (c) Estimated assessment.--

6 (1) If a taxpayer fails to file a return required by  
7 this subpart, the department may make an estimated assessment  
8 of the proper amount of tax owed by the taxpayer based on  
9 available information.

10 (2) A notice of assessment in the estimated amount shall  
11 be sent to the taxpayer.

12 (3) The tax shall be paid within 90 days after a notice  
13 of the estimated assessment has been mailed to the taxpayer,  
14 unless the taxpayer has filed a petition for reassessment in  
15 the manner prescribed by Article XXVII of the Tax Reform Code  
16 of 1971 within the 90-day period.

17 (d) Notice.--A notice of assessment issued by the department  
18 under this subpart shall be mailed to the taxpayer. The notice  
19 shall specify the basis of the assessment.

20 § 2803. Jeopardy assessments.

21 (a) Jeopardy assessments, filing and notice.--If the  
22 department believes that the assessment or the collection of a  
23 deficiency will be jeopardized in whole or in part by delay, the  
24 department may mail or issue notice of the department's finding  
25 to the taxpayer, together with a demand for immediate payment of  
26 the tax or the deficiency declared to be in jeopardy, including  
27 interest, penalties and additions.

28 (b) Closing of taxable year.--The department shall declare  
29 the taxable period for a taxpayer immediately terminated and  
30 shall cause notice of the finding and declaration to be given to

1 a taxpayer, together with a demand for immediate payment of the  
2 tax for the taxable period declared terminated and the tax for  
3 the preceding taxable year or as much of the tax as is unpaid if  
4 the department believes that a taxpayer is planning to do any of  
5 the following:

6 (1) Leave this Commonwealth to escape tax collection  
7 proceedings.

8 (2) Remove the taxpayer's property from this  
9 Commonwealth to escape tax collection proceedings.

10 (3) Conceal the taxpayer or the taxpayer's property in  
11 this Commonwealth to escape tax collection proceedings.

12 (4) Commit any other act which would prejudice or render  
13 ineffectual proceedings to collect the tax for the current or  
14 previous taxable year unless the proceedings are brought  
15 without delay.

16 (c) Jeopardy assessments and collection.--

17 (1) A jeopardy assessment is immediately due and  
18 payable, and proceedings for collection may be commenced  
19 immediately after notice is issued to the taxpayer.

20 (2) The following shall apply:

21 (i) The taxpayer may stay collection and prevent the  
22 jeopardy assessment from becoming final by filing, within  
23 10 days after the date of the notice of jeopardy  
24 assessment, a petition for reassessment, notwithstanding  
25 the provisions of section 2702 of the Tax Reform Code of  
26 1971 to the contrary.

27 (ii) The petition shall be accompanied by a bond or  
28 other security in an amount the department deems  
29 necessary.

30 (iii) The amount of the bond or security may not

1 exceed double the amount, including interest, penalties  
2 and additions, of tax for which the stay is desired.

3 (d) Final jeopardy assessment.--If a petition for  
4 reassessment, accompanied by bond or other security, is not  
5 filed within the 10-day period, the assessment shall become  
6 final.

7 (e) Hearing on jeopardy assessment.--If a taxpayer requests  
8 a hearing on the petition for reassessment, the department shall  
9 grant the taxpayer or the taxpayer's authorized representative  
10 an oral hearing.

11 (f) Action on petition for reassessment.--

12 (1) The department shall consider the petition for  
13 reassessment and notify the taxpayer of the department's  
14 decision.

15 (2) The department's decision as to the validity of the  
16 jeopardy assessment shall be final unless the taxpayer,  
17 within 90 days after notification of the department's  
18 decision, files a petition for review authorized under  
19 section 2704 of the Tax Reform Code of 1971.

20 (g) Presumptive evidence of jeopardy.--

21 (1) In a proceeding brought to enforce payment of taxes  
22 made due and payable under this section, the belief of the  
23 department under subsection (a), whether made after notice to  
24 the taxpayer or not, is presumptive evidence that the  
25 assessment or collection of the tax or the deficiency was in  
26 jeopardy.

27 (2) A certification by the department of the mailing or  
28 issuing of the notices specified in this section is  
29 presumptive evidence that the notices were mailed or issued.

30 § 2804. Procedure for reassessment.

1 A taxpayer against whom an assessment is made may petition  
2 the department for a reassessment under Article XXVII of the Tax  
3 Reform Code of 1971.

4 § 2805. Collection of tax.

5 The department shall collect taxes imposed under this subpart  
6 in the manner provided by law for the collection of taxes  
7 imposed by the laws of this Commonwealth.

8 § 2806. Collection upon failure to request reassessment, review  
9 or appeal.

10 (a) Time frames.--The department may collect a tax:

11 (1) Ninety days after the date a copy of the notice of  
12 assessment was mailed, if no petition for reassessment has  
13 been filed.

14 (2) Ninety days after the date of mailing of the notice  
15 of the department's action on the reassessment, if no  
16 petition for review has been filed.

17 (3) Thirty days after the date of mailing of the notice  
18 of the decision of the Board of Finance and Revenue upon a  
19 petition for review or from the expiration of the board's  
20 time for acting upon the petition, if no decision has been  
21 made.

22 (4) Immediately, in all cases of judicial sales,  
23 receiverships, assignments or bankruptcies.

24 (b) Administrative remedies to be exhausted.--In a  
25 proceeding for the collection of the tax imposed under this  
26 subpart, the person against whom the assessment was made shall  
27 not be permitted to present a ground of defense that might have  
28 been presented to the department, the Board of Finance and  
29 Revenue or the Commonwealth Court if the person had properly  
30 pursued the administrative remedies under this subpart.

1 § 2807. Lien for tax.

