

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1189 Session of
2013

INTRODUCED BY GROVE, STEPHENS, SAYLOR, GREINER, AUMENT, HELM,
GINGRICH, CUTLER, MARSICO, TALLMAN, ROCK, MICOZZIE, METCALFE,
REGAN, HICKERNELL, EVANKOVICH, DUNBAR, VEREB, HAHN, WATSON,
TOOHIL, GABLER, MENTZER, TURZAI, R. MILLER, SNYDER, CARROLL,
HARHART, GERGELY AND SONNEY, APRIL 15, 2013

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, SEPTEMBER 23, 2013

AN ACT

1 | ~~Amending the act of December 31, 1965 (P.L.1257, No.511),~~
2 | ~~entitled "An act empowering cities of the second class,~~
3 | ~~cities of the second class A, cities of the third class,~~
4 | ~~boroughs, towns, townships of the first class, townships of~~
5 | ~~the second class, school districts of the second class,~~
6 | ~~school districts of the third class and school districts of~~
7 | ~~the fourth class including independent school districts, to~~
8 | ~~levy, assess, collect or to provide for the levying,~~
9 | ~~assessment and collection of certain taxes subject to maximum~~
10 | ~~limitations for general revenue purposes; authorizing the~~
11 | ~~establishment of bureaus and the appointment and compensation~~
12 | ~~of officers, agencies and employes to assess and collect such~~
13 | ~~taxes; providing for joint collection of certain taxes,~~
14 | ~~prescribing certain definitions and other provisions for~~
15 | ~~taxes levied and assessed upon earned income, providing for~~
16 | ~~annual audits and for collection of delinquent taxes, and~~
17 | ~~permitting and requiring penalties to be imposed and~~
18 | ~~enforced, including penalties for disclosure of confidential~~
19 | ~~information, providing an appeal from the ordinance or~~
20 | ~~resolution levying such taxes to the court of quarter~~
21 | ~~sessions and to the Supreme Court and Superior Court,"~~
22 | ~~providing for optional property tax elimination.~~
23 | Providing for tax levies and information related to taxes;
24 | authorizing the imposition of a personal income tax or an
25 | earned income tax by a school district subject to voter
26 | approval; providing for imposition of and exclusions from a
27 | sales and use tax for the stabilization of education funding,
28 | for increase to the personal income tax, for certain
29 | licenses, for hotel occupancy tax, for procedure and
30 | administration of the tax, for expiration of authority to



1 | issue certain debt and for reporting by local government
2 | units of debt outstanding; establishing the Education
3 | Stabilization Fund; providing for disbursements from this
4 | fund; and repealing certain provisions of the Public School
5 | Code of 1949 and sales and use tax provisions of the Tax
6 | Reform Code of 1971.

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7 reimbursements.
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9 first class.
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13 outstanding.
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18 Education Stabilization Fund.
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22 Section 1503. Severability.
23 Section 1504. Repeals.
24 Section 1505. Applicability.
25 Section 1506. Effective date.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 ~~Section 1. The act of December 31, 1965 (P.L.1257, No.511),~~
29 ~~known as The Local Tax Enabling Act, is amended by adding a~~
30 ~~chapter to read:~~



1 CHAPTER 6

2 OPTIONAL PROPERTY TAX ELIMINATION

3 ~~Section 601. Scope of chapter.~~

4 ~~This chapter shall authorize a school district to levy,~~
5 ~~assess and collect an elimination tax as a means of reducing or~~
6 ~~eliminating property taxation.~~

7 ~~Section 602. Definitions.~~

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

11 ~~"Board of school directors." A board of school directors of~~
12 ~~a school district of the first class A, second class, third~~
13 ~~class or fourth class.~~

14 ~~"Domicile." The term as defined in section 501.~~

15 ~~"Earned income." The term as defined in section 501.~~

16 ~~"Elimination tax." Any of the following:~~

17 ~~(1) The tax levied by a school district on earned income~~
18 ~~and net profits under this chapter.~~

19 ~~(2) A mercantile tax imposed under section 613.~~

20 ~~(3) A business privilege tax imposed under section 613.~~

21 ~~"Index." The term as defined in section 302 of the Taxpayer~~
22 ~~Relief Act.~~

23 ~~"Net profits." The term as defined in section 501.~~

24 ~~"Resident." The term as defined in section 501.~~

25 ~~"School district." A school district of the first class A,~~
26 ~~second class, third class or fourth class.~~

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

29 ~~"Taxpayer Relief Act." The act of June 27, 2006 (1st~~
30 ~~Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.~~



1 ~~Section 603. Preemption.~~

2 ~~No act of the General Assembly may vacate or preempt any~~
3 ~~resolution passed or adopted under the authority of this~~
4 ~~chapter, or any other act, providing authority for the~~
5 ~~imposition of an elimination tax by a school district, unless~~
6 ~~the act of the General Assembly expressly vacates or preempts~~
7 ~~the authority to pass or adopt resolutions.~~

8 ~~Section 604. Real property tax replacement.~~

9 ~~A school district that levies a tax on real property may~~
10 ~~reduce or eliminate the revenues provided by the real property~~
11 ~~tax by imposing the elimination tax as provided under this~~
12 ~~chapter.~~

13 ~~Section 605. Resolution required.~~

14 ~~The board of school directors may impose or increase the~~
15 ~~maximum limits of the elimination tax by adopting a resolution.~~
16 ~~Prior to approving the resolution, the board of school directors~~
17 ~~shall:~~

18 ~~(1) Give public notice of its intent to adopt the~~
19 ~~resolution in the manner provided under section 306.~~

20 ~~(2) Conduct at least one public hearing regarding~~
21 ~~reducing or eliminating the tax on real property and imposing~~
22 ~~or increasing the maximum rate of the elimination tax.~~

23 ~~Section 606. Use of funds.~~

24 ~~All funds generated from an elimination tax shall be used to~~
25 ~~directly reduce or eliminate school district real property tax~~
26 ~~millage rates.~~

27 ~~Section 607. Elimination tax rate limits.~~

28 ~~(a) Limit. If a school district has reduced property tax~~
29 ~~millage rates to zero, a board of school directors may not~~
30 ~~increase the elimination tax for the support of public schools.~~



1 ~~by more than the index unless there is compliance with section~~
2 ~~333 of the Taxpayer Relief Act.~~

3 ~~(b) Maximum rate. The maximum rate of the elimination tax~~
4 ~~calculated under this chapter shall not be subject to the limits~~
5 ~~on the earned income tax specified under section 311(3).~~

6 ~~(C) LIMIT. THE RATE OF THE MERCANTILE OR BUSINESS PRIVILEGE~~
7 ~~TAX IMPOSED UNDER SECTION 613 SHALL NOT GENERATE REVENUES IN~~
8 ~~EXCESS OF 50% OF THE TOTAL ELIMINATION TAX REVENUES GENERATED~~
9 ~~UNDER THIS CHAPTER.~~

10 ~~Section 608. Exemption.~~

11 ~~A school district that imposes an elimination tax may exempt~~
12 ~~from the payment of that tax any person whose total income from~~
13 ~~all sources is less than \$12,000.~~

14 ~~Section 609. Collections.~~

15 ~~(a) Earned income and net profits. An elimination tax on~~
16 ~~earned income and net profits shall be subject to Chapters 5 and~~
17 ~~7.~~

18 ~~(b) Mercantile tax or a business privilege tax. A~~
19 ~~mercantile tax or a business privilege tax imposed under this~~
20 ~~chapter shall be subject to section 613.~~

21 ~~Section 610. Credits.~~

22 ~~(a) Credit. Except as provided under subsection (b), the~~
23 ~~provisions of section 317 shall be applied by a board of school~~
24 ~~directors to determine any credits applicable to an elimination~~
25 ~~tax.~~

26 ~~(b) Limitation. Payment of a tax on earned income and net~~
27 ~~profits to any state other than Pennsylvania or to any political~~
28 ~~subdivision located outside the boundaries of this Commonwealth~~
29 ~~by a resident of a school district located in this Commonwealth~~
30 ~~shall not be credited to and allowed as a deduction from the~~



1 ~~liability of the person for an elimination tax imposed by the~~
2 ~~school district of residence.~~

3 ~~Section 611. Real property tax prohibited.~~

4 ~~(a) Prohibition. For the first fiscal year beginning after~~
5 ~~the adoption of a resolution that eliminates real property tax~~
6 ~~millage rates and each fiscal year thereafter, a school district~~
7 ~~shall be prohibited from levying, assessing or collecting a real~~
8 ~~property tax.~~

9 ~~(b) Applicability. This section shall not apply to the~~
10 ~~collection of delinquent real property taxes.~~

11 ~~Section 612. Applicability of personal income tax.~~

12 ~~Nothing under this chapter shall be construed to authorize a~~
13 ~~school district to levy, assess or collect a personal income~~
14 ~~tax.~~

15 ~~Section 613. Mercantile or business privilege tax.~~

16 ~~(a) Wholesale dealers. Each school district shall have the~~
17 ~~power and may levy, assess and collect a tax on each dollar of~~
18 ~~the whole volume of business transacted by wholesale dealers in~~
19 ~~goods, wares and merchandise.~~

20 ~~(b) Retail sales. Each school district shall have the power~~
21 ~~and may levy, assess and collect a tax on each dollar of sales~~
22 ~~by:~~

23 ~~(1) Retail dealers in goods, wares and merchandise,~~
24 ~~including proprietors of restaurants or other places where~~
25 ~~food, drink and refreshments are served.~~

26 ~~(2) Providers of services.~~

27 ~~(c) Transactions partially free of tax. No tax shall be~~
28 ~~levied on the dollar volume of business transacted by wholesale~~
29 ~~and retail dealers derived from the resale of goods, wares and~~
30 ~~merchandise, taken by any dealer as a trade in or as part~~



~~1 payment for other goods, wares and merchandise, except to the
2 extent that the resale price exceeds the trade-in allowance.~~

~~3 Section 614. Exclusions from tax.~~

~~4 A tax under section 613 may not be levied, assessed or
5 collected on:~~

~~6 (1) The gross receipts from utility service of any
7 person or company whose rates and services are fixed and
8 regulated by the Pennsylvania Public Utility Commission, on
9 any public utility services rendered by the person or
10 company, on any privilege or transaction involving the
11 rendering of the public utility service or on any Federal
12 Energy Regulation Commission approved qualifying facility.~~

~~13 (2) Any of the following:~~

~~14 (i) Goods and articles manufactured in the school
15 district.~~

~~16 (ii) The by products of manufacture.~~

~~17 (iii) Minerals, timber, natural resources and farm
18 products produced in the school district.~~

~~19 (iv) The preparation or processing of items under
20 subparagraph (iii) for use or market.~~

~~21 (v) Any privilege, act or transaction related to the
22 business of manufacturing, the production, preparation or
23 processing of minerals, timber and natural resources or
24 farm products, by manufacturers, by producers and by
25 farmers with respect to the goods, articles and products
26 of their own manufacture, production or growth.~~

~~27 (vi) Any privilege, act or transaction relating to
28 the business of processing by products of manufacture.~~

~~29 (vii) The transportation, loading, unloading or
30 dumping or storage of goods, articles, products or by~~



~~products under this paragraph, except that school districts may levy, assess and collect taxes on a person using municipal services and the personal income of natural persons engaged in these activities whether doing business as an individual proprietorship or as members of partnerships or other associations.~~

~~(3) Gross receipts or part of gross receipts which are:~~

~~(i) Discounts allowed to purchasers as cash discounts for prompt payment of their bills.~~

~~(ii) Charges advanced by a seller for freight, delivery or other transportation for the purchaser in accordance with the terms of a contract of sale.~~

~~(iii) Received upon the sale of an article of personal property which was acquired by the seller as a trade in to the extent that the gross receipts in the sale of the article taken in trade does not exceed the amount of trade in allowance made in acquiring the article.~~

~~(iv) Refunds, credits or allowances given to a purchaser on account of defects in goods sold or merchandise returned.~~

~~(v) Pennsylvania sales tax and any sales tax, use tax and occupancy tax imposed under law.~~

~~(vi) Based on the value of exchanges or transfers between one seller and another seller who transfers property with the understanding that property of an identical description will be returned at a subsequent date, except that if sellers engaged in similar lines of business exchange property and one of them makes payment to the other in addition to the property exchanged, the~~



1 ~~additional payment received may be included in the gross~~
2 ~~receipts of the seller receiving such additional cash~~
3 ~~payments.~~

4 ~~(vii) Receipts of sellers from sales to other~~
5 ~~sellers in the same line where the seller transfers the~~
6 ~~title or possession at the same price for which the~~
7 ~~seller acquired the merchandise.~~

8 ~~(viii) Transfers between one department, branch or~~
9 ~~division of a corporation or other business entity of~~
10 ~~goods, wares and merchandise to another department,~~
11 ~~branch or division of the same corporation or business~~
12 ~~entity and which are recorded on the books to reflect~~
13 ~~such interdepartmental transactions.~~

14 ~~(ix) Transfers attributable to activities occurring~~
15 ~~outside the taxing authority. Gross receipts shall be~~
16 ~~attributed to the jurisdiction in which the activities~~
17 ~~generating the receipts occur.~~

18 ~~(4) The gross receipts of:~~

19 ~~(i) Any bank, bank and trust company, private bank,~~
20 ~~savings bank or trust company, as defined in the act of~~
21 ~~November 30, 1965 (P.L.847, No.356), known as the Banking~~
22 ~~Code of 1965.~~

23 ~~(ii) Any other institution or entity subject to the~~
24 ~~supervision of the Department of Banking under section~~
25 ~~201 of the act of May 15, 1933 (P.L.565, No.111), known~~
26 ~~as the Department of Banking Code.~~

27 ~~(iii) Any national bank.~~

28 ~~(iv) Any similar institution or entity established~~
29 ~~pursuant to Federal law or the law of any state.~~

30 ~~(5) The gross receipts of any distributor or importing~~



~~distributor of malt or brewed beverages subject to licensure under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.~~

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

CHAPTER 1

PRELIMINARY PROVISIONS

Section 101. Short title.

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

Section 102. Definitions.

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

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

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

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

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

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

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

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

"School district." A school district of the first class,



1 first class A, second class, third class or fourth class,
2 including any independent school district. For purposes of the
3 levy, assessment and collection of any tax in a school district
4 of the first class, the term shall include the City Council.

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

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

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

11 CHAPTER 3

12 TAXATION BY SCHOOL DISTRICTS

13 Section 301. Scope.

14 This chapter authorizes school districts to levy, assess and
15 collect a tax on personal income or a tax on earned income and
16 net profits as a means of abolishing property taxation by the
17 school district.

18 Section 302. Definitions.

19 The words and phrases used in this chapter shall have the
20 same meanings given to them in the Tax Reform Code of 1971 or
21 The Local Tax Enabling Act unless the context clearly indicates
22 otherwise.

23 Section 303. Limitation.

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

26 Section 304. Preemption.

27 No act of the General Assembly shall vacate or preempt any
28 resolution passed or adopted under the authority of this
29 chapter, or any other act, providing authority for the
30 imposition of a tax by a school district, unless the act of the



1 General Assembly expressly vacates or preempts the authority to
2 pass or adopt resolutions.

3 Section 305. General tax authorization.

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

8 (b) Personal income tax.--

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

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

14 (3) If a board of school directors seeks to impose a
15 personal income tax under this subsection and the referendum
16 under section 306 is approved by the electorate, the board of
17 school directors shall have no authority to impose an earned
18 income and net profits tax under subsection (c) or any other
19 act.

20 (4) A personal income tax imposed under the authority of
21 this section shall be levied by the school district on each
22 of the classes of income specified in section 303 of the Tax
23 Reform Code of 1971 and regulations under that section,
24 provisions of which are incorporated by reference into this
25 chapter.

26 (i) Notwithstanding the provisions of section 353(f)
27 of the Tax Reform Code of 1971, the Department of Revenue
28 may permit the proper officer or an authorized agent of a
29 school district imposing a personal income tax pursuant
30 to this chapter to inspect the tax returns of any



1 taxpayer of the school district or may furnish to the
2 officer or an authorized agent an abstract of the return
3 of income of any current or former resident of the school
4 district or supply information concerning any item of
5 income contained in any tax return. The officer or
6 authorized agent of the school district imposing a tax
7 under this chapter shall be furnished the requested
8 information upon payment to the Department of Revenue of
9 the actual cost of providing the requested information.

10 (ii) (A) Except for official purposes or as
11 provided by law, it shall be unlawful for any officer
12 or authorized agent of a school district to do any of
13 the following:

14 (I) Disclose to any other individual or
15 entity the amount or source of income, profits,
16 losses, expenditures or any particular
17 information concerning income, profits, losses or
18 expenditures contained in any return.

19 (II) Permit any other individual or entity
20 to view or examine any return or copy of a return
21 or any book containing any abstract or
22 particulars.

