

AN ACT

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

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

14 Section 1. The definition of "tangible personal property" in
15 section 201(m) of the act of March 4, 1971 (P.L.6, No.2), known
16 as the Tax Reform Code of 1971, amended July 13, 2016 (P.L.526,
17 No.84), is amended to read:

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

22 * * *

1 (m) "Tangible personal property."

2 (1) Corporeal personal property including, but not limited
3 to, goods, wares, merchandise, steam and natural and
4 manufactured and bottled gas for non-residential use,
5 electricity for non-residential use, prepaid telecommunications,
6 premium cable or premium video programming service, spirituous
7 or vinous liquor and malt or brewed beverages and soft drinks,
8 interstate telecommunications service originating or terminating
9 in the Commonwealth and charged to a service address in this
10 Commonwealth, intrastate telecommunications service with the
11 exception of (i) subscriber line charges and basic local
12 telephone service for residential use and (ii) charges for
13 telephone calls paid for by inserting money into a telephone
14 accepting direct deposits of money to operate, provided further,
15 the service address of any intrastate telecommunications service
16 is deemed to be within this Commonwealth or within a political
17 subdivision, regardless of how or where billed or paid. In the
18 case of any such interstate or intrastate telecommunications
19 service, any charge paid through a credit or payment mechanism
20 which does not relate to a service address, such as a bank,
21 travel, credit or debit card, but not including prepaid
22 telecommunications, is deemed attributable to the address of
23 origination of the telecommunications service.

24 (2) The term shall include the following, whether
25 electronically or digitally delivered, streamed or accessed and
26 whether purchased singly, by subscription or in any other
27 manner, including maintenance, updates and support:

28 (i) video;

29 (ii) photographs;

30 (iii) books;

- 1 (iv) any other otherwise taxable printed matter;
2 (v) applications, commonly known as apps;
3 (vi) games;
4 (vii) music;
5 (viii) any other audio, including satellite radio service;
6 (ix) canned software, notwithstanding the function
7 performed; or
8 (x) any other otherwise taxable tangible personal property
9 electronically or digitally delivered, streamed or accessed.

10 (3) The term shall also include:

11 (i) medical marijuana, as defined in section 103 of the act
12 of April 17, 2016 (P.L.84, No.16), known as the "Medical
13 Marijuana Act"; and

14 (ii) other marijuana which is legal in this Commonwealth.
15 For purposes of this subclause, the term "marijuana" shall be
16 defined as the term "marihuana" is defined in section 2(b) of
17 the act of April 14, 1972 (P.L.233, No.64), known as "The
18 Controlled Substance, Drug, Device and Cosmetic Act."

19 * * *

20 Section 2. Section 204(17) of the act is amended to read:

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

23 * * *

24 (17) The sale at retail or use of prescription or non-
25 prescription medicines, drugs or medical supplies, crutches and
26 wheelchairs for the use of cripples and invalids, artificial
27 limbs, artificial eyes and artificial hearing devices when
28 designed to be worn on the person of the purchaser or user,
29 false teeth and materials used by a dentist in dental treatment,
30 eyeglasses when especially designed or prescribed by an

1 ophthalmologist, oculist or optometrist for the personal use of
2 the owner or purchaser and artificial braces and supports
3 designed solely for the use of crippled persons or any other
4 therapeutic, prosthetic or artificial device designed for the
5 use of a particular individual to correct or alleviate a
6 physical incapacity, including but not limited to hospital beds,
7 iron lungs, and kidney machines. The exclusions from tax under
8 this paragraph shall not apply to medical marijuana, as defined
9 in section 103 of the act of April 17, 2016 (P.L.84, No.16),
10 known as the "Medical Marijuana Act," or other marijuana which
11 is legal in this Commonwealth. For purposes of this paragraph,
12 the term "marijuana" shall be defined as the term "marihuana" is
13 defined in section 2(b) of the act of April 14, 1972 (P.L.233,
14 No.64), known as "The Controlled Substance, Drug, Device and
15 Cosmetic Act."

16 * * *

17 Section 3. This act shall take effect in 60 days.