2 (a) Lien.--

3 (1) If a person liable to pay a tax neglects or refuses  
4 to pay the tax on the date the tax becomes collectible, the  
5 amount of the tax, together with costs which may accrue in  
6 addition to the tax, shall be a lien in favor of the  
7 Commonwealth against the real and personal property of the  
8 person after the lien has been duly entered and docketed of  
9 record by the prothonotary of the county where the property  
10 is situated.

11 (2) A prothonotary may not require, as a condition  
12 precedent to the entry of the lien, the payment of costs for  
13 entry and docketing of the lien.

14 (b) Record and priority of lien.--

15 (1) The department may transmit to the prothonotaries of  
16 the respective counties certified copies of all liens for  
17 taxes imposed under this subpart.

18 (2) A prothonotary receiving a lien from the department  
19 shall enter and docket the lien of record in the  
20 prothonotary's office. Each lien shall be indexed in the same  
21 manner as a judgment.

22 (3) A lien shall have priority to, and be fully paid  
23 before, any other obligation, judgment, claim, lien or estate  
24 paid and satisfied out of the judicial sale of real and  
25 personal property with which the property may subsequently  
26 become charged, or for which the property may subsequently  
27 become liable, subject to mortgage or other liens existing  
28 and duly recorded at the time the tax lien is recorded,  
29 except the cost of sale, the writ upon which the sale is made  
30 and real estate taxes imposed or assessed upon the property.

1       (4) A writ of execution may directly issue upon the lien  
2 without the issuance and prosecution to judgment of a writ of  
3 scire facias if, not less than 10 days before issuance of an  
4 execution on the lien, notice of the filing and effect of the  
5 lien is sent by certified mail to the taxpayer at the  
6 taxpayer's last known mailing address.

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

12       (c) Violation and penalties.--A prothonotary who willfully  
13 fails to carry out a duty imposed upon the prothonotary by this  
14 section commits a misdemeanor and shall, upon conviction, be  
15 sentenced to pay a fine not exceeding \$1,000 and costs of  
16 prosecution or to imprisonment for not more than one year, or  
17 both.

18 § 2808. Refund or credit of overpayment.

19       (a) Overpayment.--In the case of a payment of tax not due  
20 under this subpart, the department may credit the amount of the  
21 overpayment against any liability of the tax imposed by this  
22 subpart to the person who made the overpayment and shall refund  
23 any balance to the person.

24       (b) Credit regulations.--The department shall prescribe  
25 regulations providing for the crediting against the estimated  
26 tax for a taxable year of the amount determined to be an  
27 overpayment of the tax for a preceding taxable year.

28       (c) Overpayment of installment.--If a taxpayer has paid as  
29 an installment of estimated tax more than the correct amount of  
30 the installment, the overpayment shall be credited against the

1 unpaid installments, if any. If the amount paid, whether or not  
2 on the basis of installments, exceeds the amount determined to  
3 be the correct amount of the tax, the overpayment shall be  
4 credited or refunded as provided in subsection (a) or (b).

5 § 2809. Restrictions on refunds.

6 A credit or refund may be made under section 2808 (relating  
7 to refund or credit of overpayment):

8 (1) By reason of the overpayment of an installment of  
9 estimated tax.

10 (2) Upon reassessment.

11 (3) Upon the filing of a final return or amended final  
12 return showing an overpayment of tax.

13 § 2810. Limitations on assessment and collection.

14 (a) Time period for assessment.--The amount of a tax imposed  
15 by this subpart shall be assessed within three years after the  
16 return is filed. For the purposes of this subsection and  
17 subsection (b), a return filed before the last day prescribed  
18 for the filing of the return, or before the last day of an  
19 extension of time for the filing of the return, shall be  
20 considered filed on the last day.

21 (b) Incorrect income filed.--If a taxpayer omits from income  
22 an amount includable in the person's income in excess of 25% of  
23 the amount of income stated in the return, the tax may be  
24 assessed at any time within six years after the return was  
25 filed.

26 (c) No return or amended return filed.--If no return is  
27 filed, or if a taxpayer fails to file an amended return when  
28 required, the amount of the tax due may be assessed at any time.

29 (d) False or fraudulent return.--If a taxpayer files a false  
30 or fraudulent return with intent to evade the tax imposed by

1 this subpart, the amount of tax due may be assessed at any time.

2 (e) Assessment for erroneous credit or refund.--The  
3 department may file an assessment to recover a refund, part of a  
4 refund, credit or part of a credit which was erroneously made or  
5 allowed within three years of the granting of the refund or  
6 credit or within the period in which an assessment or  
7 reassessment could have been filed by the department with  
8 respect to the taxable period for which the refund was granted,  
9 whichever period occurs later.

10 § 2811. Extension of limitation period.

11 (a) Consent for extension.--Notwithstanding section 2810  
12 (relating to limitations on assessment and collection), if a  
13 taxpayer consents in writing to an extension of the time period  
14 for assessment, the amount of tax due may be assessed at any  
15 time within the extended period.

16 (b) Further extensions.--The extension period may be further  
17 extended by subsequent consents in writing made before the  
18 expiration of the extended period.

19 § 2812. Limitations on refund or credit.

20 An application for refund must be filed with the department  
21 under Article XXVII of the Tax Reform Code of 1971 within the  
22 time limits of section 3003.1 of the Tax Reform Code of 1971.

23 § 2813. Interest.

24 (a) Applicability.--This section shall not apply to a  
25 failure to pay estimated tax.

26 (b) Interest generally.--

27 (1) If an amount of tax imposed by Subchapter A of  
28 Chapter 22 (relating to imposition of tax) is not paid on or  
29 before the last date prescribed for payment, interest on the  
30 amount at the rate established under section 806 of the

1 Fiscal Code shall be paid for the period from the last date  
2 to the date paid.

3 (2) The last date prescribed for payment shall be  
4 determined without regard to any extension of time for filing  
5 the return.