23 (III) Print, publish or publicize in any
24 manner any return; any particular information
25 contained in or concerning the return; any amount
26 or source of income, profits, losses or
27 expenditures in or concerning the return; or any
28 particular information concerning income,
29 profits, losses or expenditures contained in or
30 relating to any return.



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

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

5 (II) May be removed from office or
6 discharged from employment.

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

8 (1) A board of school directors may levy, assess and
9 collect a tax on earned income and net profits of resident
10 individuals at a rate determined by the board of school
11 directors.

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

14 (3) If a board of school directors seeks to impose a tax
15 on earned income and net profits under this subsection and
16 the referendum under section 306 is approved by the
17 electorate, the board of school directors shall have no
18 authority to impose a personal income tax under subsection
19 (b) or any other act.

20 Section 306. Referendum.

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

25 (b) Approved by electorate.--

26 (1) Subject to notice and public hearing requirements of
27 subsection (g), a governing body may levy the personal income
28 tax or earned income and net profits tax under this chapter
29 only by obtaining the approval of the electorate of the
30 affected school district in a public referendum at only the



1 primary election preceding the fiscal year when the personal
2 income tax or earned income and net profits tax will be
3 initially imposed or the rate increased.

4 (2) The referendum question must state the initial rate
5 of the proposed personal income tax or earned income and net
6 profits tax, the purpose of the tax, the duration of the tax
7 and the amount of revenue to be generated by the
8 implementation of the tax.

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

12 Do you favor paying a personal income tax of X% for
13 the purpose of X, for X years, which will generate
14 \$X?

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

18 (4) A nonlegal interpretative statement must accompany
19 the question in accordance with section 201.1 of the act of
20 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
21 Election Code, that includes the following:

22 (i) the initial rate of the personal income or
23 earned income and net profits tax imposed under this
24 chapter; and

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

27 (c) School district located in more than one county.--In the
28 event a school district is located in more than one county,
29 petitions under this section shall be filed with the election
30 officials of the county in which the administrative offices of



1 the school district are located.

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

6 (e) Notification.--

7 (1) If the election officials of the county who receive
8 the petition certify that it is sufficient under this section
9 and determine that a question should be placed on the ballot,
10 the decision shall be communicated to election officials in
11 any other county in which the school district is also
12 located.

13 (2) Election officials in the other county or counties
14 shall cooperate with election officials of the county that
15 receives the petition to ensure that an identical question is
16 placed on the ballot at the same election throughout the
17 entire school district.

18 (f) Certification of results.--Election officials from each
19 county involved shall independently certify the results from
20 their county to the governing body.

21 (g) Adoption of resolution.--

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

25 (2) Prior to adopting a resolution imposing the tax
26 authorized by this section, the governing body shall give
27 public notice of its intent to adopt the resolution in the
28 manner provided by The Local Tax Enabling Act and shall
29 conduct at least two public hearings regarding the proposed
30 adoption of the resolution. One public hearing shall be



1 conducted during normal business hours and one public hearing
2 shall be conducted during evening hours or on a weekend.

3 Section 307. Continuity of tax.

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

8 Section 308. Collections.

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

12 Section 309. Credits.

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

17 (b) Limitation.--Payment of any tax on income to any state
18 other than Pennsylvania or to any political subdivision located
19 outside the boundaries of this Commonwealth by a resident of a
20 school district located in this Commonwealth shall not be
21 credited to and allowed as a deduction from the liability of
22 such person for any income tax imposed by the school district of
23 residence pursuant to this chapter.

24 Section 310. Exemption and special provisions.

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

29 (b) Applicability to personal income tax.--Section 304 of
30 the Tax Reform Code of 1971 shall apply to any personal income



1 tax levied by a school district under section 305(b).

2 Section 311. Regulations.

3 A school district that imposes:

4 (1) an earned income and net profits tax authorized
5 under section 305(c) shall be subject to the provisions of
6 The Local Tax Enabling Act and may adopt procedures for the
7 processing of claims for credits and exemptions under section
8 309 and 310; or

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

13 CHAPTER 4

14 EDUCATION TAX

15 Section 401. Education tax.

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

20 (b) Imposition of tax.--

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

27 (2) Every nonresident individual, estate or trust shall
28 be subject to, and shall pay for the privilege of receiving
29 each of the classes of income enumerated in section 303 of
30 the Tax Reform Code of 1971 from sources within this



1 Commonwealth, a tax upon each dollar of income received by
2 that nonresident during that nonresident's taxable year at
3 the rate of 1.27%.

4 (c) Deposit in Education Stabilization Fund.--All moneys
5 collected under this section shall be deposited in the Education
6 Stabilization Fund.

7 (d) Combination of tax forms.--The department shall
8 incorporate the taxpayer reporting requirement for the
9 implementation of this section into the forms utilized by the
10 department under Article III of the Tax Reform Code of 1971.

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

14 CHAPTER 7

15 SALES AND USE TAX FOR THE
16 STABILIZATION OF EDUCATION FUNDING

17 SUBCHAPTER A

18 PRELIMINARY PROVISIONS

19 Section 701. Scope.

20 The tax provided for under this chapter shall be known as the
21 Sales and Use Tax for the Stabilization of Education Funding,
22 which shall be a replacement for the sales and use tax
23 authorized under Article II of the Tax Reform Code of 1971 and
24 that is repealed by this act.

25 Section 701.1. Definitions.

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

29 (a) "Soft drinks."

30 (1) All nonalcoholic beverages, whether carbonated or



1 not, such as soda water, ginger ale, Coca Cola, lime cola,
2 Pepsi Cola, Dr Pepper, fruit juice when plain or carbonated
3 water, flavoring or syrup is added, carbonated water,
4 orangeade, lemonade, root beer or any and all preparations,
5 commonly referred to as soft drinks, of whatsoever kind, and
6 are further described as including any and all beverages,
7 commonly referred to as soft drinks, which are made with or
8 without the use of any syrup.

9 (2) The term does not include natural fruit or vegetable
10 juices or their concentrates, or noncarbonated fruit juice
11 drinks containing not less than 25% by volume of natural
12 fruit juices or of fruit juice which has been reconstituted
13 to its original state, or natural concentrated fruit or
14 vegetable juices reconstituted to their original state,
15 whether any of the natural juices are frozen or unfrozen,
16 sweetened or unsweetened, seasoned with salt or spice or
17 unseasoned. The term also does not include coffee, coffee
18 substitutes, tea, cocoa, natural fluid milk or noncarbonated
19 drinks made from milk derivatives.

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

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



1 this Commonwealth.

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

16 (3) Regularly or substantially soliciting orders within
17 this Commonwealth in connection with the lease, sale or
18 delivery of tangible personal property to or the performance
19 thereon of services or in connection with the sale or
20 delivery of the services described in subclauses (11) through
21 (18) of clause (k) of this section for residents of this
22 Commonwealth by means of catalogs or other advertising,
23 whether the orders are accepted within or without this
24 Commonwealth.

25 (3.1) Entering this Commonwealth by any person to
26 provide assembly, service or repair of tangible personal
27 property, either directly or through a subsidiary,
28 representative or an agent.

29 (3.2) Delivering tangible personal property to locations
30 within this Commonwealth if the delivery includes the



1 unpacking, positioning, placing or assembling of the tangible
2 personal property.

3 (3.3) Having any contact within this Commonwealth which
4 would allow the Commonwealth to require a person to collect
5 and remit tax under the Constitution of the United States.

6 (3.4) Providing a customer's mobile telecommunications
7 service deemed to be provided by the customer's home service
8 provider under the Mobile Telecommunications Sourcing Act (4
9 U.S.C. § 116). For purposes of this clause, words and phrases
10 used in this clause shall have the meanings given to them in
11 the Mobile Telecommunications Sourcing Act.

12 (4) The term does not include:

13 (i) Owning or leasing of tangible or intangible
14 property by a person who has contracted with an
15 unaffiliated commercial printer for printing, provided
16 that:

17 (A) the property is for use by the commercial
18 printer; and

19 (B) the property is located at the Pennsylvania
20 premises of the commercial printer.

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

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

26 A service performed:

27 (1) completely in this Commonwealth;

28 (2) partially in this Commonwealth and partially outside
29 this Commonwealth, when the recipient or user of the service
30 is located in this Commonwealth; or



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

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

7 A service performed partially in this Commonwealth and partially
8 outside this Commonwealth shall be presumed to have been
9 performed completely in this Commonwealth unless the taxpayer
10 can show the place of performance by clear and convincing
11 evidence. With respect to interstate telecommunications
12 services, only services for interstate telecommunications which
13 originate or are terminated in this Commonwealth and which are
14 billed and charged to a service address in this Commonwealth
15 shall be presumed to have been performed completely in this
16 Commonwealth and shall be subject to tax.

17 (c) "Manufacture." The performance of manufacturing,
18 fabricating, compounding, processing or other operations,
19 engaged in as a business, which place any tangible personal
20 property in a form, composition or character different from that
21 in which it is acquired whether for sale or use by the
22 manufacturer, and shall include, but not be limited to:

23 (1) Every operation commencing with the first production
24 stage and ending with the completion of tangible personal
25 property having the physical qualities, including packaging,
26 if any, passing to the ultimate consumer, which it has when
27 transferred by the manufacturer to another. For purposes of
28 this definition, "operation" includes clean rooms and their
29 component systems, including: environmental control systems,
30 antistatic vertical walls and manufacturing platforms and



1 floors which are independent of the real estate; process
2 piping systems; specialized lighting systems; deionized water
3 systems; process vacuum and compressed air systems; process
4 and specialty gases; and alarm or warning devices
5 specifically designed to warn of threats to the integrity of
6 the product or people. For purposes of this definition, a
7 "clean room" is a location with a self-contained, sealed
8 environment with a controlled, closed air system independent
9 from the facility's general environmental control system.

10 (2) The publishing of books, newspapers, magazines and
11 other periodicals and printing.

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

16 (4) Building, rebuilding, repairing and making additions
17 to, or replacements in or upon vessels designed for
18 commercial use of registered tonnage of 50 tons or more when
19 produced on special order of the purchaser, or when rebuilt,
20 repaired or enlarged, or when replacements are made upon
21 order of or for the account of the owner.

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

24 (i) product or utility service; or

25 (ii) method of producing a product or utility
26 service,

27 but in either case not including market research or research
28 having as its objective the improvement of administrative
29 efficiency.

30 (6) Remanufacture for wholesale distribution by a



1 remanufacturer of motor vehicle parts from used parts
2 acquired in bulk by the remanufacturer using an assembly line
3 process which involves the complete disassembly of such parts
4 and integration of the components of such parts with other
5 used or new components of parts, including the salvaging,
6 recycling or reclaiming of used parts by the remanufacturer.

7 (7) Remanufacture or retrofit by a manufacturer or
8 remanufacturer of aircraft, armored vehicles, other defense-
9 related vehicles having a finished value of at least \$50,000.
10 Remanufacture or retrofit involves the disassembly of such
11 aircraft, vehicles, parts or components, including electric
12 or electronic components, the integration of those parts and
13 components with other used or new parts or components,
14 including the salvaging, recycling or reclaiming of the used
15 parts or components and the assembly of the new or used
16 aircraft, vehicles, parts or components. The term does not
17 include constructing, altering, servicing, repairing or
18 improving real estate or repairing, servicing or installing
19 tangible personal property, nor the cooking, freezing or
20 baking of fruits, vegetables, mushrooms, fish, seafood,
21 meats, poultry or bakery products. For purposes of this
22 clause, the following terms or phrases have the following
23 meanings:

24 (i) "aircraft" means fixed-wing aircraft,
25 helicopters, powered aircraft, tilt-rotor or tilt-wing
26 aircraft, unmanned aircraft and gliders;

27 (ii) "armored vehicles" means tanks, armed personnel
28 carriers and all other armed track or semitrack vehicles;
29 and

30 (iii) "other defense-related vehicles" means trucks,



1 truck-tractors, trailers, jeeps and other utility
2 vehicles, including any unmanned vehicles.

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

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

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

14 (1.1) The processing of fruits or vegetables by
15 cleaning, cutting, coring, peeling or chopping and treating
16 to preserve, sterilize or purify and substantially extend the
17 useful shelf life of the fruits or vegetables, when the
18 person engaged in the activity packages the property in
19 sealed containers for wholesale distribution.

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

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

29 (3.1) The blanking, shearing, leveling, slitting or
30 burning of metals for sale to or use by a manufacturer or



1 processor.

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

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

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

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

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

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

19 (9.1) The aging, stripping, conditioning, crushing and
20 blending of tobacco leaves for use as cigar filler or as
21 components of smokeless tobacco products for sale to
22 manufacturers of tobacco products.

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

27 (11) The processing of used lubricating oils.

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

30 (13) The cooking or baking of bread, pastries, cakes,



1 cookies, muffins and donuts when the person engaged in the
2 activity sells the items at retail at locations that do not
3 constitute an establishment from which ready-to-eat food and
4 beverages are sold. For purposes of this clause, a bakery, a
5 pastry shop and a donut shop shall not be considered an
6 establishment from which ready-to-eat food and beverages are
7 sold.

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

11 (15) The preparation of dry or liquid fertilizer for
12 sale.

13 (16) The production, processing and packaging of ice for
14 wholesale distribution.

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

17 (e) "Person." Any natural person, association, fiduciary,
18 partnership, corporation or other entity, including the
19 Commonwealth of Pennsylvania, its political subdivisions and
20 instrumentalities and public authorities. Whenever used in
21 prescribing and imposing a penalty or imposing a fine or
22 imprisonment, or both, the term as applied to an association,
23 includes the members of the association and, as applied to a
24 corporation, the officers of the corporation.

25 (f) "Purchase at retail."

26 (1) The acquisition for a consideration of the
27 ownership, custody or possession of tangible personal
28 property other than for resale by the person acquiring the
29 same when the acquisition is made for the purpose of
30 consumption or use, whether the acquisition is absolute or



1 conditional, and by any means it is effected.

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

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

9 (4) A retention after March 7, 1956, of possession,
10 custody or a license to use or consume pursuant to a rental
11 contract or other lease arrangement (other than as security)
12 other than for resale.

13 (5) The obtaining for a consideration of those services
14 described in subclauses (11) through (18) of clause (k) of
15 this section.

16 The term, with respect to liquor and malt or brewed beverages,
17 includes the purchase of liquor from any Pennsylvania Liquor
18 Store by any person for any purpose, and the purchase of malt or
19 brewed beverages from a manufacturer of malt or brewed
20 beverages, distributor or importing distributor by any person
21 for any purpose, except purchases from a manufacturer of malt or
22 brewed beverages by a distributor or importing distributor or
23 purchases from an importing distributor by a distributor within
24 the meaning of the Liquor Code. The term does not include any
25 purchase of malt or brewed beverages from a retail dispenser or
26 any purchase of liquor or malt or brewed beverages from a person
27 holding a retail liquor license within the meaning of and
28 pursuant to the provisions of the Liquor Code, but includes any
29 purchase or acquisition of liquor or malt or brewed beverages
30 other than pursuant to the provisions of the Liquor Code.



1 (g) "Purchase price."

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

12 (2) The value of any tangible personal property actually
13 taken in trade or exchange in lieu of the whole or any part
14 of the purchase price shall be deducted from the purchase
15 price. For the purpose of this clause, the amount allowed by
16 reason of tangible personal property actually taken in trade
17 or exchange shall be considered the value of such property.

18 (3) (i) In determining the purchase price on the sale
19 or use of taxable tangible personal property or a service
20 where, because of affiliation of interests between the
21 vendor and purchaser, or irrespective of any such
22 affiliation, if for any other reason the purchase price
23 declared by the vendor or taxpayer on the taxable sale or
24 use of such tangible personal property or service is, in
25 the opinion of the department, not indicative of the true
26 value of the article or service or the fair price
27 thereof, the department shall, pursuant to uniform and
28 equitable rules, determine the amount of constructive
29 purchase price on the basis of which the tax shall be
30 computed and levied. The rules shall provide for a



1 constructive amount of purchase price for each sale or
2 use which would naturally and fairly be charged in an
3 arms-length transaction in which the element of common
4 interest between the vendor or purchaser is absent or, if
5 no common interest exists, any other element causing a
6 distortion of the price or value is likewise absent.

7 (ii) For the purpose of this clause where a taxable
8 sale or purchase at retail transaction occurs between a
9 parent and a subsidiary, affiliate or controlled
10 corporation of such parent corporation, there shall be a
11 rebuttable presumption, that because of the common
12 interest, the transaction was not at arms-length.

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



1 maintenance, insurance or repair of the tangible personal
2 property which a lessee has the possession or custody of
3 under a rental contract or lease arrangement.

4 (5) (i) With respect to the tax imposed by section
5 702(a)(2), on any tangible personal property originally
6 purchased by the user of the property six months or
7 longer prior to the first taxable use of the property
8 within this Commonwealth, the user may elect to pay tax
9 on a substituted base determined by considering the
10 purchase price of the property for tax purposes to be
11 equal to the prevailing market price of similar tangible
12 personal property at the time and place of the first use
13 within this Commonwealth.