6 (c) Interest on underpayment.--If an amount of tax required  
7 to be withheld by an employer and paid to the department under  
8 Subchapter A of Chapter 25 (relating to withholding tax  
9 generally) is not paid by the due date prescribed under section  
10 2509 (relating to payment of taxes withheld), interest on the  
11 amount at the rate established under section 806 of the Fiscal  
12 Code shall be paid from that date for the period of  
13 underpayment.

14 § 2814. Additions, penalties and fees.

15 (a) Addition for failure to file.--

16 (1) In the case of failure to file a return required  
17 under this subpart on the date prescribed for filing,  
18 determined with regard to any extension of time for filing,  
19 unless it is shown that the failure is due to reasonable  
20 cause and not due to willful neglect, 5% shall be added to  
21 the amount required to be shown as tax on the return if the  
22 failure is for not more than one month, with an additional 5%  
23 for each additional month or fraction of a month during which  
24 the failure continues, not to exceed 25% in the aggregate.  
25 The amount added shall not be less than \$5.

26 (2) The amount of tax required to be shown on the return  
27 shall, for purposes of computing the additions for the first  
28 month, be reduced by the amount of any part of the tax which  
29 is paid on or before the date prescribed for payment of the  
30 tax and by the amount of a credit against the tax which may

1 be claimed on the return.

2 (3) The amount of tax required to be shown on the return  
3 shall, for purposes of computing the addition for any  
4 subsequent month, be reduced by the amount of any part of the  
5 tax which is paid by the beginning of the subsequent month  
6 and by the amount of a credit against the tax which may be  
7 claimed on the return.

8 (b) Addition for underpayment.--

9 (1) If an underpayment of a tax imposed by Chapter 22  
10 (relating to taxation generally) is due to negligence or  
11 intentional disregard of rules and regulations, but without  
12 intent to defraud, 5% of the amount of the underpayment shall  
13 be added to the tax.

14 (2) If an underpayment of a tax imposed by Chapter 22 is  
15 due to negligence or intentional disregard of rules and  
16 regulations, but without intent to defraud, and the taxpayer  
17 omits from income an amount includable in the taxpayer's  
18 income in excess of 25% of the amount of income stated in the  
19 return, 25% of the amount of the underpayment shall be added  
20 to the tax.

21 (c) Underpayment due to fraud.--If an underpayment of tax  
22 required under this subpart to be shown on a return is due to  
23 fraud, 50% of the amount of the underpayment shall be added to  
24 the tax. This amount shall be in lieu of any amount determined  
25 under subsection (b) or (h).

26 (d) Underpayment of installments.--

27 (1) The following shall apply:

28 (i) If a taxpayer fails to pay all or part of an  
29 installment of estimated tax, the taxpayer shall be  
30 deemed to have made an underpayment of estimated tax.

1           (ii) An amount shall be added to the tax for the  
2 taxable year at the rate established under section 806 of  
3 the Fiscal Code for the period of the underpayment but  
4 not beyond the 15th day of the fourth month following the  
5 close of the taxable year.

6           (iii) The amount of the underpayment shall be the  
7 excess of the amount of the installment which would be  
8 required to be paid if the estimated tax were equal to  
9 90% of the tax, or two-thirds in the case of an  
10 individual described in section 2602(e) (relating to  
11 declarations of estimated tax), shown on the return for  
12 the taxable year or, if no return was filed, of the tax  
13 for the year, over the amount, if any, of the  
14 installments paid on or before the last day prescribed  
15 for payment.

16           (iv) No underpayment shall be deemed to exist with  
17 respect to an installment otherwise due on or after the  
18 taxpayer's death or, in the case of a decedent's estate  
19 or a trust created by the decedent to receive the residue  
20 of the decedent's estate, for a period of two years after  
21 the decedent's death.

22           (2) No addition to tax shall be imposed if the total  
23 amount of all payments of estimated tax made on or before the  
24 last date prescribed for the payment of the installment  
25 equals or exceeds the lesser of the following:

26           (i) The amount required to be paid on or before the  
27 date if the estimated tax were an amount equal to the tax  
28 computed after consideration of the special tax  
29 provisions for poverty at the rates applicable to the  
30 taxable year, but otherwise on the basis of the facts

1 shown on the return for, and the law applicable to, the  
2 preceding taxable year.

3 (ii) An amount equal to 90% of the tax computed, at  
4 the rates applicable to the taxable year, on the basis of  
5 the actual income for the months in the taxable year  
6 ending before the month in which the installment is  
7 required to be paid, or, in the case of a trust or  
8 estate, an amount equal to 90% of the applicable  
9 percentage of the tax for the taxable year as determined  
10 under section 6654(d)(2)(C)(ii) of the Internal Revenue  
11 Code of 1986, as amended, at rates applicable to the  
12 taxable year computed on an annualized basis in  
13 accordance with United States Treasury regulations, based  
14 upon the actual income for the months of the taxable year  
15 ending with the last day of the second preceding month  
16 prior to the month in which the installment is required  
17 to be paid.

18 (e) Penalties.--

19 (1) In addition to other penalties provided by law, a  
20 person required to collect, account for and pay over a tax  
21 imposed by this subpart who willfully fails to collect the  
22 tax or truthfully account for and pay over the tax, or  
23 attempts to evade or defeat a tax or the payment of a tax,  
24 shall be liable to a penalty equal to the total amount of the  
25 tax evaded, not collected or not accounted for and paid over.

26 (2) No penalty shall be imposed under subsection (b),  
27 (c) or (h) for an offense to which this subsection is  
28 applicable.

29 (3) As used in this subsection, the term "person"  
30 includes an officer or employee of a corporation or a member

1 or employee of a partnership who, as an officer, employee or  
2 member, has a duty to collect, account for and pay over a tax  
3 imposed by this subpart for which the violation occurs.

4 (f) Penalties.--

5 (1) A person required under the provisions of section  
6 2504 (relating to information statement) to furnish a  
7 statement to an employee who willfully furnishes a false or  
8 fraudulent statement, or who willfully fails to furnish a  
9 statement in the manner, at the time and showing the  
10 information required under section 2504 and the regulations  
11 prescribed under section 2504, shall for each failure be  
12 subject to a penalty of \$50 for each employee.

13 (2) A person required to furnish an information return  
14 who furnishes a false or fraudulent return or who fails to  
15 file or provide an information return shall be subject to a  
16 penalty of \$250.

17 (3) Each partnership, estate, trust or Pennsylvania S  
18 corporation required to file a return with the department  
19 under section 2702 (relating to return of Pennsylvania S  
20 corporation) or 2707(c) (relating to requirements concerning  
21 returns, notices, records and statements) who furnishes a  
22 false or fraudulent return or who fails to file the return in  
23 the manner and at the time required under section 2702 or  
24 2707(c) shall, for each failure, be subject to a penalty of  
25 \$250.

26 (4) A person required to file a copy of form 1099-MISC  
27 with the department under section 2707(f) who willfully  
28 furnishes a false or fraudulent form or who willfully fails  
29 to file the form in the manner, at the time and showing the  
30 information required under section 2707(f), shall for each

1 failure be subject to a penalty of \$50.

2 (5) A person required under section 2707(f) to furnish a  
3 copy of form 1099-MISC to a payee who willfully furnishes a  
4 false or fraudulent form or who willfully fails to furnish a  
5 form in the manner, at the time and showing the information  
6 required by section 2707(f), shall for each failure be  
7 subject to a penalty of \$50.

8 (6) A person required to file an annual statement with  
9 the department under section 2526 (relating to annual  
10 withholding statement) who willfully furnishes a false or  
11 fraudulent statement or who willfully fails to file the  
12 statement in the manner, at the time and showing the  
13 information required under section 2526 and the regulations  
14 prescribed under section 2526, shall for each failure be  
15 subject to a penalty of \$50.

16 (7) A person required under the provisions of section  
17 2526 to furnish an annual statement to a lessor who willfully  
18 furnishes a false or fraudulent statement or who willfully  
19 fails to furnish a statement in the manner, at the time and  
20 showing the information required by section 2526 and the  
21 regulations prescribed under section 2526, shall for each  
22 failure be subject to a penalty of \$50.

23 (g) Penalty for underpayment.--

24 (1) If an amount of tax required to be withheld by an  
25 employer and paid over to the department under section 2509  
26 (relating to payment of taxes withheld) or 2510 (relating to  
27 payment of taxes withheld for nonemployer payors) is not paid  
28 on or before the due date prescribed for filing the quarterly  
29 return under section 2507 (relating to time for filing  
30 withholding returns) or 2508 (relating to time for filing

1 payors' returns), determined without regard to an extension  
2 of time for filing, 5% of the amount of the underpayment  
3 shall be added to the tax and paid to the department for each  
4 month or fraction of a month from the due date for the period  
5 from the due date to the date paid.

6 (2) The underpayment shall, for purposes of computing  
7 the addition for a month, be reduced by the amount of the tax  
8 that is paid by the beginning of that month.

9 (3) The total of the additions shall not exceed 50% of  
10 the amount of tax required to be shown on the return reduced  
11 by the amount of any part of the tax which is paid by the  
12 return due date and by the amount of any credit against the  
13 tax which may be claimed on the return.

14 (h) Penalty for incorrect self-assessment.--If an  
15 individual, estate or trust files a return required under  
16 section 2701 (relating to returns and liability) which does not  
17 contain information on which the substantial correctness of the  
18 self-assessment may be judged or which contains information that  
19 on its face indicates that the self-assessment is substantially  
20 incorrect and the self-assessment is due to a position that is  
21 frivolous or a desire which appears on the purported return to  
22 delay or impede the administration of Pennsylvania income tax  
23 laws, the individual, estate or trust shall pay a penalty of  
24 \$500. The penalty imposed by this subsection shall be in  
25 addition to any other penalty provided by law.

26 (i) Penalty for underpayment by partnership, association,  
27 Pennsylvania S corporation or lessee.--

28 (1) If an amount of tax required to be withheld by a  
29 partnership, association, Pennsylvania S corporation or  
30 lessee and paid over to the department under section 2521

1 (relating to general rule) or 2525 (relating to withholding  
2 on income) is not paid on or before the date prescribed, 5%  
3 of the amount of the underpayment shall be added to the tax  
4 and paid to the department for each month or fraction of a  
5 month from the due date, for the period from the due date to  
6 the date paid.

7 (2) The underpayment shall, for purposes of computing  
8 the addition for any month, be reduced by the amount of any  
9 part of the tax which is paid by the beginning of that month.

10 (3) The total of the additions shall not exceed 50% of  
11 the amount of the tax.

12 § 2815. Abatement of additions or penalties.

13 Upon the filing of a petition for reassessment or petition  
14 for review by a taxpayer, other than an employer, as provided  
15 under this subpart, the department may waive or abate, in whole  
16 or in part, additions or penalties of \$300 or less imposed upon  
17 the taxpayer for a taxable year if the taxpayer has established  
18 that the taxpayer acted in good faith with no negligence or  
19 intent to defraud.

20 § 2816. Citation authority.

21 (a) Penalties.--Notwithstanding any other provision of this  
22 part, a person who does any of the following commits a summary  
23 offense and shall, upon conviction, be subject to the fines and  
24 penalties imposed under section 1335(a) (relating to penalties):

25 (1) Does not pay withholding tax, interest or penalties  
26 within 90 days after the due date, and the tax liability due  
27 has not been timely appealed or subject to a duly authorized  
28 deferred payment plan.