14 (ii) The election must be made at the time of filing
15 a tax return with the department and reporting the tax
16 liability and paying the proper tax due plus all accrued
17 penalties and interest, if any, within six months of the
18 due date of such report and payment, as provided for by
19 section 717(a) and (c).

20 (6) The purchase price of employment agency services and
21 help supply services shall be the service fee paid by the
22 purchaser to the vendor or supplying entity. The term
23 "service fee," as used in this subclause, means the total
24 charge or fee of the vendor or supplying entity minus the
25 costs of the supplied employee which costs are wages,
26 salaries, bonuses and commissions, employment benefits,
27 expense reimbursements and payroll and withholding taxes, to
28 the extent that these costs are specifically itemized or that
29 these costs in aggregate are stated in billings from the
30 vendor or supplying entity. To the extent that these costs



1 are not itemized or stated on the billings, then the service
2 fee shall be the total charge or fee of the vendor or
3 supplying entity.

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

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

16 (h) "Purchaser." Any person who acquires, for a
17 consideration, the ownership, custody or possession by sale,
18 lease or otherwise of tangible personal property, or who obtains
19 services in exchange for a purchase price but not including an
20 employer who obtains services from his employees in exchange for
21 wages or salaries when such services are rendered in the
22 ordinary scope of their employment.

23 (i) "Resale."

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



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

15 (3) The term also includes tangible personal property
16 purchased or having a situs within this Commonwealth solely
17 for the purpose of being processed, fabricated or
18 manufactured into, attached to or incorporated into tangible
19 personal property and thereafter transported outside this
20 Commonwealth for use exclusively outside this Commonwealth.

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

26 (5) The physical incorporation of tangible personal
27 property as an ingredient or constituent in the construction
28 of foundations for machinery or equipment the sale or use of
29 which is excluded from tax under the provisions of paragraphs
30 (A), (B), (C) and (D) of subclause (8) of clause (k) and



1 subparagraphs (i), (ii), (iii) and (iv) of paragraph (B) of
2 subclause (4) of clause (o), whether the foundations at the
3 time of construction or transfer constitute tangible personal
4 property or real estate.

5 (j) "Resident."

6 (1) Any natural person:

7 (i) who is domiciled in this Commonwealth; or

8 (ii) who maintains a permanent place of abode within
9 this Commonwealth and spends in the aggregate more than
10 60 days of the year within this Commonwealth.

11 (2) Any corporation:

12 (i) incorporated under the laws of this
13 Commonwealth;

14 (ii) authorized to do business or doing business
15 within this Commonwealth; or

16 (iii) maintaining a place of business within this
17 Commonwealth.

18 (3) Any association, fiduciary, partnership or other
19 entity:

20 (i) domiciled in this Commonwealth;

21 (ii) authorized to do business or doing business
22 within this Commonwealth; or

23 (iii) maintaining a place of business within this
24 Commonwealth.

25 (k) "Sale at retail."

26 (1) Any transfer, for a consideration, of the ownership,
27 custody or possession of tangible personal property,
28 including the grant of a license to use or consume whether
29 the transfer is absolute or conditional and by any means the
30 transfer is effected.



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

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

6 (i) washing, cleaning, waxing, polishing or
7 lubricating of motor vehicles of another, regardless of
8 whether any tangible personal property is transferred in
9 conjunction with the activity; and

10 (ii) inspecting motor vehicles pursuant to the
11 mandatory requirements of 75 Pa.C.S. (relating to
12 vehicles).

13 (4) The rendition for a consideration of the service of
14 repairing, altering, mending, pressing, fitting, dyeing,
15 laundering, drycleaning or cleaning tangible personal
16 property other than wearing apparel or shoes, or applying or
17 installing tangible personal property as a repair or
18 replacement part of other tangible personal property other
19 than wearing apparel or shoes for a consideration, regardless
20 of whether the services are performed directly or by any
21 means other than by coin-operated self-service laundry
22 equipment for wearing apparel or household goods and whether
23 or not any tangible personal property is transferred in
24 conjunction with the activity, except such services as are
25 rendered in the construction, reconstruction, remodeling,
26 repair or maintenance of real estate.

27 (5) (Reserved).

28 (6) (Reserved).

29 (7) (Reserved).

30 (8) Any retention of possession, custody or a license to



1 use or consume tangible personal property or any further
2 obtaining of services described in subclauses (2), (3) and
3 (4) of this clause pursuant to a rental or service contract
4 or other arrangement (other than as security). The term does
5 not include:

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

8 (ii) the rendition of services or the transfer of
9 tangible personal property, including, but not limited
10 to, machinery and equipment and their parts and supplies
11 to be used or consumed by the purchaser directly in the
12 operations of:

13 (A) The manufacture of tangible personal
14 property.

15 (B) Farming, dairying, agriculture, horticulture
16 or floriculture when engaged in as a business
17 enterprise. The term "farming" includes the
18 propagation and raising of ranch raised fur-bearing
19 animals and the propagation of game birds for
20 commercial purposes by holders of propagation permits
21 issued under 34 Pa.C.S. (relating to game) and the
22 propagation and raising of horses to be used
23 exclusively for commercial racing activities.

24 (C) The producing, delivering or rendering of a
25 public utility service, or in constructing,
26 reconstructing, remodeling, repairing or maintaining
27 the facilities which are directly used in producing,
28 delivering or rendering the service.

29 (D) Processing as defined in clause (d). The
30 exclusions provided in this paragraph or paragraph



1 (A), (B) or (C) do not apply to any vehicle required
2 registered under 75 Pa.C.S. (relating to vehicles),
3 except those vehicles used directly by a public
4 utility engaged in business as a common carrier; to
5 maintenance facilities; or to materials, supplies or
6 equipment to be used or consumed in the construction,
7 reconstruction, remodeling, repair or maintenance of
8 real estate other than directly used machinery,
9 equipment, parts or foundations that may be affixed
10 to such real estate. The exclusions provided in this
11 paragraph or paragraph (A), (B) or (C) do not apply
12 to tangible personal property or services to be used
13 or consumed in managerial sales or other
14 nonoperational activities, nor to the purchase or use
15 of tangible personal property or services by any
16 person other than the person directly using the same
17 in the operations described in this paragraph or
18 paragraph (A), (B) or (C).

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

20 (i) construction materials, supplies or equipment
21 used to construct, reconstruct, remodel, repair or
22 maintain facilities not used directly by the purchaser in
23 the production, delivering or rendition of public utility
24 service;

25 (ii) construction materials, supplies or equipment
26 used to construct, reconstruct, remodel, repair or
27 maintain a building, road or similar structure; or

28 (iii) tools and equipment used but not installed in
29 the maintenance of facilities used directly in the
30 production, delivering or rendition of a public utility



1 service. The exclusions provided in paragraphs (A), (B),
2 (C) and (D) do not apply to the services enumerated in
3 clauses (k) (11) through (18) and (w) through (kk), except
4 that the exclusion provided in this subclause for
5 farming, dairying and agriculture shall apply to the
6 service enumerated in clause (z).

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

16 (10) The term, with respect to liquor and malt or brewed
17 beverages, includes the sale of liquor by any Pennsylvania
18 liquor store to any person for any purpose, and the sale of
19 malt or brewed beverages by a manufacturer of malt or brewed
20 beverages, distributor or importing distributor to any person
21 for any purpose, except sales by a manufacturer of malt or
22 brewed beverages to a distributor or importing distributor or
23 sales by an importing distributor to a distributor within the
24 meaning of the act of April 12, 1951 (P.L.90, No.21), known
25 as the Liquor Code. The term does not include any sale of
26 malt or brewed beverages by a retail dispenser or any sale of
27 liquor or malt or brewed beverages by a person holding a
28 retail liquor license within the meaning of and pursuant to
29 the provisions of the Liquor Code, but shall include any sale
30 of liquor or malt or brewed beverages other than pursuant to



1 the provisions of the Liquor Code.

2 (11) The rendition for a consideration of lobbying
3 services.

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

6 (13) The rendition for a consideration of secretarial or
7 editing services.

8 (14) The rendition for a consideration of disinfecting
9 or pest control services, building maintenance or cleaning
10 services.

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

13 (16) (Reserved).

14 (17) The rendition for a consideration of lawn care
15 service.

16 (18) The rendition for a consideration of self-storage
17 service.

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

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

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

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



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

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

10 (l) "Storage." Any keeping or retention of tangible
11 personal property within this Commonwealth for any purpose
12 including the interim keeping, retaining or exercising any right
13 or power over such tangible personal property. This term is in
14 no way limited to the provision of self-storage service.

15 (m) "Tangible personal property." Corporeal personal
16 property including, but not limited to, goods, wares,
17 merchandise, steam and natural and manufactured and bottled gas
18 for non-residential use, electricity for non-residential use,
19 prepaid telecommunications, premium cable or premium video
20 programming service, spirituous or vinous liquor and malt or
21 brewed beverages and soft drinks, interstate telecommunications
22 service originating or terminating in this Commonwealth and
23 charged to a service address in this Commonwealth, intrastate
24 telecommunications service with the exception of:

25 (1) Subscriber line charges and basic local telephone
26 service for residential use.

27 (2) Charges for telephone calls paid for by inserting
28 money into a telephone accepting direct deposits of money to
29 operate, provided further, the service address of any
30 intrastate telecommunications service is deemed to be within



1 this Commonwealth or within a political subdivision,
2 regardless of how or where billed or paid.

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

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

11 (o) "Use."

12 (1) The exercise of any right or power incidental to the
13 ownership, custody or possession of tangible personal
14 property and includes, but is not limited to, transportation,
15 storage or consumption.

16 (2) The obtaining by a purchaser of the service of
17 printing or imprinting of tangible personal property when the
18 purchaser furnishes, either directly or indirectly, the
19 articles used in the printing or imprinting.

20 (3) The obtaining by a purchaser of the services of:

21 (i) washing, cleaning, waxing, polishing or
22 lubricating of motor vehicles regardless of whether any
23 tangible personal property is transferred to the
24 purchaser in conjunction with the services; and

25 (ii) inspecting motor vehicles pursuant to the
26 mandatory requirements of 75 Pa.C.S. (relating to
27 vehicles).

28 (4) The obtaining by a purchaser of the service of
29 repairing, altering, mending, pressing, fitting, dyeing,
30 laundering, drycleaning or cleaning tangible personal



1 property other than wearing apparel or shoes or applying or
2 installing tangible personal property as a repair or
3 replacement part of other tangible personal property,
4 including, but not limited to, wearing apparel or shoes,
5 regardless of whether the services are performed directly or
6 by any means other than by means of coin-operated self-
7 service laundry equipment for wearing apparel or household
8 goods, and regardless of whether any tangible personal
9 property is transferred to the purchaser in conjunction with
10 the activity. The term "use" does not include:

11 (A) Any tangible personal property acquired and
12 kept, retained or over which power is exercised
13 within this Commonwealth on which the taxing of the
14 storage, use or other consumption thereof is
15 expressly prohibited by the Constitution of the
16 United States or which is excluded from tax under
17 other provisions of this chapter.

18 (B) The use or consumption of tangible personal
19 property, including, but not limited to, machinery
20 and equipment and parts therefor, and supplies or the
21 obtaining of the services described in subclauses
22 (2), (3) and (4) of this clause directly in the
23 operations of:

24 (i) The manufacture of tangible personal property.

25 (ii) Farming, dairying, agriculture, horticulture or
26 floriculture when engaged in as a business enterprise.
27 The term includes the propagation and raising of ranch-
28 raised furbearing animals and the propagation of game
29 birds for commercial purposes by holders of propagation
30 permits issued under 34 Pa.C.S. (relating to game) and



1 the propagation and raising of horses to be used
2 exclusively for commercial racing activities.

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

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

29 (A) construction materials, supplies or
30 equipment used to construct, reconstruct, remodel,



1 repair or maintain facilities not used directly by
2 the purchaser in the production, delivering or
3 rendition of public utility service; or

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

8 The exclusion provided in subparagraphs (i), (ii), (iii)
9 and this subparagraph does not apply to the services
10 enumerated in clauses (9) through (16) and (w) through
11 (kk), except that the exclusion provided in subparagraph
12 (ii) for farming, dairying and agriculture shall apply to
13 the service enumerated in clause (z).

14 (5) Where tangible personal property or services are
15 utilized for purposes constituting a use, and for purposes
16 excluded from the definition of "use," it shall be presumed
17 that the property or services are utilized for purposes
18 constituting a sale at retail and subject to tax unless the
19 user proves to the department that the predominant purposes
20 for which the property or services are utilized do not
21 constitute a sale at retail.

22 (6) The term, with respect to liquor and malt or brewed
23 beverages, includes the purchase of liquor from any
24 Pennsylvania Liquor Store by any person for any purpose and
25 the purchase of malt or brewed beverages from a manufacturer
26 of malt or brewed beverages, distributor or importing
27 distributor by any person for any purpose, except purchases
28 from a manufacturer of malt or brewed beverages by a
29 distributor or importing distributor, or purchases from an
30 importing distributor by a distributor within the meaning of



1 the act of April 12, 1951 (P.L.90, No.21), known as the
2 Liquor Code. The term does not include any purchase of malt
3 or brewed beverages from a retail dispenser or any purchase
4 of liquor or malt or brewed beverages from a person holding a
5 retail liquor license within the meaning of and pursuant to
6 the provisions of the Liquor Code, but includes the exercise
7 of any right or power incidental to the ownership, custody or
8 possession of liquor or malt or brewed beverages obtained by
9 the person exercising the right or power in any manner other
10 than pursuant to the provisions of the Liquor Code.

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

15 (8) (Reserved).

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

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

19 (11) The obtaining by the purchaser of secretarial or
20 editing services.

21 (12) The obtaining by the purchaser of disinfecting or
22 pest control services, building maintenance or cleaning
23 services.

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

26 (14) (Reserved).

27 (15) The obtaining by the purchaser of lawn care
28 service.

29 (16) The obtaining by the purchaser of self-storage
30 service.



1 (17) The obtaining by a construction contractor of
2 tangible personal property or services provided to tangible
3 personal property which will be used pursuant to a
4 construction contract regardless of whether the tangible
5 personal property or services are transferred.

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

8 (19) Except as otherwise provided under section 704, the
9 obtaining by the purchaser of any service, not otherwise set
10 forth in this definition, when the primary objective of the
11 purchaser is the receipt of any benefit of the service
12 performed, as distinguished from the receipt of property. The
13 following provisions shall apply:

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

17 (ii) Any service performed in this Commonwealth
18 shall be subject to the tax imposed under this chapter
19 unless specifically exempted in this chapter.

20 (iii) With respect to services performed in this
21 Commonwealth for a recipient or user of the services
22 located in another state in which the services, had they
23 been performed in that state, would not be subject to a
24 sales or use tax under the laws of that state, then no
25 tax may be imposed under this chapter.

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

29 (p) "Vendor." Any person maintaining a place of business in
30 this Commonwealth, selling or leasing tangible personal



1 property, or rendering services, the sale or use of which is
2 subject to the tax imposed by this chapter but not including any
3 employee who in the ordinary scope of employment renders
4 services to his employer in exchange for wages and salaries.

5 (q) (Reserved).

6 (r) "Gratuity." Any amount paid or remitted for services
7 performed in conjunction with any sale of food or beverages, or
8 hotel or motel accommodations which amount is in excess of the
9 charges and the tax for such food, beverages or accommodations
10 regardless of the method of billing or payment.

11 (s) "Commercial aircraft operator." A person, excluding a
12 scheduled airline who engages in any or all of the following:
13 charter of aircraft, leasing of aircraft, aircraft sales,
14 aircraft rental, flight instruction, air freight or any other
15 flight activities for compensation.

16 (t) "Transient vendor."

17 (1) Any person who:

18 (i) brings into this Commonwealth, by automobile,
19 truck or other means of transportation, or purchases in
20 this Commonwealth tangible personal property the sale or
21 use of which is subject to the tax imposed by this
22 chapter or comes into this Commonwealth to perform
23 services the sale or use of which is subject to the tax
24 imposed by this chapter;

25 (ii) offers or intends to offer the tangible
26 personal property or services for sale at retail within
27 this Commonwealth; and

28 (iii) does not maintain an established office,
29 distribution house, saleshouse, warehouse, service
30 enterprise, residence from which business is conducted or



1 other place of business within this Commonwealth.

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

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

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

15 (v) "Show." An event, the primary purpose of which involves
16 the display or exhibition of any tangible personal property or
17 services for sale, including, but not limited to, a flea market,
18 antique show, coin show, stamp show, comic book show, hobby
19 show, automobile show, fair or any similar show, whether held
20 regularly or of a temporary nature, at which more than one
21 vendor displays for sale or sells tangible personal property or
22 services subject to tax under section 702.