29 (2) Underpays a withholding tax, interest or penalty  
30 within 90 days after the due date, and the tax liability due

1 has not been timely appealed or subject to a duly authorized  
2 deferred payment plan.

3 (3) Fails to file a tax withholding return, report or  
4 other reporting document within 90 days after the due date of  
5 the applicable payment or return, report or other reporting  
6 document.

7 (b) Additional penalties.--The penalties imposed under this  
8 section shall be in addition to other penalties imposed under  
9 this subpart.

10 (c) Enforcement.--The secretary may designate employees of  
11 the department to enforce this section. Employees shall exhibit  
12 proof of and be within the scope of the designation when  
13 instituting proceedings as provided under the Pennsylvania Rules  
14 of Criminal Procedure.

15 § 2817. Crimes.

16 (a) Evasion, defeat or nonpayment of tax.--A person who  
17 willfully attempts in any manner to evade or defeat a tax  
18 imposed by this subpart or the payment of a tax, in addition to  
19 other penalties provided by law, commits a misdemeanor and  
20 shall, upon conviction, be sentenced to pay a fine not exceeding  
21 \$25,000 or to imprisonment not exceeding two years, or both.

22 (b) Failure to collect tax.--A person required under this  
23 subpart to collect, account for and pay over a tax imposed by  
24 this subpart who willfully fails to collect or truthfully  
25 account for and pay over the tax, in addition to other penalties  
26 provided by law, commits a misdemeanor and shall, upon  
27 conviction, be sentenced to pay a fine not exceeding \$25,000 or  
28 to imprisonment not exceeding two years, or both.

29 (c) Failure to supply records or information.--A person  
30 required under this subpart to pay a tax, make a return, keep

1 records or supply information who willfully fails to pay the  
2 tax, make the return, keep records or supply information at the  
3 time required by law or regulations, in addition to other  
4 penalties provided by law, commits a misdemeanor and shall, upon  
5 conviction, be sentenced to pay a fine not exceeding \$5,000 or  
6 to imprisonment not exceeding two years, or both.

7 (d) False statements or claims.--A person who willfully  
8 makes and subscribes a return, statement or other document that  
9 is verified by a written declaration to be made under the  
10 penalties of perjury and which the person does not believe to be  
11 true and correct as to every material matter, or willfully aids  
12 or assists in, procures, counsels or advises the preparation or  
13 presentation of a return, affidavit, claim or other document  
14 which is fraudulent or is false as to a material matter, whether  
15 or not the falsity or fraud is with the knowledge or consent of  
16 the person authorized or required to present the return,  
17 affidavit, claim or document, commits a misdemeanor and shall,  
18 upon conviction, be sentenced to pay a fine not exceeding \$5,000  
19 or to imprisonment not exceeding two years, or both.

20 (e) Fraudulent information.--A person who willfully delivers  
21 or discloses to the department a list, return, account,  
22 statement or other document known by the person to be fraudulent  
23 or false as to a material matter commits a misdemeanor and  
24 shall, upon conviction, be sentenced to pay a fine not exceeding  
25 \$5,000 or to imprisonment not exceeding two years, or both.

26 (f) Disclosure of information.--

27 (1) It shall be unlawful for an officer, agent or  
28 employee of the Commonwealth to divulge or make known in any  
29 manner not provided by law, except for official purposes, to  
30 any person the amount or source of income, profits, losses,

1 expenditures or other information disclosed in a return, or  
2 to permit a return or copy of a return or a book containing  
3 an abstract or other information to be seen or examined by a  
4 person except as provided by law.

5 (2) It shall be unlawful for a person to print or  
6 publish in any manner not provided by law, a return, part of  
7 a return, source of income, profits, losses or expenditures  
8 appearing in a return.

9 (3) A person who violates paragraph (1) or (2) commits a  
10 misdemeanor and shall, upon conviction, be sentenced to pay a  
11 fine not exceeding \$1,000 or to imprisonment not exceeding  
12 one year, or both, together with the costs of prosecution. If  
13 the offender is an officer or employee of the Commonwealth,  
14 the offender shall be dismissed from office or discharged  
15 from employment.

16 (g) Disclosure of information to court.--

17 (1) Notwithstanding subsection (f), it shall be lawful  
18 for an officer or employee of the Commonwealth having custody  
19 of returns to produce the returns or evidence of information  
20 contained in the returns in an action or proceeding in any  
21 court on behalf of the department under the provisions of  
22 this subpart to which the department is a party, or on behalf  
23 of a party to an action or proceeding under the provisions of  
24 this subpart when the returns or facts shown are directly  
25 involved in the action or proceeding where the court requires  
26 the production of and may admit into evidence the returns or  
27 the facts shown by the returns as are pertinent to the action  
28 or proceeding and no more.

29 (2) Nothing in this section shall be construed to  
30 prohibit any of the following:

1           (i) The delivery to a taxpayer or the taxpayer's  
2 duly authorized representative of a certified copy of a  
3 return filed in connection with the taxpayer's tax.

4           (ii) The publication of statistics classified to  
5 prevent the identification of particular returns and the  
6 items of the returns.

7           (iii) The inspection by the Attorney General or  
8 other legal representatives of the Commonwealth of the  
9 return of a taxpayer who shall bring action to review the  
10 tax based on the return or against whom an action or  
11 proceeding has been instituted for the collection or  
12 recovery of the tax imposed by this subpart.

13           (iv) The delivery to the Pennsylvania Higher  
14 Education Assistance Agency of a certified copy or  
15 extract of a State income tax return requested by the  
16 agency for use in determining the eligibility of  
17 applicants for State grants, if the executive director of  
18 the agency certifies that the agency has in the agency's  
19 possession a statement signed by the applicant and the  
20 applicant's parent, parents, guardian or guardians  
21 authorizing the agency to obtain a certified copy or  
22 extract of a State income tax return from the director of  
23 the State Income Tax Bureau.

24 § 2818. Rules and regulations.

25           The department shall enforce the provisions of this subpart  
26 and shall prescribe, adopt, promulgate and enforce rules and  
27 regulations relating to any matter or thing pertaining to the  
28 administration and enforcement of the provisions of this subpart  
29 and the collection of taxes imposed by this subpart.

30 § 2819. Examination.

1 (a) Examination of records.--The department, or an agent  
2 authorized in writing by the department, may examine the books,  
3 papers and records of a taxpayer or supposed taxpayer and  
4 require the production of a copy of the taxpayer's return as  
5 made to and filed with the Federal Government, if one was made  
6 and filed, in order to verify the accuracy of a return made or,  
7 if no return was made, to ascertain and assess the tax imposed  
8 by this subpart.

9 (b) Taxpayer to provide access.--Each taxpayer or supposed  
10 taxpayer is directed and required to give to the department or  
11 the department's duly authorized agent the means, facilities and  
12 opportunity for examinations and investigations as are provided  
13 and authorized.

14 (c) Inquisitorial powers.--The department shall examine a  
15 person under oath concerning income which was or should have  
16 been returned for taxation, and may compel the production of  
17 books, papers and records and the attendance of all persons,  
18 whether as parties or witnesses, whom the department believes  
19 have knowledge of the income. The procedure for the hearing or  
20 examination shall be the same as that provided by the Fiscal  
21 Code relating to inquisitorial powers of fiscal officers.

22 § 2820. Cooperation with other governmental agencies.

23 (a) Inspection of returns.--

24 (1) Notwithstanding the provisions of section 2817(f)  
25 (relating to crimes), the department may:

26 (i) permit the United States Commissioner of  
27 Internal Revenue, the proper officer of a political  
28 subdivision of this Commonwealth or any other state  
29 imposing tax based upon the incomes of individuals or the  
30 authorized representative of an officer to inspect the

1 tax returns of a taxpayer; or

2 (ii) furnish to the officer or the officer's  
3 authorized representative an abstract of the return of  
4 income of a taxpayer or supply to the officer or the  
5 officer's authorized representative information  
6 concerning an item of income contained in a return of a  
7 taxpayer.

8 (2) The following shall apply:

9 (i) Permission shall be granted or information  
10 furnished to an officer or the officer's representative  
11 only if the statutes of the United States or another  
12 state grant substantially similar privileges to the  
13 proper officer of this Commonwealth charged with the  
14 administration of the personal income tax law of this  
15 Commonwealth.

16 (ii) An officer or authorized agent of a county  
17 imposing a personal property tax shall be furnished the  
18 following information from the returns upon payment to  
19 the department of the cost of collecting and reproducing  
20 the requested information:

21 (A) The name, address and Social Security number  
22 of the taxpayer.

23 (B) If the taxpayer has reported dividends or  
24 interest.

25 (b) Reciprocal agreements.--

26 (1) The department may enter into an agreement with the  
27 taxing authorities of a state which imposes a tax on or  
28 measured by income to provide that compensation paid in the  
29 state to residents of this Commonwealth shall be exempt from  
30 the tax.



1 notwithstanding anything contained in any law to the contrary,  
2 including but not limited to the provisions of the act of August  
3 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling  
4 Act, the validity of an ordinance, part of an ordinance, a  
5 resolution or part of a resolution, including an amendment or  
6 supplement to the ordinance, part of the ordinance, resolution  
7 or part of the resolution enacted before, on or after the  
8 effective date of this section or adopted by a political  
9 subdivision of this Commonwealth for or relating to the  
10 imposition, levy or collection of a tax, shall not be affected  
11 or impaired by anything contained in this subpart.

12 (b) Exceptions.--

13 (1) Notwithstanding subsection (a), a rate of tax  
14 imposed by ordinance of a city of the first class under the  
15 Sterling Act on salaries, wages, commissions, compensation or  
16 other income received or to be received for work done or  
17 services performed within the city by persons who are not  
18 legal residents of the city, shall not, except as otherwise  
19 provided in this section, exceed the tax imposition rate of  
20 4.3125% for the tax year 1977 or for any tax year thereafter.

21 (2) If a city under paragraph (1) by ordinance imposes a  
22 tax rate on residents or nonresidents in excess of the tax  
23 rate under paragraph (1) on the income categories enumerated  
24 in this subpart:

25 (i) The provisions of the ordinance imposing the tax  
26 rate increase on income of persons who are legal  
27 residents of the city shall be deemed valid and legally  
28 effective within the meaning and application of  
29 subsection (a).

30 (ii) The provisions of the ordinance imposing a tax

1 rate in excess of 4.3125% with respect to persons who are  
2 not legal residents of the city shall be deemed suspended  
3 and without validity to the extent that the tax rate  
4 exceeds the 4.3125% on income of the nonresidents. The  
5 excess tax rate provisions shall remain suspended and  
6 without validity until the date on which the city by  
7 ordinance imposes a rate of tax on income of both legal  
8 residents or nonresidents of the city in excess of the  
9 tax rate imposition of 5.75% per year. In that case, the  
10 General Assembly declares the suspension to be removed  
11 and the tax rate valid as to nonresidents, provided that  
12 the suspension is removed and the rate deemed valid only  
13 to the extent the tax rate imposed on income of the  
14 nonresidents does not exceed 75% of the tax rate imposed  
15 by ordinance per year on the income of legal residents of  
16 the city. It is the intention of the General Assembly by  
17 this subsection to impose certain terms and conditions  
18 with respect to the validity and legal effectiveness of  
19 the Sterling Act or an ordinance of the city of the first  
20 class enacted under the Sterling Act which imposes a tax  
21 on the income of nonresidents of the city.