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

26 (x) "Adjustment services, collection services or credit
27 reporting services." Providing collection or adjustments of
28 accounts receivable or mercantile or consumer credit reporting,
29 including, but not limited to, services of the type provided by
30 adjustment bureaus or collection agencies, consumer or



1 mercantile credit reporting bureaus, credit bureaus or agencies,
2 credit clearinghouses or credit investigation services. The term
3 does not include providing credit card service with collection
4 by a central agency, providing debt counseling or adjustment
5 services to individuals or billing or collection services
6 provided by local exchange telephone companies.

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

11 (z) "Disinfecting or pest control services." Providing
12 disinfecting, termite control, insect control, rodent control or
13 other pest control services. The term includes, but is not
14 limited to, deodorant servicing of rest rooms, washroom
15 sanitation service, rest room cleaning service, extermination
16 service or fumigating service. As used in this clause, the term
17 "fumigating service" does not include the fumigation of
18 agricultural commodities or containers used for agricultural
19 commodities. As used in this clause, the term "insect control"
20 does not include the gypsy moth control spraying of trees which
21 are harvested for commercial purposes.

22 (aa) "Building maintenance or cleaning services." Providing
23 services which include, but are not limited to, janitorial, maid
24 or housekeeping service, office or interior building cleaning or
25 maintenance service, window cleaning service, floor waxing
26 service, lighting maintenance service such as bulb replacement,
27 cleaning, chimney cleaning service, acoustical tile cleaning
28 service, venetian blind cleaning, cleaning and maintenance of
29 telephone booths or cleaning and degreasing of service stations.
30 The term does not include: repairs on buildings and other



1 structures; the maintenance or repair of boilers, furnaces and
2 residential air conditioning equipment or their parts; the
3 painting, wallpapering or applying other like coverings to
4 interior walls, ceilings or floors; or the exterior painting of
5 buildings.

6 (bb) "Employment agency services." Providing employment
7 services to a prospective employer or employee other than
8 employment services provided by theatrical employment agencies
9 and motion picture casting bureaus. The term includes, but is
10 not limited to, services of the type provided by employment
11 agencies, executive placing services and labor contractor
12 employment agencies other than farm labor.

13 (cc) "Help supply services." Providing temporary or
14 continuing help where the help supplied is on the payroll of the
15 supplying person or entity, but is under the supervision of the
16 individual or business to which help is furnished. The term
17 includes, but is not limited to, service of a type provided by
18 labor and manpower pools, employee leasing services, office help
19 supply services, temporary help services, usher services,
20 modeling services or fashion show model supply services. The
21 term does not include: providing farm labor services or human
22 health-related services, including nursing, home health care and
23 personal care. As used in this clause, "personal care" shall
24 include providing at least one of the following types of
25 assistance to persons with limited ability for self-care:

- 26 (1) dressing, bathing or feeding;
- 27 (2) supervising self-administered medication;
- 28 (3) transferring a person to or from a bed or
29 wheelchair; or
- 30 (4) routine housekeeping chores when provided in



1 conjunction with and supplied by the same provider of the
2 assistance listed in subclause (1), (2) or (3).

3 (dd) (Reserved).

4 (ee) (Reserved).

5 (ff) (Reserved).

6 (gg) (Reserved).

7 (hh) (Reserved).

8 (ii) (Reserved).

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

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

17 (1) safe deposit boxes by financial institutions;

18 (2) storage in refrigerator or freezer units;

19 (3) storage in commercial warehouses;

20 (4) facilities for goods distribution; and

21 (5) lockers in airports, bus stations, museums and other
22 public places.

23 (ll) "Cable or video programming service." Cable television
24 services, video programming services, community antenna
25 television services or any other distribution of television,
26 video, audio or radio services which is transmitted with or
27 without the use of wires to purchasers.

28 If a purchaser receives or agrees to receive cable or video
29 programming service, then the following charges are included in
30 the purchase price: charges for installation or repair of any



1 cable or video programming service, upgrade to include
2 additional premium cable or premium video programming service,
3 downgrade to exclude all or some premium cable or premium video
4 programming service, additional cable outlets in excess of ten
5 or any other charge or fee related to cable or video programming
6 services. The term does not apply to: transmissions by public
7 television, public radio services or official Federal, State or
8 local government cable services; local origination programming
9 which provides a variety of public service programs unique to
10 the community, programming which provides coverage of public
11 affairs issues which are presented without commentary or
12 analysis, including United States Congressional proceedings, or
13 programming which is substantially related to religious
14 subjects; or subscriber charges for access to a video dial tone
15 system or charges by a common carrier to a video programmer for
16 the transport of video programming.

17 (mm) (Reserved).

18 (nn) "Construction contract." A written or oral contract or
19 agreement for the construction, reconstruction, remodeling,
20 renovation or repair of real estate or a real estate structure.
21 The term shall not apply to services which are taxable under
22 clauses (k) (14) and (17) and (o) (12) and (15).

23 (oo) "Construction contractor." A person who performs an
24 activity pursuant to a construction contract, including a
25 subcontractor.

26 (pp) "Building machinery and equipment." Generation
27 equipment, storage equipment, conditioning equipment,
28 distribution equipment and termination equipment, limited to the
29 following:

30 (1) air conditioning limited to heating, cooling,



1 purification, humidification, dehumidification and
2 ventilation;

3 (2) electrical;

4 (3) plumbing;

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

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

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

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

12 (8) laboratory system;

13 (9) cathodic protection system; or

14 (10) furniture, cabinetry and kitchen equipment.

15 The term includes boilers, chillers, air cleaners, humidifiers,
16 fans, switchgear, pumps, telephones, speakers, horns, motion
17 detectors, dampers, actuators, grills, registers, traffic
18 signals, sensors, card access devices, guardrails, medial
19 devices, floor troughs and grates and laundry equipment,
20 together with integral coverings and enclosures, regardless of
21 whether: the item constitutes a fixture or is otherwise affixed
22 to the real estate; damage would be done to the item or its
23 surroundings on removal; or the item is physically located
24 within a real estate structure. The term does not include
25 guardrail posts, pipes, fittings, pipe supports and hangers,
26 valves, underground tanks, wire, conduit, receptacle and
27 junction boxes, insulation, ductwork and coverings.

28 (qq) "Real estate structure." A structure or item purchased
29 by a construction contractor pursuant to a construction contract
30 with:



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

7 (2) the United States; or

8 (3) the Commonwealth, its instrumentalities or political
9 subdivisions.

10 The term includes building machinery and equipment; developed or
11 undeveloped land; streets; roads; highways; parking lots;
12 stadiums and stadium seating; recreational courts; sidewalks;
13 foundations; structural supports; walls; floors; ceilings;
14 roofs; doors; canopies; millwork; elevators; windows and
15 external window coverings; outdoor advertising boards or signs;
16 airport runways; bridges; dams; dikes; traffic control devices,
17 including traffic signs; satellite dishes; antennas; guardrail
18 posts; pipes; fittings; pipe supports and hangers; valves;
19 underground tanks; wire; conduit; receptacle and junction boxes;
20 insulation; ductwork and coverings; and any structure or item
21 similar to any of the foregoing, regardless of whether the
22 structure or item constitutes a fixture or is affixed to the
23 real estate; or damage would be done to the structure or item or
24 its surroundings on removal.

25 (rr) "Telecommunications service." Any one-way transmission
26 or any two-way, interactive transmission of sounds, signals or
27 other intelligence converted to like form which effects or is
28 intended to effect meaningful communications by electronic or
29 electromagnetic means via wire, cable, satellite, light waves,
30 microwaves, radio waves or other transmission media. The term



1 includes all types of telecommunication transmissions, local,
2 toll, wide-area or any other type of telephone service; private
3 line service; telegraph service; radio repeater service;
4 wireless communication service; personal communications system
5 service; cellular telecommunication service; specialized mobile
6 radio service; stationary two-way radio service; and paging
7 service. The term does not include any of the following:

8 (1) Subscriber charges for access to a video dial tone
9 system.

10 (2) Charges to video programmers for the transport of
11 video programming.

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

14 (i) The transport over the Internet or any
15 proprietary network using the Internet protocol of
16 telephone calls, facsimile transmissions or other
17 telecommunications traffic to or from end users on the
18 public switched telephone network if the signal sent from
19 or received by an end user is not in an Internet
20 protocol.

21 (ii) Telecommunication services purchased by an
22 Internet service provider to deliver access to the
23 Internet to its customers.

24 (4) Mobile telecommunications services.

25 (ss) "Internet." The international nonproprietary computer
26 network of both Federal and non-Federal interoperable packet
27 switched data networks.

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

29 (1) Thoroughbred and harness racing at which pari-mutuel
30 wagering is conducted under the act of December 17, 1981



1 (P.L.435, No.135), known as the Race Horse Industry Reform
2 Act.

3 (2) Fair racing sanctioned by the State Harness Racing
4 Commission.

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

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

10 (1) Manufactured housing, including mobile homes, which
11 bears a label as required by and referred to in the act of
12 November 17, 1982 (P.L.676, No.192), known as the
13 Manufactured Housing Construction and Safety Standards
14 Authorization Act.

15 (2) Industrialized housing as defined in the act of May
16 11, 1972 (P.L.286, No.70), known as the Industrialized
17 Housing Act.

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

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

22 (yy) "Prebuilt housing sale." A sale of prebuilt housing to
23 a prebuilt housing purchaser, including a sale to a landlord,
24 without regard to whether the person making the sale is
25 responsible for installing the prebuilt housing or whether the
26 prebuilt housing becomes a real estate structure upon
27 installation. Temporary installation by a prebuilt housing
28 builder for display purposes of a unit held for resale shall not
29 be considered occupancy for residential purposes.

30 (zz) "Prebuilt housing purchaser." A person who purchases



1 prebuilt housing in a transaction and who intends to occupy the
2 unit for residential purposes in this Commonwealth.

3 (aaa) "Mobile telecommunications service." Mobile
4 telecommunications service as that term is defined in the Mobile
5 Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. §
6 116 et seq.).

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

9 (ccc) "Prepaid mobile telecommunications service." Mobile
10 telecommunications service which is paid for in advance and
11 which enables the origination of calls using an access number,
12 authorization code or both, regardless of whether manually or
13 electronically dialed, if the remaining amount of units of the
14 prepaid mobile telecommunications service is known by the
15 service provider of the prepaid mobile telecommunications
16 service on a continuous basis. The term does not include the
17 advance purchase of mobile telecommunications service if the
18 purchase is pursuant to a service contract between the service
19 provider and customer and if the service contract requires the
20 customer to make periodic payments to maintain the mobile
21 telecommunications service.

22 (ddd) "Call center." The physical location in this
23 Commonwealth:

- 24 (1) where at least 150 employees are employed to
25 initiate or answer telephone calls;
26 (2) where there are at least 200 telephone lines; and
27 (3) which utilizes an automated call distribution system
28 for customer telephone calls in one or more of the following
29 activities:

- 30 (i) customer service and support;



- (ii) technical assistance;
- (iii) help desk service;
- (iv) providing information;
- (v) conducting surveys;
- (vi) revenue collections; or
- (vii) receiving orders or reservations.

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

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

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

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

(hhh) "Food and beverages." All food and beverages for



1 human consumption, including, but not limited to:

2 (1) Soft drinks.

3 (2) Malt and brewed beverages and spiritous and vinous
4 liquors.

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

8 (i) from persons engaged in the business of
9 catering; or

10 (ii) from persons engaged in the business of
11 operating establishments from which ready-to-eat food and
12 beverages are sold, including, but not limited to,
13 restaurants, cafes, lunch counters, private and social
14 clubs, taverns, dining cars, hotels, night clubs, fast
15 food operations, pizzerias, fairs, carnivals, lunch
16 carts, ice cream stands, snack bars, cafeterias, employee
17 cafeterias, theaters, stadiums, arenas, amusement parks,
18 carryout shops, coffee shops and other establishments
19 whether mobile or immobile.

20 For purposes of this clause, a bakery, a pastry shop, a donut
21 shop, a delicatessen, a grocery store, a supermarket, a farmer's
22 market, a convenience store or a vending machine shall not be
23 considered an establishment from which food or beverages ready
24 to eat are sold except for the sale of meals, sandwiches, food
25 from salad bars, hand-dipped or hand-served ice-based products
26 including ice cream and yogurt, hot soup, hot pizza and other
27 hot food items, brewed coffee and hot beverages. For purposes of
28 this subclause, beverages shall not include malt and brewed
29 beverages and spiritous and vinous liquors but shall include
30 soft drinks.



1 SUBCHAPTER B

2 SALES AND USE TAX

3 Section 702. Imposition of tax.

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

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

12 (2) There is hereby imposed on the use in this
13 Commonwealth of tangible personal property purchased at
14 retail and on those services purchased at retail a tax of 7%
15 of the purchase price, which tax shall be paid to the
16 Commonwealth by the person who makes such use as provided
17 under this chapter, except that the tax shall not be paid to
18 the Commonwealth by the person where the person has paid the
19 tax imposed by paragraph (1) or has paid the tax imposed by
20 this subsection to the vendor with respect to the use.

21 (b) (Reserved).

22 (c) Telecommunications service.--

23 (1) Notwithstanding any other provisions of this
24 chapter, the tax with respect to telecommunications service
25 within the meaning of "tangible personal property" in section
26 701 shall be computed at the rate of 7% on the total amount
27 charged to customers for the services, irrespective of
28 whether such charge is based on a flat rate or on a message
29 unit charge.

30 (2) A telecommunications service provider shall have no



1 responsibility or liability to the Commonwealth for billing,
2 collecting or remitting taxes that apply to services,
3 products or other commerce sold over telecommunications lines
4 by third-party vendors.

5 (3) To prevent actual multistate taxation of interstate
6 telecommunications service, any taxpayer, on proof that the
7 taxpayer has paid a similar tax to another state on the same
8 interstate telecommunications service, shall be allowed a
9 credit against the tax imposed by this section on the same
10 interstate telecommunications service to the extent of the
11 amount of the tax properly due and paid to the other state.

12 (d) Coin-operated vending machines.--Notwithstanding any
13 other provisions of this chapter, the sale or use of food and
14 beverages dispensed by means of coin-operated vending machines
15 shall be taxed at the rate of 7% of the receipts collected from
16 any coin-operated vending machine which dispenses food and
17 beverages that were previously taxable.

18 (e) Prepaid telecommunications.--

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

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

27 (3) (i) Notwithstanding paragraph (2), the sale or use
28 of prepaid telecommunications service not evidenced by
29 the transfer of tangible personal property shall be taxed
30 at the rate of 7% of the receipts collected on each sale



1 if the service provider elects to collect the tax imposed
2 by this chapter on receipts of each sale.

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

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

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

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

18 (3) (i) Notwithstanding paragraph (2), the sale or use
19 of prepaid mobile telecommunications service not
20 evidenced by the transfer of tangible personal property
21 shall be taxed at the rate of 7% of the receipts
22 collected on each sale if the service provider elects to
23 collect the tax imposed by this chapter on receipts of
24 each sale.

25 (ii) The service provider shall notify the
26 department of its election and shall collect the tax on
27 receipts of each sale until the service provider notifies
28 the department otherwise.

29 (f) Prebuilt housing.--

30 (1) Notwithstanding any other provision of this chapter,



1 tax with respect to sales of prebuilt housing shall be
2 imposed on the prebuilt housing builder at the time of the
3 prebuilt housing sale within this Commonwealth and shall be
4 paid and reported by the prebuilt housing builder to the
5 department in the time and manner provided in this chapter.

6 (2) A manufacturer of prebuilt housing may, at its
7 option, precollect the tax from the prebuilt housing builder
8 at the time of sale to the prebuilt housing builder.

9 (3) In any case where prebuilt housing is purchased and
10 the tax is not paid by the prebuilt housing builder or
11 precollected by the manufacturer, the prebuilt housing
12 purchaser shall remit tax directly to the department if the
13 prebuilt housing is used in this Commonwealth without regard
14 to whether the prebuilt housing becomes a real estate
15 structure.

16 (g) Home service providers.--

17 (1) Notwithstanding any other provisions of this chapter
18 and in accordance with the Mobile Telecommunications Sourcing
19 Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or
20 use of mobile telecommunications services which are deemed to
21 be provided to a customer by a home service provider under 4
22 U.S.C. § 117 (relating to sourcing rules) shall be subject to
23 the tax of 7% of the purchase price, which tax shall be
24 collected by the home service provider from the customer, and
25 shall be paid over to the Commonwealth as provided in this
26 chapter if the customer's place of primary use is located
27 within this Commonwealth, regardless of where the mobile
28 telecommunications services originate, terminate or pass
29 through.

30 (2) For purposes of this subsection, words and phrases



1 used in this subsection shall have the same meanings given to
2 them in the Mobile Telecommunications Sourcing Act.

3 Section 703. Computation of tax.

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

9 (b) Deposit into Education Stabilization Fund.--The tax
10 collected under section 702 shall be deposited into the
11 Education Stabilization Fund.

12 SUBCHAPTER C

13 EXCLUSIONS FROM SALES AND USE TAX

14 Section 704. Exclusions from tax.

15 The tax imposed by section 702 shall not be imposed upon any
16 of the following:

17 (1) The sale at retail or use of tangible personal
18 property (other than motor vehicles, trailers, semi-trailers,
19 motor boats, aircraft or other similar tangible personal
20 property required under either Federal law or laws of this
21 Commonwealth to be registered or licensed) or services sold
22 by or purchased from a person not a vendor in an isolated
23 transaction or sold by or purchased from a person who is a
24 vendor but is not a vendor with respect to the tangible
25 personal property or services sold or purchased in such
26 transaction, provided that inventory and stock in trade so
27 sold or purchased shall not be excluded from the tax by the
28 provisions of this subsection.

29 (2) The use of tangible personal property purchased by a
30 nonresident person outside of, and brought into this



1 Commonwealth for use therein for a period not to exceed seven
2 days, or for any period of time when such nonresident is a
3 tourist or vacationer and, in either case not consumed within
4 the Commonwealth.

5 (3) (i) The use of tangible personal property purchased
6 outside this Commonwealth for use outside this
7 Commonwealth by a then nonresident natural person or a
8 business entity not actually doing business within this
9 Commonwealth, who later brings the tangible personal
10 property into this Commonwealth in connection with the
11 person's or entity's establishment of a permanent
12 business or residence in this Commonwealth, provided that
13 the property was purchased more than six months prior to
14 the date it was first brought into this Commonwealth or
15 prior to the establishment of the business or residence,
16 whichever first occurs.

17 (ii) This paragraph shall not apply to tangible
18 personal property temporarily brought into this
19 Commonwealth for the performance of contracts for the
20 construction, reconstruction, remodeling, repairing and
21 maintenance of real estate.

22 (4) (Reserved).

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

27 (6) (Reserved).

28 (7) (Reserved).

29 (8) (Reserved).

30 (9) (Reserved).



1 (10) (i) The sale at retail to or use by any charitable
2 organization, volunteer firefighters' organization or
3 nonprofit educational institution or a religious
4 organization for religious purposes of tangible personal
5 property or services other than pursuant to a
6 construction contract.

7 (ii) This paragraph shall not apply with respect to
8 any tangible personal property or services used in any
9 unrelated trade or business carried on by the
10 organization or institution or with respect to any
11 materials, supplies and equipment used and transferred to
12 the organization or institution in the construction,
13 reconstruction, remodeling, renovation, repairs and
14 maintenance of any real estate structure, other than
15 building machinery and equipment, except materials and
16 supplies when purchased by the organization or
17 institution for routine maintenance and repairs.

18 (11) The sale at retail, or use of gasoline and other
19 motor fuels, the sales of which are otherwise subject to
20 excise taxes under 75 Pa.C.S. Ch. 90 (relating to liquid
21 fuels and fuels tax).

22 (12) (i) The sale at retail to, or use by the United
23 States, this Commonwealth or its instrumentalities or
24 political subdivisions, nonpublic schools, charter
25 schools, cyber charter schools or vocational schools of
26 tangible personal property or services.

27 (ii) This paragraph includes the sale at retail to a
28 supervisor of a home education program of tangible
29 personal property or services used exclusively for the
30 home education program.



1 (iii) As used in this paragraph, the terms
2 "nonpublic school," "charter school," "cyber charter
3 school," "vocational school," "supervisor" and "home
4 education program" shall have the meanings given to them
5 in the Public School Code of 1949.

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

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

16 (15) Sale at retail of tangible personal property or
17 services used or consumed in building, rebuilding, repairing
18 and making additions to or replacements in and upon vessels
19 designed for commercial use of registered tonnage of 50 tons
20 or more upon special order of the purchaser, or when rebuilt,
21 repaired or enlarged, or when replacements are made upon
22 order of or for the account of the owner.

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

29 (17) The sale at retail or use of prescription
30 medicines, drugs or medical supplies, crutches and



1 wheelchairs for the use of persons with disabilities and
2 invalids, artificial limbs, artificial eyes and artificial
3 hearing devices when designed to be worn on the person of the
4 purchaser or user, false teeth and materials used by a
5 dentist in dental treatment, eyeglasses when especially
6 designed or prescribed by an ophthalmologist, oculist or
7 optometrist for the personal use of the owner or purchaser
8 and artificial braces and supports designed solely for the
9 use of persons with disabilities or any other therapeutic,
10 prosthetic or artificial device designed for the use of a
11 particular individual to correct or alleviate a physical
12 incapacity, including, but not limited to, hospital beds,
13 iron lungs and kidney machines.

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

15 (19) (Reserved).

16 (20) (Reserved).

17 (21) (Reserved).

18 (22) (Reserved).

19 (23) (Reserved).

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

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

27 (26) The sale at retail or use of all vesture, wearing
28 apparel, raiments, garments, footwear and other articles of
29 clothing with a purchase price of less than \$50, including
30 clothing patterns and items that are to be a component part



1 of clothing, worn or carried on or about the human body but
2 all accessories, ornamental wear, formal day or evening
3 apparel and articles made of fur on the hide or pelt or any
4 material imitative of fur and articles of which such fur,
5 real, imitation or synthetic, is the component material of
6 chief value, but only if such value is more than three times
7 the value of the next most valuable component material, and
8 sporting goods and clothing not normally used or worn when
9 not engaged in sports shall not be excluded from the tax.

10 (27) (Reserved).

11 (28) (Reserved).

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

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

19 (ii) This paragraph shall not include the sale at
20 retail or use of mail order catalogs and direct mail
21 advertising literature or materials, including electoral
22 literature or materials, such as envelopes, address
23 labels and a one-time license to use a list of names and
24 mailing addresses for each delivery of direct mail
25 advertising literature or materials, including electoral
26 literature or materials, through the United States Postal
27 Service.

28 (31) (Reserved).

29 (32) (Reserved).

30 (33) (Reserved).



1 (34) (Reserved).

2 (35) (Reserved).

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

5 (37) (Reserved).

6 (38) (Reserved).

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

10 (40) The sale at retail of supplies and materials to
11 tourist promotion agencies, which receive grants from the
12 Commonwealth, for distribution to the public as promotional
13 material or the use of such supplies and materials by said
14 agencies for said purposes.

15 (41) (Reserved).

16 (42) The sale or use of brook trout (*salvelinus*
17 *fontinalis*), brown trout (*Salmo trutta*) or rainbow trout
18 (*Salmo gairdneri*).

19 (43) The sale at retail or use of buses to be used
20 exclusively for the transportation of children for school
21 purposes.

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

23 (45) (Reserved).

24 (46) The sale at retail or use of tangible personal
25 property purchased in accordance with the Food Stamp Act of
26 1977, as amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029).

27 (47) (Reserved).

28 (48) (Reserved).

29 (49) (i) The sale at retail or use of food and
30 beverages by nonprofit associations which support sports



1 programs.

2 (ii) The following words and phrases when used in
3 this paragraph shall have the meanings given to them in
4 this subparagraph unless the context clearly indicates
5 otherwise:

6 "Nonprofit association." An entity which is
7 organized as a nonprofit corporation or nonprofit
8 unincorporated association under the laws of this
9 Commonwealth or the United States or any entity which is
10 authorized to do business in this Commonwealth as a
11 nonprofit corporation or unincorporated association under
12 the laws of this Commonwealth, including, but not limited
13 to, youth or athletic associations, volunteer fire,
14 ambulance, religious, charitable, fraternal, veterans,
15 civic, or any separately chartered auxiliary of the
16 foregoing, if organized and operated on a nonprofit
17 basis.

18 "Sports program." Baseball, softball, football,
19 basketball, soccer and any other competitive sport
20 formally recognized as a sport by the United States
21 Olympic Committee as specified by and under the
22 jurisdiction of the Amateur Sports Act of 1978 (Public
23 Law 95-606, 36 U.S.C. Ch. 2205), the Amateur Athletic
24 Union or the National Collegiate Athletic Association.
25 The term shall be limited to a program or that portion of
26 a program that is organized for recreational purposes and
27 whose activities are substantially for such purposes and
28 which is primarily for participants who are 18 years of
29 age or younger or whose 19th birthday occurs during the
30 year of participation or the competitive season,



1 whichever is longer. There shall, however, be no age
2 limitation for programs operated for persons with
3 physical handicaps or persons with mental retardation.

4 "Support." The funds raised from sales are used to
5 pay the expenses of a sports program or the nonprofit
6 association sells the food and beverages at a location
7 where a sports program is being conducted under this
8 chapter or the Tax Reform Code of 1971.

9 (50) (Reserved).

10 (51) The sale at retail or use of interior office
11 building cleaning services but only as relates to the costs
12 of the supplied employee, which costs are wages, salaries,
13 bonuses and commissions, employment benefits, expense
14 reimbursements and payroll and withholding taxes, to the
15 extent that these costs are specifically itemized or that
16 these costs in aggregate are stated in billings from the
17 vendor or supplying entity.

18 (52) (Reserved).

19 (53) (Reserved).

20 (54) (Reserved).

21 (55) (Reserved).

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

26 (i) The equipment or devices are used by a person
27 who, by virtue of a physical disability, is unable to
28 ascend or descend stairs without the aid of such
29 equipment or device.

30 (ii) The equipment or device is installed or used in



1 the person's place of residence.

2 (iii) A physician has certified the physical
3 disability of the person in whose residence the equipment
4 or device is installed or used.

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

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

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

18 (58) (Reserved).

19 (59) The sale at retail or use of molds and related mold
20 equipment used directly and predominantly in the manufacture
21 of products, regardless of whether the person that holds
22 title to the equipment manufactures a product.

23 (60) (Reserved).

24 (61) (Reserved).

25 (62) The sale at retail or use of tangible personal
26 property or services which are directly used in farming,
27 dairying or agriculture when engaged in as a business
28 enterprise, regardless of whether the sale is made to the
29 person directly engaged in the business enterprise or to a
30 person contracting with the person directly engaged in the



1 business enterprise for the production of food.

2 (63) (Reserved).

3 (64) The sale at retail to or use by a construction
4 contractor, employed by a public school district pursuant to
5 a construction contract, of any materials and building
6 supplies which, during construction or reconstruction, are
7 made part of any public school building utilized for
8 instructional classroom education within this Commonwealth,
9 if the construction or reconstruction:

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

13 (ii) takes place during the period when there is a
14 declaration of disaster emergency under 35 Pa.C.S. §
15 7301(c) (relating to general authority of Governor).

16 (65) (Reserved).

17 (66) The sale at retail or use of copies of an official
18 document sold by a government agency or a court. For the
19 purposes of this paragraph, the following terms or phrases
20 shall have the following meanings:

21 (i) "court" includes:

22 (A) an appellate court as defined in 42 Pa.C.S.
23 § 102 (relating to definitions);

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

26 (C) the minor judiciary as defined in 42 Pa.C.S.
27 § 102;

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



1 (iii) "official document" means a record as defined
2 in section 102 of the Right-to-Know Law. The term shall
3 include notes of court testimony, deposition transcripts,
4 driving records, accident reports, birth and death
5 certificates, deeds, divorce decrees and other similar
6 documents.

7 (67) The sale at retail or use of repair or replacement
8 parts, including the installation of those parts, exclusively
9 for use in helicopters and similar rotorcraft or in
10 overhauling or rebuilding of helicopters and similar
11 rotorcraft or helicopters and similar rotorcraft components.

12 (68) The sale at retail or use of helicopters and
13 similar rotorcraft.

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

16 (70) The sale at retail or use of transportation of
17 persons provided or funded by the Federal, State or local
18 government.

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

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

22 (73) An investment or gain on an investment, including,
23 but not limited to, bank deposits, stocks and bonds,
24 including any commissions, maintenance costs and other
25 charges, which commissions, maintenance costs and other
26 charges related to the making of such investment or a gain
27 thereon.

28 (74) The rental of real property.

29 (75) The sale at retail of tuition.

30 (76) The sale at retail of any of the following



1 business, professional or technical services performed by a
2 business and rendered to another business:

3 (i) Legal services.

4 (ii) Architectural, engineering and related
5 services.

6 (iii) Accounting, auditing and bookkeeping services.

7 (iv) Specialized design services.

8 (v) Advertising, public relations and related
9 services.

10 (vi) Services to building and dwellings.

11 (vii) Scientific, environmental and technical
12 consulting services.

13 (viii) Scientific research and development services.

14 (ix) Information services.

15 (x) Administrative services.

16 (xi) Custom programming, design and data processing
17 services.

18 (xii) Parking lot and garage services.

19 (77) The sale at retail of legal services relating to
20 domestic relations matters or criminal matters.

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

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

27 (80) The sale at retail to or use by a person of the
28 services rendered by or under the supervision of a licensed
29 real estate broker, associate broker or salesperson in
30 connection with any aspect of the sale, lease or acquisition



1 of any interest in real property.

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

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

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

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

15 (85) The sale at retail or use of services performed for
16 resale in the ordinary course of business of the purchaser or
17 user of such services.

18 (86) The sale at retail or use of services that are
19 otherwise taxable that are an integral, inseparable part of
20 the services that are to be sold or used and that are
21 taxable.

22 (87) (Reserved).

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

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

28 Section 705. Alternate imposition of tax.

29 (a) General rule.--If any person actively and principally
30 engaged in the business of selling new or used motor vehicles,



1 trailers or semitrailers, and registered with the department in
2 the "dealer's class," acquires a motor vehicle, trailer or
3 semitrailer for the purpose of resale, and prior to such resale,
4 uses the motor vehicle, trailer or semitrailer for a taxable use
5 under this chapter or the Tax Reform Code of 1971, the person
6 may pay a tax equal to 7% of the fair rental value of the motor
7 vehicle, trailer or semitrailer during use.

8 (b) Aircraft.--A commercial aircraft operator who acquires
9 an aircraft for the purpose of resale, or lease, or is entitled
10 to claim another valid exemption at the time of purchase, and
11 subsequent to the purchase, periodically uses the same aircraft
12 for a taxable use under this chapter or the Tax Reform Code of
13 1971, may elect to pay a tax equal to 7% of the fair rental
14 value of the aircraft during such use.

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

18 Section 706. Credit against tax.

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

20 (1) A credit against the tax imposed by section 702
21 shall be granted with respect to tangible personal property
22 or services purchased for use outside the Commonwealth equal
23 to the tax paid to another state by reason of the imposition
24 by the other state of a tax similar to the tax imposed by
25 this chapter.

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

30 (b) Telecommunications services.--A credit against the tax



1 imposed by section 702 on telecommunications services shall be
2 granted to a call center for gross receipts tax paid by a
3 telephone company on the receipts derived from the sale of
4 incoming and outgoing interstate telecommunications services to
5 the call center under section 1101(a)(2) of the Tax Reform Code
6 of 1971. The following apply:

7 (1) A telephone company, on request, shall notify a call
8 center of the amount of gross receipts tax paid by the
9 telephone company on the receipts derived from the sale of
10 incoming and outgoing interstate telecommunications services
11 to the call center.

12 (2) A call center that is eligible for the credit in
13 this subsection may apply for a tax credit as set forth in
14 this subsection.

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

20 (4) By April 15 of the calendar year following the close
21 of the calendar year during which the gross receipts tax was
22 incurred, the department shall notify the applicant of the
23 amount of the applicant's tax credit approved by the
24 department.

25 (5) The total amount of tax credits provided for in this
26 subsection and approved by the department shall not exceed
27 \$30,000,000 in any fiscal year. If the total amount of tax
28 credits applied for by all applicants exceeds the amount
29 allocated for those credits, then the credit to be received
30 by each applicant shall be determined as follows:



- 1 (i) Divide:
- 2 (A) the tax credit applied for by the applicant;
- 3 by
- 4 (B) the total of all tax credits applied for by
- 5 all applicants.
- 6 (ii) Multiply:
- 7 (A) the quotient under subparagraph (i); by
- 8 (B) the amount allocated for all tax credits.

9 SUBCHAPTER D

10 LICENSES

11 Section 708. Licenses.

12 (a) Duty to obtain license.--Every person maintaining a

13 place of business in this Commonwealth, selling or leasing

14 services or tangible personal property, the sale or use of which

15 is subject to tax and who has not obtained a license from the

16 department, shall, prior to the beginning of business, make

17 application to the department, on a form prescribed by the

18 department, for a license. If such person maintains more than

19 one place of business in this Commonwealth, the license shall be

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

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

22 (1) The department shall, after the receipt of an

23 application, issue the license applied for under subsection

24 (a) if the applicant filed all required State tax reports and

25 paid any State taxes not subject to a timely perfected

26 administrative or judicial appeal or subject to a duly

27 authorized deferred payment plan. The license shall be

28 nonassignable.

29 (2) All licenses in effect on the effective date of this

30 section under former Article III of the Tax Reform Code of



1 1971 and all licenses issued or renewed on or after the
2 effective date of this section shall be valid for a period of
3 five years.