22 (3) Notwithstanding the suspension provisions under this  
23 section, each city of the first class which imposes a tax  
24 under the Sterling Act shall by ordinance direct every  
25 employer maintaining an office or transacting business within  
26 the city and making payment of compensation to a resident  
27 individual or nonresident individual taxpayer performing  
28 services on behalf of the employer within the city to deduct  
29 and withhold from the compensation for each payroll period a  
30 tax computed in a manner as to result, so far as practicable,

1 in withholding from the employee's compensation during each  
2 calendar year an amount substantially equivalent to the tax  
3 reasonably estimated to be due for that year with respect to  
4 the compensation. The method of determining the amount to be  
5 withheld shall be to withhold the highest amount of tax  
6 imposed with provision in the ordinance to provide refunds of  
7 the excess tax withheld to qualified nonresident taxpayers  
8 within four months of the end of each calendar year.

9 (4) If all or part of the provisions of subsection (b)  
10 are declared by a court to be unconstitutional, it shall be  
11 the duty of the court to construe the remaining provisions of  
12 this subpart in accordance with section 2901 (relating to  
13 constitutional construction).

14 (c) Revenue commissioner, deductions and payments.--

15 (1) Each employer having a place of business within this  
16 Commonwealth who employs one or more persons who are  
17 residents of a city of the first class shall:

18 (i) within 30 days after becoming such an employer,  
19 register with the revenue commissioner of a city of the  
20 first class the employer's name and address and other  
21 information as the revenue commissioner may require; and

22 (ii) at the time of payment to the employee, deduct  
23 from the salary, wages, commissions or compensation due  
24 the employee the tax imposed by the city of the first  
25 class on any salary, wage, commission or other  
26 compensation due the employee.

27 (2) An employer required to withhold taxes under this  
28 subsection shall calculate the amount of salary, wages,  
29 commissions and compensation of each employee as determined  
30 under the classes of income under section 2203 (relating to

1 classes of income).

2 (3) Each employer employing one or more persons who are  
3 residents of a city of the first class who pay a tax imposed  
4 under this subpart shall file a return and pay to the revenue  
5 commissioner the amount of taxes deducted as provided under  
6 paragraph (2). The following shall apply:

7 (i) The return shall be on a form furnished by the  
8 revenue commissioner.

9 (ii) The return shall specify the following:

10 (A) The names and residences of each employee of  
11 that employer during all or any part of the period  
12 covered by the return.

13 (B) The amounts of salaries, wages, commissions  
14 or other compensation earned during the period by  
15 each employee.

16 (C) Other information as the revenue  
17 commissioner may require.

18 (4) The employer shall remit the return and the total  
19 tax deducted in accordance with time frames established under  
20 section 2509 (relating to payment of taxes withheld).

21 (5) Annually, on or before the 28th day of February,  
22 each employer who has filed returns of tax withheld and  
23 remitted the tax through the year shall be required to file  
24 an Employer's Annual Reconciliation of Wage Tax Withheld,  
25 along with a copy of Form W-2 of the Internal Revenue Service  
26 for each employee, other listings or electronic data  
27 processing tapes, setting forth the following information:

28 (i) The name and address of the employer.

29 (ii) The employer's Federal identification number.

30 (iii) The full name and residence address of each

1 employee.

2 (iv) The employee's Social Security number.

3 (v) The total wages paid during the year before any  
4 deductions.

5 (vi) The employer's city account number.

6 (6) Employers or their designated agents required to  
7 file with the revenue commissioner under this subsection  
8 shall not be required by the revenue commissioner to be  
9 bonded. Employer liability for taxes withheld under this  
10 subsection shall be the same as provided in sections 2511  
11 (relating to liability for withheld taxes) and 2513 (relating  
12 to failure to withhold).

13 (7) If an employer fails to deduct and withhold tax as  
14 prescribed in this subsection, it shall not relieve the  
15 employee from payment of the tax where payment cannot, for  
16 any reason, be obtained from the employer.

17 § 2903. Applicability.

18 (a) General rule.--The tax under this subpart shall first  
19 apply and be imposed upon income received by or accrued to a  
20 taxpayer on and after June 1, 1971.

21 (b) Exception.--A taxpayer who filed returns on the basis of  
22 a fiscal year or who is the beneficiary of an estate or trust or  
23 member of a partnership which files its returns under this  
24 subpart on the basis of a fiscal year shall be subject to tax  
25 for the first taxable period on the portion of the fiscal year  
26 or of the fiscal year of the estate, trust or partnership which  
27 postdates May 31, 1971, as prescribed by the department by  
28 regulations.

29 (c) Additions or penalties.--Section 2814 (relating to  
30 additions, penalties and fees), which provides for additions or

1 penalties to the tax, shall not take effect until March 20,  
2 1972.

3 Section 3. Repeals are as follows:

4 (1) The General Assembly declares that the repeals under  
5 paragraph (2) are necessary to effectuate the addition of 53  
6 Pa.C.S. Ch. 90.

7 (2) The following are repealed:

8 (i) Section 1730-E(a) and (b) of the act of April 9,  
9 1929 (P.L.343, No.176), known as The Fiscal Code.

10 (ii) Section 3171-B(a)(4)(ii) and (iii) and (b)(2)  
11 of the act of July 28, 1953 (P.L.723, No.230), known as  
12 the Second Class County Code.

13 (iii) Chapter 13 of the act of June 27, 2006 (1st  
14 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief  
15 Act.

16 (3) The General Assembly declares that the repeal under  
17 paragraph (4) is necessary to effectuate the addition of 53  
18 Pa.C.S. Ch. 90A Subch. F.

19 (4) Section 688 of the act of March 10, 1949 (P.L.30,  
20 No.14), known as the Public School Code of 1949, is repealed.

21 (5) The General Assembly declares that the repeal under  
22 paragraph (6) is necessary to effectuate the addition of 72  
23 Pa.C.S. Pt. II Subpt. A.