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

5 (1) If an applicant for a license or any person holding
6 a license has not filed all required State tax reports and
7 paid any State taxes not subject to a timely perfected
8 administrative or judicial appeal or subject to a duly
9 authorized deferred payment plan, the department may refuse
10 to issue, may suspend or may revoke said license.

11 (2) The department shall notify the applicant or
12 licensee of any refusal, suspension or revocation. The notice
13 shall contain a statement that the refusal, suspension or
14 revocation may be made public. The notice shall be made by
15 first class mail.

16 (3) An applicant or licensee aggrieved by the
17 determination of the department may file an appeal pursuant
18 to the provisions for administrative appeals in this chapter.
19 In the case of a suspension or revocation which is appealed,
20 the license shall remain valid pending a final outcome of the
21 appeals process.

22 (4) Notwithstanding section 774 or sections 353(f),
23 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform Code of
24 1971, or any other provision of law to the contrary, if no
25 appeal is taken or if an appeal is taken and denied at the
26 conclusion of the appeal process, the department may
27 disclose, by publication or otherwise, the identity of a
28 person and the fact that the person's license has been
29 refused, suspended or revoked under this subsection.
30 Disclosure may include the basis for refusal, suspension or



1 revocation.

2 (c) Penalties.--

3 (1) A person that maintains a place of business in this
4 Commonwealth for the purpose of selling or leasing services
5 or tangible personal property, the sale or use of which is
6 subject to tax, without having first been licensed by the
7 department shall be guilty of a summary offense and, upon
8 conviction thereof, be sentenced to pay a fine of not less
9 than \$300 nor more than \$1,500 and, in default thereof, a
10 term of imprisonment of not less than five days nor more than
11 30 days.

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

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

18 (4) The secretary may designate employees of the
19 department to enforce the provisions of this subsection. The
20 employees shall exhibit proof of and be within the scope of
21 the designation when instituting proceedings as provided by
22 the Pennsylvania Rules of Criminal Procedure.

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

26 SUBCHAPTER E

27 HOTEL OCCUPANCY TAX

28 Section 709. Definitions.

29 (a) General rule.--The following words and phrases when used
30 in this subchapter shall have the meanings given to them in this



1 section unless the context clearly indicates otherwise:

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

6 "Occupancy." The use or possession or the right to the use or
7 possession by any person, other than a permanent resident, of
8 any room or rooms in a hotel for any purpose or the right to the
9 use or possession of the furnishings or to the services and
10 accommodations accompanying the use and possession of the room
11 or rooms.

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

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

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

20 "Rent." The consideration received for occupancy valued in
21 money, whether received in money or otherwise, including all
22 receipts, cash, credits and property or services of any kind or
23 nature, and also any amount for which the occupant is liable for
24 the occupancy without any deduction. The term "rent" shall not
25 include a gratuity.

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



1 "Maintaining a place of business in this Commonwealth."
2 Being the operator of a hotel in this Commonwealth.
3 "Purchase at retail." Occupancy.
4 "Purchase price." Rent.
5 "Purchaser." Occupant.
6 "Sale at retail." The providing of occupancy to an occupant
7 by an operator.
8 "Services." Occupancy.
9 "Tangible personal property." Occupancy.
10 "Use." Occupancy.
11 "Vendor." Operator.

12 Section 710. Imposition of tax.

13 There is hereby imposed an excise tax of 7% of the rent on
14 every occupancy of a room or rooms in a hotel in this
15 Commonwealth, which tax shall be collected by the operator from
16 the occupant and paid over to the Commonwealth as provided in
17 this chapter and deposited into the Education Stabilization
18 Fund.

19 Section 711. Seasonal tax returns.

20 Notwithstanding any other provisions in this chapter or the
21 Tax Reform Code of 1971, the department may, by regulation,
22 waive the requirement for the filing of quarterly returns in the
23 case of any operator whose hotel is operated only during certain
24 seasons of the year, and may provide for the filing of returns
25 by such persons at times other than those provided by section
26 721.

27 SUBCHAPTER F

28 PROCEDURE AND ADMINISTRATION

29 Section 715. Persons required to make returns.

30 Every person required to pay tax to the department or collect



1 and remit tax to the department shall file returns with respect
2 to the tax.

3 Section 716. Form of returns.

4 The returns required by section 715 shall be on forms
5 prescribed by the department and shall show such information
6 with respect to the taxes imposed by this chapter as the
7 department may reasonably require.

8 Section 717. Time for filing returns.

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

18 (b) Annual reporting.--No annual return shall be filed,
19 except as may be required by rules and regulations of the
20 department promulgated and published at least 60 days prior to
21 the end of the year with respect to which the returns are made.
22 Where such annual returns are required, licensees shall not be
23 required to file such returns prior to the 20th day of the year
24 succeeding the year with respect to which the returns are made.

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

30 (d) Waivers.--The department, by regulation, may waive the



1 requirement for the filing of quarterly return in the case of
2 any licensee whose individual tax collections do not exceed \$75
3 per calendar quarter and may provide for reporting on a less
4 frequent basis in such cases.

5 Section 718. Extension of time for filing returns.

6 The department may, on written application and for good cause
7 shown, grant a reasonable extension of time for filing any
8 return required under this subchapter. However, the time for
9 making a return shall not be extended for more than three
10 months.

11 Section 719. Place for filing returns.

12 Returns shall be filed with the department at its main office
13 or at any branch office which it may designate for filing
14 returns.

15 Section 720. Timely mailing treated as timely filing and
16 payment.

17 (a) General rule.--Notwithstanding the provisions of any
18 State tax law to the contrary, whenever a report or payment of
19 all or any portion of a State tax is required by law to be
20 received by the department or other agency of the Commonwealth
21 on or before a day certain, the taxpayer shall be deemed to have
22 complied with the law if the letter transmitting the report or
23 payment of the tax which has been received by the department is
24 postmarked by the United States Postal Service on or prior to
25 the final day on which the payment is to be received.

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

30 Section 721. Payment of tax.



1 When a return of tax is required under this subchapter, the
2 person required to make the return shall pay the tax to the
3 department.

4 Section 722. Time of payment.

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

10 (b) Other payments.--If the amount of tax due for the
11 preceding year as shown by the annual return of a taxpayer is
12 greater than the amount already paid by the taxpayer in
13 connection with the taxpayer's monthly or quarterly returns, the
14 taxpayer shall send with the annual return a remittance for the
15 unpaid amount of tax for the year.

16 (c) Persons other than licensees.--Any person other than a
17 licensee liable to pay any tax under this chapter shall remit
18 the tax at the time of filing the return required by this
19 chapter.

20 Section 723. Other times for payment.

21 In the event that the department authorizes a taxpayer to
22 file a return at other times than those specified in section
23 717, the tax due shall be paid at the time the return is filed.

24 Section 724. Place for payment.

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

27 Section 725. Tax held in trust for Commonwealth.

28 (a) General rule.--All taxes collected by any person from
29 purchasers in accordance with this chapter and all taxes
30 collected by any person from purchasers under color of this



1 chapter which have not been properly refunded by the person to
2 the purchaser shall constitute a trust fund for the
3 Commonwealth, and such trust shall be enforceable against such
4 person, the person's representatives and any person, other than
5 a purchaser to whom a refund has been made properly, receiving
6 any part of the fund without consideration, or knowing that the
7 taxpayer is committing a breach of trust.

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

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

16 Section 726. Local receivers of use tax.

17 (a) General rule.--In every county, except counties of the
18 first class, the county treasurer shall receive use tax due and
19 payable under this chapter from any person other than a
20 licensee. The receiving of the taxes shall be pursuant to rules
21 and regulations promulgated by the department and on forms
22 furnished by the department.

23 (b) Deduction for administrative costs.--Each county
24 treasurer shall remit to the department all use taxes received
25 under the authority of this section minus the costs of
26 administering this section not to exceed 1% of the amount of use
27 taxes received, which amount shall be retained in lieu of any
28 commission otherwise allowable by law for the collection of the
29 tax.

30 Section 727. Discount.



1 (a) General rule.--Subject to the provisions of subsection
2 (b), if a return is filed by a licensee and the tax shown to be
3 due thereon less any discount is paid all within the time
4 prescribed, the licensee shall be entitled to credit and apply
5 against the tax payable by the licensee a discount of 1% of the
6 amount of the tax collected by the licensee, as compensation for
7 the expense of collecting and remitting the tax due by the
8 licensee and as consideration of the prompt payment.

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

12 (1) For a monthly filer, \$25 per return.

13 (2) For a quarterly filer, \$75 per return.

14 (3) For a semiannual filer, \$150 per return.

15 Section 728. (Reserved).

16 Section 729. (Reserved).

17 Section 730. Assessment.

18 The department shall make the inquiries, determinations and
19 assessments of the tax, including interest, additions and
20 penalties, imposed by this chapter. A notice of assessment and
21 demand for payment shall be mailed by certified mail to the
22 taxpayer. The notice shall set forth the basis of the
23 assessment.

24 Section 731. Mode and time of assessment.

25 (a) Duty to examine.--

26 (1) Within a reasonable time after any return is filed,
27 the department shall examine it and, if the return shows a
28 greater tax due or collected than the amount of tax remitted
29 with the return, the department shall issue an assessment for
30 the difference, together with an addition of 3% of the



1 difference, which shall be paid to the department within ten
2 days after a notice of the assessment has been mailed to the
3 taxpayer.

4 (2) If such assessment is not paid within ten days,
5 there shall be added and paid to the department an additional
6 3% of the difference for each month during which the
7 assessment remains unpaid. The total of all additions shall
8 not exceed 18% of the difference shown on the assessment.

9 (b) Underestimated tax on returns.--

10 (1) If the department determines that any return or
11 returns of any taxpayer understates the amount of tax due, it
12 shall determine the proper amount and shall ascertain the
13 difference between the amount of tax shown in the return and
14 the amount determined. The difference may be referred to as
15 the deficiency.

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

18 (3) The taxpayer shall pay the deficiency to the
19 department within 30 days after a notice of the assessment
20 has been mailed to the taxpayer.

21 (c) Estimated assessments.--

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

27 (2) The taxpayer shall pay the tax within 30 days after
28 a notice of the estimated assessment has been mailed to the
29 taxpayer.

30 (d) Studies.--



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

6 (2) Any assessment based on such rates shall be prima
7 facie correct, except that the rate shall not be considered
8 where a taxpayer establishes the rate is based on a sample
9 inapplicable to the taxpayer.

10 Section 732. Reassessment.

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

14 Section 733. (Reserved).

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

16 (a) Procedure.--

17 (1) Within 60 days after the date of mailing of notice
18 by the department of the decision on any petition for
19 reassessment filed with it, the person against whom the
20 assessment was made may, by petition, request the Board of
21 Finance and Revenue to review the decision.

22 (2) The failure of the department to notify the
23 petitioner of a decision within the time provided by section
24 732 shall act as a denial of such petition, and a petition
25 for review may be filed with the Board of Finance and Revenue
26 within 120 days of the date prior to which the department
27 should have mailed to the petitioner its notice of decision.

28 (b) Contents of petition for review.--Each petition for
29 review filed under this section shall state specifically the
30 reasons on which the petitioner relies, or shall incorporate by



1 reference the petition for reassessment in which the reasons are
2 stated. The petition shall be supported by affidavit that it is
3 not made for the purpose of delay and that the facts set forth
4 in the petition are true.

5 (c) Action by board.--

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

9 (2) In the event of the failure of the board to dispose
10 of any petition within six months, the action taken by the
11 department, upon the petition for reassessment, shall be
12 sustained.

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

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

19 Section 735. (Reserved).

20 Section 736. Burden of proof.

21 In all cases of petitions for reassessment, review or appeal,
22 the burden of proof shall be on the petitioner or appellant, as
23 applicable.

24 Section 737. Collection of tax.

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

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

30 (1) Every person maintaining a place of business in this



1 Commonwealth and selling or leasing tangible personal
2 property or services, the sale or use of which is subject to
3 tax shall collect the tax from the purchaser or lessee at the
4 time of making the sale or lease, and shall remit the tax to
5 the department, unless the collection and remittance is
6 otherwise provided for in this chapter.

7 (2) (i) Every person not otherwise required to collect
8 tax that delivers tangible personal property to a
9 location within this Commonwealth and that unpacks,
10 positions, places or assembles the tangible personal
11 property shall collect the tax from the purchaser at the
12 time of delivery and shall remit the tax to the
13 department if the person delivering the tangible personal
14 property is responsible for collecting any portion of the
15 purchase price of the tangible personal property
16 delivered and the purchaser has not provided the person
17 with proof that the tax imposed by this chapter has been
18 or will be collected by the seller or that the purchaser
19 provided the seller with a valid exemption certificate.

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

24 (3) Any person required under this chapter to collect
25 tax from another person, who shall fail to collect the proper
26 amount of the tax, shall be liable for the full amount of the
27 tax which the person should have collected.

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

29 (1) If the tax does not apply to the sale or lease of
30 tangible personal property or services, the purchaser or



1 lessee shall furnish to the vendor a certificate indicating
2 that the sale is not legally subject to the tax. The
3 certificate shall be in substantially such form as the
4 department may, by regulation, prescribe.

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

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

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

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

20 (6) An exemption certificate:

21 (i) accepted by a vendor from a natural person
22 domiciled within this Commonwealth or any association,
23 fiduciary, partnership, corporation or other entity,
24 either authorized to do business within this Commonwealth
25 or having an established place of business within this
26 Commonwealth, in the ordinary course of the vendor's
27 business;

28 (ii) which on its face discloses a valid basis of
29 exemption consistent with the activity of the purchaser
30 and character of the property or service being purchased



1 or which is provided to the vendor by a charitable,
2 religious, educational or volunteer firefighters'
3 organization;

4 (iii) contains the organization's charitable
5 exemption number; and

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

12 (d) Waivers.--

13 (1) The department may authorize a purchaser or lessee
14 who acquires tangible personal property or services under
15 circumstances which make it impossible at the time of
16 acquisition to determine the manner in which the tangible
17 personal property or service will be used, to pay the tax
18 directly to the department, and waive the collection of the
19 tax by the vendor.

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

24 (3) If a direct payment permit is granted, its use shall
25 be subject to conditions specified by the department, and the
26 payment of tax on all acquisitions pursuant to the permit
27 shall be made directly to the department by the permit
28 holder.

29 Section 738. Collection of tax on motor vehicles, trailers and
30 semitrailers.



1 (a) General rule.--Notwithstanding the provisions of section
2 737(b)(1), tax due on the sale at retail or use of a motor
3 vehicle, trailer or semitrailer, except mobile homes as defined
4 in 75 Pa.C.S. (relating to vehicles), required by law to be
5 registered with the department under the provisions of 75
6 Pa.C.S. shall be paid by the purchaser or user directly to the
7 department on application to the department for an issuance of a
8 certificate of title on the motor vehicle, trailer or
9 semitrailer.

10 (b) No issuance of certificate of title without payment of
11 tax.--

12 (1) The department shall not issue a certificate of
13 title until the tax has been paid, or evidence satisfactory
14 to the department has been given to establish that tax is not
15 due.

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

20 (c) First encumbrance.--The tax shall be considered as a
21 first encumbrance against the vehicle and the vehicle may not be
22 transferred without first payment in full of the tax and any
23 interest additions or penalties which shall accrue in accordance
24 with this chapter.

25 Section 739. Precollection of tax.

26 (a) Authorization.--

27 (1) Except as otherwise provided under paragraph (2),
28 the department may, by regulation, authorize or require
29 particular categories of vendors selling tangible personal
30 property for resale to precollect from the purchaser the tax



1 which the purchaser will collect on making a sale at retail
2 of the tangible personal property.

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

7 (b) No license required.--In any case in which a vendor has
8 been authorized to prepay the tax to the person from whom the
9 vendor purchased the tangible personal property for resale, the
10 vendor authorized to prepay the tax may, under the regulations
11 of the department, be relieved from the duty to secure a license
12 if the duty arises only by reason of the vendor's sale of the
13 tangible personal property with respect to which the vendor is,
14 under authorization of the department, to prepay the tax.

15 (c) Reimbursement.--

16 (1) The vendor, on making a sale at retail of tangible
17 personal property with respect to which the vendor has
18 prepaid the tax, must separately state at the time of resale
19 the proper amount of tax on the transaction, and reimburse
20 itself on account of the taxes which the vendor has
21 previously prepaid.

22 (2) If the vendor collects a greater amount of tax in
23 any reporting period than the vendor previously prepaid on
24 purchase of the goods with respect to which the vendor
25 prepaid the tax, the vendor must file a return and remit the
26 balance to the Commonwealth at the time at which a return
27 would otherwise be due with respect to the sales.