24 (6) Article II of the act of March 4, 1971 (P.L.6,  
25 No.2), known as the Tax Reform Code of 1971, is repealed.

26 (7) The General Assembly declares that the repeal under  
27 paragraph (8) is necessary to effectuate the addition of 72  
28 Pa.C.S. Pt. II Subpt. B.

29 (8) Article III of the act of March 4, 1971 (P.L.6,  
30 No.2), known as the Tax Reform Code of 1971, is repealed.

1           (9) The following acts and parts of acts are repealed  
2 insofar as they are inconsistent with this act:

3           (i) Except as provided under paragraph (4), any  
4 provision of the act of March 10, 1949 (P.L.30, No.14),  
5 known as the Public School Code of 1949, and of any other  
6 law relating to the authority of a school district to  
7 levy, assess and collect a tax on real property and the  
8 power of a city of the first class to levy, assess and  
9 collect a tax on real property.

10          (ii) Any provision of the act of August 9, 1963  
11 (P.L.643, No.341), known as the First Class City Public  
12 Education Home Rule Act, and any home rule school  
13 district charter adopted under the First Class City  
14 Public Education Home Rule Act.

15          (iii) Except as provided under paragraph (2)(iii),  
16 any provision of the act of June 27, 2006 (1st Sp.Sess.,  
17 P.L.1873, No.1), known as the Taxpayer Relief Act.

18          (10) All acts and parts of acts that are inconsistent  
19 with this act are repealed to the extent of the  
20 inconsistency.

21          Section 4. The addition of 72 Pa.C.S. Pt. II Subpt. A is a  
22 continuation of Article II of the act of March 4, 1971 (P.L.6,  
23 No.2), known as the Tax Reform Code of 1971. The following  
24 apply:

25          (1) Except as otherwise provided in 72 Pa.C.S. Pt. II  
26 Subpt. A, all activities initiated under Article II of the  
27 Tax Reform Code of 1971 shall continue and remain in full  
28 force and effect and may be completed under 72 Pa.C.S. Pt. II  
29 Subpt. A. Orders, regulations, rules and decisions which were  
30 made under Article II of the Tax Reform Code of 1971 and

1 which are in effect on the effective date of section 3(6) of  
2 this act shall remain in full force and effect until revoked,  
3 vacated or modified under 72 Pa.C.S. Pt. II Subpt. A.

4 Contracts, obligations and collective bargaining agreements  
5 entered into under Article II of the Tax Reform Code of 1971  
6 are not affected nor impaired by the repeal of Article II of  
7 the Tax Reform Code of 1971.

8 (2) Except as set forth in paragraph (3), any difference  
9 in language between 72 Pa.C.S. Pt. II Subpt. A and Article II  
10 of the Tax Reform Code of 1971 is intended only to conform to  
11 the style of the Pennsylvania Consolidated Statutes and is  
12 not intended to change or affect the legislative intent,  
13 judicial construction or administration and implementation of  
14 Article II of the Tax Reform Code of 1971.

15 (3) Paragraph (2) does not apply to the addition of 72  
16 Pa.C.S. § 1358.

17 Section 5. The addition of 72 Pa.C.S. Pt. II Subpt. B is a  
18 continuation of Article III of the act of March 4, 1971 (P.L.6,  
19 No.2), known as the Tax Reform Code of 1971. The following  
20 apply:

21 (1) Except as otherwise provided in 72 Pa.C.S. Pt. II  
22 Subpt. B, all activities initiated under Article III of the  
23 Tax Reform Code of 1971 shall continue and remain in full  
24 force and effect and may be completed under 72 Pa.C.S. Pt. II  
25 Subpt. B. Orders, regulations, rules and decisions which were  
26 made under Article III of the Tax Reform Code of 1971 and  
27 which are in effect on the effective date of section 3(8) of  
28 this act shall remain in full force and effect until revoked,  
29 vacated or modified under 72 Pa.C.S. Pt. II Subpt. B.

30 Contracts, obligations and collective bargaining agreements

1 entered into under Article III of the Tax Reform Code of 1971  
2 are not affected nor impaired by the repeal of Article III of  
3 the Tax Reform Code of 1971.

4 (2) Except as set forth in paragraph (3), any difference  
5 in language between 72 Pa.C.S. Pt. II Subpt. B and Article  
6 III of the Tax Reform Code of 1971 is intended only to  
7 conform to the style of the Pennsylvania Consolidated  
8 Statutes and is not intended to change or affect the  
9 legislative intent, judicial construction or administration  
10 and implementation of Article III of the Tax Reform Code of  
11 1971.

12 (3) Paragraph (2) does not apply to the following:

13 (i) The addition of the definition of  
14 "compensation," "poverty income" and "Social Security  
15 substitute pension" under 72 Pa.C.S. § 2102.

16 (ii) The addition of 72 Pa.C.S. § 2203(a)(1)(i)(F).  
17 Section 6. Repeals are applicable as follows:

18 (1) The repeals under section 3 of this act, insofar as  
19 they relate to the prohibition on the levy, assessment or  
20 collection of real property taxes under 53 Pa.C.S. § 9011 by  
21 school districts which use a January to December fiscal year,  
22 shall apply beginning January 1, 2023.

23 (2) The repeals under section 3 of this act, insofar as  
24 they relate to the prohibition on the levy, assessment or  
25 collection of real property taxes under 53 Pa.C.S. § 9011 by  
26 school districts which use a July to June fiscal year, shall  
27 apply beginning July 1, 2023.

28 Section 7. This act shall take effect as follows:

29 (1) The following provisions shall take effect October  
30 1, 2022:

1 (i) The addition of 72 Pa.C.S. Pt. II.

2 (ii) Section 3(6) and (8) of this act.

3 (2) Except as provided in paragraph (1)(ii), section 3  
4 of this act shall take effect January 1, 2023.

5 (3) The remainder of this act shall take effect  
6 immediately.