28 Section 740. Bulk and auction sales.

29 A person who sells or causes to be sold at auction, or who
30 sells or transfers in bulk, 51% or more of any stock, of goods,



1 wares or merchandise of any kind, fixtures, machinery,
2 equipment, buildings or real estate, involved in a business for
3 which the person is licensed or required to be licensed under
4 this chapter, or is liable for filing use tax returns in
5 accordance with this chapter, shall be subject to the provisions
6 of section 1403 of The Fiscal Code.

7 Section 741. Collection on failure to request reassessment,
8 review or appeal.

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

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

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

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

20 (4) In all cases of judicial sales, receiverships,
21 assignments or bankruptcies.

22 (b) Limitation on defenses.--

23 (1) Subject to the provisions of paragraph (2), in any
24 such case in a proceeding for the collection of the taxes,
25 the person against whom the taxes were assessed shall not be
26 permitted to set up any ground of defense that might have
27 been determined by the department, the Board of Finance and
28 Revenue or the courts.

29 (2) The defense of failure of the department to mail
30 notice of assessment or reassessment to the taxpayer and the



1 defense of payment of assessment or reassessment may be
2 raised in proceedings for collection by a motion to stay the
3 proceedings.

4 Section 742. Lien for taxes.

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

6 (1) If any person liable to pay any tax neglects or
7 refuses to pay the same after demand, the amount, including
8 any interest, addition or penalty, together with any costs
9 that may accrue in addition, shall be a lien in favor of the
10 Commonwealth on the property, both real and personal, of the
11 person but only after same has been entered and docketed of
12 record by the prothonotary of the county where the property
13 is situated.

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

18 (3) Each prothonotary receiving the lien shall enter and
19 docket the lien of record in the prothonotary's office, which
20 lien shall be indexed as judgments are now indexed.

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

24 (b) Priority status.--

25 (1) The lien imposed under this section shall have
26 priority from the date of its recording, and shall be fully
27 paid and satisfied out of the proceeds of any judicial sale
28 of property before any other obligation, judgment, claim,
29 lien or estate to which the property may subsequently become
30 subject, except costs of the sale and of the writ on which



1 the sale was made, and real estate taxes and municipal claims
2 against such property, but shall be subordinate to mortgages
3 and other liens existing and duly recorded or entered of
4 record prior to the recording of the tax lien.

5 (2) In the case of a judicial sale of property, subject
6 to a lien imposed under this section, on a lien or claim over
7 which the lien imposed under this section has priority, the
8 sale shall discharge the lien imposed under this section to
9 the extent only that the proceeds are applied to its payment,
10 and the lien shall continue in full force and effect as to
11 the balance remaining unpaid.

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

15 (4) (i) The lien of the taxes, interest and penalties,
16 shall continue for five years from the date of entry, and
17 may be revived and continued in the manner now or
18 hereafter provided for renewal of judgments, or as may be
19 provided in The Fiscal Code, and a writ of execution may
20 directly issue upon the lien without the issuance and
21 prosecution to judgment of a writ of scire facias.

22 (ii) Not less than ten days before issuance of any
23 execution on the lien, notice of the filing and the
24 effect of the lien shall be sent by registered mail to
25 the taxpayer at the taxpayer's last known post office
26 address.

27 (iii) The lien shall have no effect on any stock of
28 goods, wares or merchandise regularly sold or leased in
29 the ordinary course of business by the person against
30 whom the lien has been entered, unless and until a writ



1 of execution has been issued and a levy made on the stock
2 of goods, wares and merchandise.

3 (c) Penalty.--Any willful failure of any prothonotary to
4 carry out any duty imposed on the prothonotary under this
5 section shall be a misdemeanor, and, upon conviction, the
6 prothonotary shall be sentenced to pay a fine not more than
7 \$1,000 and costs of prosecution or to a term of imprisonment not
8 exceeding one year, or both.

9 (d) Priority payment from distribution.--

10 (1) Except as otherwise provided under the law, in the
11 distribution, voluntary or compulsory, in receivership,
12 bankruptcy or otherwise, of the property or estate of any
13 person, all taxes imposed by this chapter which are due and
14 unpaid and are not collectible under section 725 shall be
15 paid from the first money available for distribution in
16 priority to all other claims and liens, except insofar as the
17 laws of the United States may give a prior claim to the
18 Federal Government.

19 (2) Any person charged with the administration or
20 distribution of the property or estate, who violates the
21 provisions of this section, shall be personally liable for
22 any taxes imposed by this chapter, which are accrued and
23 unpaid and are chargeable against the person whose property
24 or estate is being administered or distributed.

25 (e) Construction.--Subject to the limitations contained in
26 this chapter as to the assessment of taxes, nothing contained in
27 this section shall be construed to restrict, prohibit or limit
28 the use by the department in collecting taxes finally due and
29 payable of any other remedy or procedure available at law or
30 equity for the collection of debts.



1 Section 743. Suit for taxes.

2 (a) General rule.--At any time within three years after any
3 tax or any amount of tax shall be finally due and payable, the
4 department may commence an action in the courts of this
5 Commonwealth, of any state or of the United States, in the name
6 of the Commonwealth, to collect the amount of tax due together
7 with additions, interest, penalties and costs in the manner
8 provided at law or in equity for the collection of ordinary
9 debts.

10 (b) Prosecution by Attorney General.--The Attorney General
11 shall prosecute the action and, except as provided in this
12 chapter, the provisions of the Rules of Civil Procedure and the
13 provisions of the laws of this Commonwealth relating to civil
14 procedures and remedies shall, to the extent that they are
15 applicable, be available in such proceedings.

16 (c) Construction.--The provisions of this section are in
17 addition to any process, remedy or procedure for the collection
18 of taxes provided by this chapter or by the laws of this
19 Commonwealth, and this section is neither limited by nor
20 intended to limit any such process, remedy or procedure.

21 Section 744. Tax suit comity.

22 The courts of this Commonwealth shall recognize and enforce
23 liabilities for sales and use taxes, lawfully imposed by any
24 other state if the other state extends a like comity to this
25 Commonwealth.

26 Section 745. Service.

27 (a) General rule.--Any person who maintains a place of
28 business in this Commonwealth is deemed to have appointed the
29 Secretary of the Commonwealth as the person's agent for the
30 acceptance of service of process or notice in any proceedings



1 for the enforcement of the civil provisions of this chapter, and
2 any service made upon the Secretary of the Commonwealth as agent
3 shall be of the same legal force and validity as if the service
4 had been personally made on the person.

5 (b) Substitute service.--Where service cannot be made on the
6 person in the manner provided by other laws of this Commonwealth
7 relating to service of process, service may be made on the
8 Secretary of the Commonwealth and, in such case, a copy of the
9 process or notice shall also be personally served on any agent
10 or representative of the person who may be found within this
11 Commonwealth, or where no such agent or representative may be
12 found a copy of the process or notice shall be sent by
13 registered mail to the person at the last known address of the
14 person's principal place of business, home office or residence.

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

16 If any sale subject to tax under this chapter is wholly or
17 partly on credit, the vendor shall require the purchaser to pay
18 in cash at the time the sale is made, or within 30 days
19 thereafter, the total amount of tax due upon the entire purchase
20 price. The vendor shall remit the tax to the department,
21 regardless of whether payment was made by the purchaser to the
22 vendor, with the next return required to be filed under section
23 717.

24 Section 747. Prepayment of tax.

25 (a) General rule.--Whenever a vendor is prohibited by law or
26 governmental regulation to charge and collect the purchase price
27 in advance of or at the time of delivery, the vendor shall
28 prepay the tax as required by section 722, but in that case, if
29 the purchaser fails to pay to the vendor the total amount of the
30 purchase price and the tax and the amount is written off as



1 uncollectible by the vendor, the vendor shall not be liable for
2 the tax and shall be entitled to a credit or refund of the tax
3 paid.

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

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

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

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

17 (1) The purchaser fails to pay the vendor the total
18 purchase price.

19 (2) The purchase price is written off, either in whole
20 or in part, as a bad debt on the vendor's books and records.

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

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

27 (b) Limitation.--

28 (1) The refund authorized by this section shall be
29 limited to the sales tax paid to the department that is
30 attributed to the bad debt, less any discount under section



1 727.

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

5 (3) Payments made to a vendor on any transaction which
6 includes both taxable and nontaxable components shall be
7 allocated proportionally between the taxable and nontaxable
8 components.

9 (c) Assignment.--A vendor may assign its right to petition
10 and receive a refund of sales tax attributed to a bad debt to an
11 affiliated entity. A vendor may not assign its right to petition
12 and receive a refund of sales tax attributed to a bad debt to
13 any other person.

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

17 (e) Contents of petition for refund.--The documentation,
18 procedures and methods for claiming and calculating the refund
19 allowed under this section shall be in such form as the
20 department may prescribe.

21 (f) Subsequent collection.--If the purchase price that is
22 attributed to a prior bad debt refund is collected in whole or
23 in part, the vendor or affiliated entity shall remit the
24 proportional tax to the department with the first return filed
25 after the collection.

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

30 (h) Administration.--



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

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

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

9 (i) Definition.--For purposes of this section, the term
10 "affiliated entity" means any corporation that is part of the
11 same affiliated group as the vendor as defined by section
12 1504(a)(1) of the Internal Revenue Code of 1986.

13 Section 748. Registration of transient vendors.

14 (a) General rule.--Prior to conducting business or otherwise
15 commencing operations in this Commonwealth, a transient vendor
16 shall register with the department. The application for
17 registration shall be in such form and contain such information
18 as the department, by regulation, shall prescribe and shall set
19 forth truthfully and accurately the information desired by the
20 department. This registration shall be renewed and updated
21 annually.

22 (b) Certificate to be issued.--After registration and the
23 posting of the bond required by section 748.1, the department
24 shall issue to the transient vendor a certificate valid for one
25 year. On renewal of registration, the department shall issue a
26 new certificate valid for one year, if the department is
27 satisfied that the transient vendor has complied with the
28 provisions of this chapter.

29 (c) Possession and exhibition of certificate.--The transient
30 vendor shall possess the certificate at all times when



1 conducting business within this Commonwealth and shall exhibit
2 the certificate upon demand by authorized employees of the
3 department or any law enforcement officer.

4 (d) Contents of certificate.--The certificate issued by the
5 department shall state that the transient vendor named in the
6 certificate has registered with the department and shall provide
7 notice to the transient vendor that:

8 (1) The transient vendor must notify the department in
9 writing before it enters this Commonwealth to conduct
10 business, of the location or locations where it intends to
11 conduct business and the date or dates on which it intends to
12 conduct business.

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

16 (3) Conducting business in this Commonwealth after a
17 certificate has been suspended or revoked may result in
18 criminal conviction and the imposition of fines or other
19 penalties.

20 Section 748.1. Bond.

21 (a) General rule.--Upon registration with the department, a
22 transient vendor shall also post a bond with the department in
23 the amount of \$500 as surety for compliance with the provisions
24 of this chapter. After a period of demonstrated compliance with
25 these provisions or, if the transient vendor provides the
26 license number of a promoter who has notified the department of
27 a show, in accordance with the provisions of section 748.6(a),
28 the department may reduce the amount of bond required of a
29 transient vendor or may eliminate the bond entirely.

30 (b) Voluntary suspension of certificate.--A transient vendor



1 may file a request for voluntary suspension of certificate with
2 the department. If the department is satisfied that the
3 provisions of this chapter have been complied with and has
4 possession of the transient vendor's certificate, it shall
5 return the bond posted to the transient vendor.

6 Section 748.2. Notification to department.

7 (a) General rule.--Prior to entering this Commonwealth to
8 conduct business, a transient vendor shall notify the department
9 in writing of the location or locations where it intends to
10 conduct business and the date or dates on which it intends to
11 conduct business.

12 (b) Inspection of records.--While conducting business in
13 this Commonwealth, the transient vendor shall permit authorized
14 employees of the department to inspect its sales records,
15 including, but not limited to, sales receipts and inventory or
16 price lists and to permit inspection of the tangible personal
17 property offered for sale at retail.

18 (c) Conditions for suspension or revocation of
19 certificate.--The department may suspend or revoke a certificate
20 issued to a transient vendor if the transient vendor:

21 (1) fails to notify the department as required by
22 subsection (a);

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

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

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

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



1 Section 748.3. Seizure of property.

2 (a) General rule.--If a transient vendor conducting business
3 in this Commonwealth fails to exhibit a valid certificate on
4 demand by authorized employees of the department, those
5 authorized employees shall seize, without warrant, the tangible
6 personal property and the automobile, truck or other means of
7 transportation used to transport or carry that property. All
8 property seized shall be deemed contraband and shall be subject
9 to immediate forfeiture proceedings instituted by the department
10 pursuant to procedures adopted by regulation, except as
11 otherwise provided by this section.

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

14 (1) presentation of a valid certificate to authorized
15 employees of the department; or

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

20 Section 748.4. Fines.

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

26 Section 748.5. Transient vendors subject to chapter.

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

30 Section 748.6. Promoters.



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

7 (b) License.--

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

12 (2) If application for a license under this section has
13 been timely filed and if the license has not been received by
14 the promoter prior to the opening of the show, the
15 authorization contained in this section with respect to the
16 obtaining of a promoter's license shall be deemed to have
17 been complied with, unless or until the promoter receives
18 notice from the department denying the application for a
19 promoter's license.

20 (c) Compliance.--Any promoter who is a vendor under the
21 provisions of section 701 shall comply with all the provisions
22 of this chapter applicable to vendors and with the provisions of
23 this section applicable to promoters.

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

29 (e) Penalties.--

30 (1) Any licensed promoter who:



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

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

6 (iii) knowingly maintains false records or fails to
7 comply with any provision contained in this section or
8 any regulation promulgated by the department pertaining
9 to shows,

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

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

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

20 Section 749. (Reserved).

21 Section 750. (Reserved).

22 Section 751. (Reserved).

23 Section 752. Refunds.

24 (a) General rule.--Subject to the provisions of subsection
25 (b), the department shall, pursuant to the provisions of Article
26 XXVII of the Tax Reform Code of 1971, refund all taxes, interest
27 and penalties paid to the Commonwealth under the provisions of
28 this chapter and to which the Commonwealth is not rightfully
29 entitled. The refunds shall be made to the person, the person's
30 heirs, successors, assigns or other personal representatives,



1 who actually paid the tax.

2 (b) Exception.--No refund shall be made under this section
3 with respect to any payment made by reason of an assessment with
4 respect to which a taxpayer has filed a petition for
5 reassessment pursuant to section 2702 of the Tax Reform Code of
6 1971 to the extent that the petition has been determined
7 adversely to the taxpayer by a decision which is no longer
8 subject to further review or appeal.

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

13 Section 753. Refund petition.

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

21 (b) Assessments.--A refund or credit of tax, interest or
22 penalty paid as a result of an assessment made by the department
23 under section 731 shall be made only where the person who has
24 actually paid the tax files with the department a petition for a
25 refund with the department under Article XXVII of the Tax Reform
26 Code of 1971 within the time limits of section 3003.1 of the Tax
27 Reform Code of 1971. The filing of a petition for refund under
28 the provisions of this subsection shall not affect the abatement
29 of interest, additions or penalties to which the person may be
30 entitled by reason of the person's payment of the assessment.



1 Section 754. (Reserved).

2 Section 755. (Reserved).

3 Section 756. Extended time for filing special petition for
4 refund.

5 (a) General rule.--Any party to a transaction who has paid
6 tax by reason of a transaction with respect to which the
7 department is assessing tax against another person may, within
8 six months after the filing by the department of the assessment
9 against the other person, file a special petition for refund,
10 notwithstanding the person's failure to timely file a petition
11 pursuant to section 3003.1 of the Tax Reform Code of 1971. The
12 provisions of Article XXVII of the Tax Reform Code of 1971 shall
13 be applicable to the special petition for refund, except that
14 the department need not act on the petition until there is a
15 final determination as to the propriety of the assessment filed
16 against the other party to the transaction. Where a petition is
17 filed under this provision in order to take advantage of the
18 extended period of limitations, overpayments by the petitioner
19 shall be refunded but only to the extent of the actual tax,
20 without consideration of interest and penalties, paid by the
21 other party to the transaction.

22 (b) Purpose.--The purpose of this section is to avoid
23 duplicate payment of tax where a determination is made by the
24 department that one party to a transaction is subject to tax,
25 and another party to the transaction has previously paid tax
26 with respect to the transaction and, as such, this section shall
27 be construed as extending right beyond that provided for by
28 section 753, and not to limit the other section.

29 Section 757. (Reserved).

30 Section 758. Limitation on assessment and collection.



1 The amount of the tax imposed by this chapter or the Tax
2 Reform Code of 1971 shall be assessed within three years after
3 the date when the return provided for by section 717(a) or (c)
4 is filed or the end of the year in which the tax liability
5 arises, whichever occurs later. Any assessment may be made at
6 any time during the period notwithstanding that the department
7 may have made one or more previous assessments against the
8 taxpayer for the year in question, or for any part of the year.
9 In any case, no credit shall be given for any penalty previously
10 assessed or paid.

11 Section 759. Failure to file return.

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

15 Section 760. False or fraudulent return.

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

19 Section 761. Extension of limitation period.

20 Notwithstanding any other provisions of this subchapter
21 where, before the expiration of the period prescribed in that
22 other provision for the assessment of a tax, a taxpayer has
23 consented in writing that the period be extended, the amount of
24 tax due may be assessed at any time within the extended period.
25 The period so extended may be extended further by subsequent
26 consents in writing made before the expiration of the extended
27 period.

28 Section 762. (Reserved).

29 Section 763. (Reserved).

30 Section 764. (Reserved).



1 Section 765. Interest.

2 If any amount of tax imposed by this chapter is not paid to
3 the department on or before the last date prescribed for
4 payment, interest on the amount at the rate of .75% per month
5 for each month, or fraction thereof, from the date, shall be
6 paid for the period from the last date to the date paid. The
7 last date prescribed for payment shall be determined under
8 section 722(a) or (c) without regard to any extension of time
9 for payment. In the case of any amount assessed as a deficiency
10 or as an estimated assessment, the date prescribed for payment
11 shall be 30 days after notice of the assessment.

12 Section 766. Additions to tax.

13 (a) Failure to file return.--In the case of failure to file
14 any return required by section 715 on the date prescribed for
15 the return, determined with regard to any extension of time for
16 filing, and, in the case in which a return filed understates the
17 true amount due by more than 50%, there shall be added to the
18 amount of tax actually due 5% of the amount of the tax if the
19 failure to file a proper return is for not more than one month,
20 with an additional 5% for each additional month, or fraction
21 thereof, during which such failure continues, not exceeding 25%
22 in the aggregate. In every case at least \$2 shall be added.

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

27 (c) Interest.--If the department assesses a tax according to
28 section 731(a), (b) or (c), there shall be added to the amount
29 of the deficiency interest at the rate of .75% per month for
30 each month, or fraction thereof, from the date prescribed by



1 subsection (a) or section 722(c) for the payment of the tax to
2 the date of notice of the assessment.

3 Section 767. Penalties.

4 (a) General rule.--The penalties, additions, interest and
5 liabilities provided by this chapter shall be paid on notice and
6 demand by the department, and shall be assessed and collected in
7 the same manner as taxes. Except as otherwise provided, any
8 reference in this chapter to tax imposed by this chapter shall
9 be deemed also to refer to the penalties, additions, interest
10 and liabilities provided by this chapter.

11 (b) Monetary penalty.--Any person who willfully attempts, in
12 any manner, to evade or defeat the tax imposed by this chapter,
13 or the payment thereof, or to assist any other person to evade
14 or defeat the tax imposed by this chapter, or the payment
15 thereof, or to receive a refund improperly shall, in addition to
16 other penalties provided by law, be liable for a penalty equal
17 to one-half of the total amount of the tax evaded.

18 (c) Burden of proof.--In any direct proceeding arising out
19 of a petition for reassessment or refund as provided in this
20 chapter, in which an issue of fact is raised with respect to
21 whether a return is fraudulent or with respect to the propriety
22 of the imposition by the department of the penalty prescribed in
23 subsection (b), the burden of proof with respect to the issue
24 shall be on the department.

25 Section 768. Criminal offenses.

26 (a) False returns.--Any person who with intent to defraud
27 the Commonwealth willfully makes, or causes to be made, any
28 return required by this chapter which is false commits a
29 misdemeanor and, upon conviction, shall be sentenced to pay a
30 fine of not more than \$2,000 or to imprisonment not exceeding



1 three years, or both.

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

5 (1) advertises or holds out or states to the public or
6 to any purchaser or user, directly or indirectly, that the
7 tax or any part imposed by this chapter will be absorbed by
8 the person, or that it will not be added to the purchase
9 price of the tangible personal property or services described
10 in section 701(k) (2), (3), (4) and (11) through (18) sold or,
11 if added, that the tax or any part will be refunded, other
12 than when the person refunds the purchase price because of
13 the property being returned to the vendor;

14 (2) sells or leases tangible personal property or the
15 services, the sale or use of which by the purchaser is
16 subject to tax under this chapter, and willfully fails to
17 collect the tax from the purchaser and timely remit the same
18 to the department;

19 (3) willfully fails or neglects to timely file any
20 return or report required by this chapter or, as a taxpayer,
21 refuses to timely pay any tax, penalty or interest imposed or
22 provided for by this chapter, or willfully fails to preserve
23 the person's books, papers and records as directed by the
24 department;

25 (4) refuses to permit the department or any of its
26 authorized agents to examine the person's books, records or
27 papers, or who knowingly makes any incomplete, false or
28 fraudulent return or report;

29 (5) does or attempts to do anything to prevent the full
30 disclosure of the amount or character of taxable sales



1 purchases or use made by himself or any other person;

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

5 (7) makes, utters or issues a false or fraudulent
6 exemption certificate;

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

10 (c) Exceptions.--

11 (1) Any person who maintains a place of business outside
12 this Commonwealth may absorb the tax with respect to taxable
13 sales made in the normal course of business to customers
14 present at that place of business without being subject to
15 the penalty and fines.

16 (2) Advertising tax-included prices shall be
17 permissible, if the prepaid services are sold by the service
18 provider, for prepaid telecommunications services not
19 evidenced by the transfer of tangible personal property or
20 for prepaid mobile telecommunications services.

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

24 Section 769. Abatement of additions or penalties.

25 On the filing of a petition for reassessment or a petition
26 for refund as provided under this chapter by a taxpayer,
27 additions or penalties imposed on the taxpayer by this chapter
28 or the Tax Reform Code of 1971 may be waived or abated, in whole
29 or in part, where the petitioner has established that the
30 petitioner has acted in good faith, without negligence and with



1 no intent to defraud.

2 Section 770. Rules and regulations.

3 (a) General rule.--The department shall enforce the
4 provisions of this chapter and shall prescribe, adopt,
5 promulgate and enforce rules and regulations not inconsistent
6 with the provisions of this chapter, relating to any matter or
7 thing pertaining to the administration and enforcement of the
8 provisions of this chapter, and the collection of taxes,
9 penalties and interest imposed by this chapter. The department
10 may prescribe the extent, if any, to which any of the rules and
11 regulations shall be applied without retroactive effect.

12 (b) Determination of purchase price.--

13 (1) In determining the purchase price of taxable sales
14 where, because of affiliation of interests between the vendor
15 and the purchaser or irrespective of any such affiliation, if
16 for any other reason, the purchase price of the sale is in
17 the opinion of the department not indicative of the true
18 value of the article or the fair price of the article, the
19 department shall, pursuant to uniform and equitable rules,
20 determine the amount of constructive purchase price on the
21 basis of which the tax shall be computed and levied.

22 (2) The rules shall provide for a constructive amount of
23 a purchase price for each sale, which price shall equal a
24 price for the article which would naturally and fairly be
25 charged in an arm's-length transaction in which the element
26 of common interests between vendor and purchaser or, if no
27 common interest exists, any other element causing a
28 distortion of the price or value is absent.

29 (3) For the purpose of this chapter where a taxable sale
30 occurs between a parent corporation and a subsidiary



1 affiliate or controlled corporation of such parent, there
2 shall be a rebuttable presumption that because of such common
3 interest the transaction was not at arm's-length.

4 Section 771. Keeping of records.

5 (a) Persons liable for taxes.--Every person liable for any
6 tax imposed by this chapter, or for the collection of the tax,
7 shall keep the records, render such statements, make the returns
8 and comply with the rules and regulations as the department may,
9 from time to time, prescribe regarding matters pertinent to the
10 person's business. Whenever in the judgment of the department it
11 is necessary, it may require any person, by notice served on the
12 person, or by regulations, to make the returns, render the
13 statements or keep the records as the department deems
14 sufficient to show whether the person is liable to pay or
15 collect tax under this chapter.

16 (b) Persons collecting taxes.--Any person liable to collect
17 tax from another person under the provisions of this chapter
18 shall file reports, keep records, make payments and be subject
19 to interest and penalties as provided for under this chapter, in
20 the same manner as if the person were directly subject to the
21 tax.

22 (c) Nonresidents.--

23 (1) A nonresident who does business in this Commonwealth
24 as a retail dealer shall keep adequate records of the
25 business and of the tax due with respect to the business,
26 which records shall at all times be retained within this
27 Commonwealth unless retention outside this Commonwealth is
28 authorized by the department.

29 (2) No taxes collected from purchasers shall be sent
30 outside this Commonwealth without the written consent of and



1 in accordance with conditions prescribed by the department.

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

5 (d) Retail dealers.--

6 (1) Any person doing business as a retail dealer who at
7 the same time is engaged in another business which does not
8 involve the making of sales taxable under this chapter shall
9 keep separate books and records of the person's businesses so
10 as to show the sales taxable under this chapter separately
11 from the sales not taxable under this chapter.

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

16 (e) Segregation of taxes required.--

17 (1) In those instances where a vendor gives no sales
18 memoranda or uses registers showing only total sales, the
19 vendor shall adopt some method of segregating tax from sales
20 receipts and keep records showing the segregation, all in
21 accordance with proper accounting and business practices.

22 (2) A vendor may apply to the department for permission
23 to use a collection and recording procedure which will show
24 the information as the law requires with reasonable accuracy
25 and simplicity. The application must contain a detailed
26 description of the procedure to be adopted.

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

30 (4) The department may revoke the permission on 30 days!



1 notice to the vendor.

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

6 Section 771.1. Reports and records of promoters.

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

20 Section 772. Examinations.

21 (a) Power of department.--The department or any of its
22 authorized agents may examine the books, papers and records of
23 any taxpayer in order to verify the accuracy and completeness of
24 any return made or if no return was made, to ascertain and
25 assess the tax imposed by this chapter. The department may
26 require the preservation of all such books, papers and records
27 for any period deemed proper by it but not to exceed three years
28 from the end of the calendar year to which the records relate.

29 (b) Duty of taxpayers.--Every taxpayer shall give to the
30 department, or its agent, the means, facilities and opportunity



1 for the examinations and investigation.

2 (c) Other powers of department.--

3 (1) The department is further authorized to examine any
4 person, under oath, concerning taxable sales or use by any
5 taxpayer or concerning any other matter relating to the
6 enforcement or administration of this chapter, and to this
7 end may compel the production of books, papers and records
8 and the attendance of all persons whether as parties or
9 witnesses whom it believes to have knowledge of such matters.

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

13 Section 773. Records and examinations of delivery agents.

14 Every agent for the purpose of delivery of goods shipped into
15 this Commonwealth by a nonresident, including, but not limited
16 to, a common carrier, shall maintain adequate records of such
17 deliveries pursuant to rules and regulations adopted by the
18 department and shall make the records available to the
19 department upon request after due notice.

20 Section 774. Unauthorized disclosure.

21 Any information gained by the department as a result of any
22 return, examination, investigation, hearing or verification
23 required or authorized by this chapter shall be confidential,
24 except for official purposes and except in accordance with
25 proper judicial order or as otherwise provided by law, and any
26 person unlawfully divulging such information commits a
27 misdemeanor and, upon conviction, shall be sentenced to pay a
28 fine of not more than \$1,000 and costs of prosecution or to
29 imprisonment for not more than one year, or both.

30 Section 775. Cooperation with other governments.



1 Notwithstanding the provisions of section 774, the department
2 may permit the Commissioner of Internal Revenue of the United
3 States, or the proper officer of any state, or the authorized
4 representative of either such officer, to inspect the tax
5 returns of any taxpayer, or may furnish to the officer or to the
6 officer's authorized representative an abstract of the return of
7 any taxpayer, or supply the officer or the authorized
8 representative with information concerning any item contained in
9 any return or disclosed by the report of any examination or
10 investigation of the return of any taxpayer. This permission
11 shall be granted only if the statutes of the United States or of
12 such other state, as the case may be, grant substantially
13 similar privileges to the proper officer of the Commonwealth
14 charged with the administration of this chapter.

15 Section 776. Interstate compacts.

16 (a) General rule.--The Governor, or the Governor's
17 authorized representative, may confer with the Governor and the
18 authorized representatives of other states with respect to
19 reciprocal use tax collection between the Commonwealth and such
20 other states.

21 (b) Other powers.--The Governor, or the Governor's
22 authorized representative, may join with the authorities of
23 other states to conduct joint investigations, to exchange
24 information, hold joint hearings and enter into compacts or
25 interstate agreements with such other states to accomplish
26 uniform reciprocal use tax collections between those states who
27 are parties to any compact or interstate agreement and the
28 Commonwealth.

29 Section 777. Bonds.

30 (a) Procedure.--



1 (1) Whenever the department, in its discretion, deems it
2 necessary to protect the revenues to be obtained under the
3 provisions of this chapter, it may require any nonresident
4 natural person or any foreign corporation, association,
5 fiduciary, partnership or other entity, not authorized to do
6 in this Commonwealth or not having an established place of
7 business in this Commonwealth and subject to the tax imposed
8 by section 702, to file a bond issued by a surety company
9 authorized to do business in this Commonwealth and approved
10 by the Insurance Commissioner as to solvency and
11 responsibility, in such amounts as it may fix, to secure the
12 payment of any tax or penalties due, or which may become due,
13 from a natural person or corporation.

14 (2) In order to protect the revenues to be obtained
15 under the provisions of this chapter, the department shall
16 require any nonresident natural person or any foreign
17 corporation, association, fiduciary, partnership or entity,
18 who or which is a building contractor, or who or which is a
19 supplier delivering building materials for work in this
20 Commonwealth and is not authorized to do business in this
21 Commonwealth or does not have an established place of
22 business in this Commonwealth and is subject to the tax
23 imposed by section 702, to file a bond issued by a surety
24 company authorized to do business in this Commonwealth and
25 approved by the Insurance Commissioner as to solvency and
26 responsibility, in the amounts as it may fix, to secure the
27 payments of any tax or penalties due, or which may become
28 due, from a natural person, corporation or other entity.

29 (3) The department may also require a bond of any person
30 petitioning the department for reassessment, in the case of



1 any assessment over \$500 or where it is of the opinion that
2 the ultimate collection is in jeopardy.

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

8 (ii) If the department determines that a taxpayer is
9 to file a bond, the department shall give notice to the
10 taxpayer to that effect, specifying the amount of the
11 bond required.

12 (iii) The taxpayer shall file a bond within five
13 days after the giving of the notice by the department
14 unless, within the five-day period, the taxpayer requests
15 in writing a hearing before the secretary or the
16 secretary's representative at which hearing the
17 necessity, propriety and amount of the bond shall be
18 determined by the secretary or a representative. The
19 determination shall be final and shall be complied within
20 15 days after notice is mailed to the taxpayer.

21 (b) Alternative security.--

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

25 (2) Such securities or cash shall be kept in the custody
26 of the department, who may, at any time, without notice to
27 the depositor, apply them to any tax and/or interest or
28 penalties due, and for that purpose the securities may be
29 sold by the department, at public or private sale, on five
30 days' written notice to the depositor.



1 (c) Lien may be filed.--

2 (1) The department may file a lien pursuant to section
3 742 against any taxpayer who fails to file a bond when
4 required to do so under this section.

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

9 SUBCHAPTER G

10 FUNDING PROVISIONS

11 Section 780. (Reserved).

12 Section 781. Appropriation for refunds.

13 So much of the proceeds of the tax imposed by this chapter as
14 shall be necessary for the payment of refunds, enforcement or
15 administration under this chapter is hereby appropriated for
16 those purposes.

17 Section 781.1. Construction.

18 To the extent that the language of this chapter is identical
19 to that of equivalent provisions in the former act of March 6,
20 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for
21 Education, or Article II of the Tax Reform Code of 1971, that
22 language shall be deemed a reenactment of such identical
23 provisions.

24 Section 782. Transfers to Education Stabilization Fund.

25 (a) Legislative intent.--It is the intent of the General
26 Assembly to increase the rate of the current sales and use tax
27 and broaden the sales and use tax base in order to provide funds
28 for the operating expenses of school districts and as a means to
29 abolish the school property tax.

30 (b) Deposit of sales and use tax collected.--The secretary



1 shall deposit into the Education Stabilization Fund revenues
2 received on or after January 1, 2014, regardless of the
3 transaction date, that equal the portion of the tax imposed by
4 this chapter as follows:

5 (1) Except as otherwise provided in paragraphs (2) and
6 (3), 1% of the tax collected on the sales at retail and use
7 of tangible personal property and services as provided in
8 section 702.

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

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

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

16 (1) The sale at retail or use of disposable diapers;
17 premoistened wipes; incontinence products; colostomy
18 deodorants; toilet paper; sanitary napkins, tampons or
19 similar items used for feminine hygiene; or toothpaste,
20 toothbrushes or dental floss.

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

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

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

30 (5) The sale at retail or use of newspapers. For



1 purposes of this section, the term "newspaper" shall mean a
2 "legal newspaper" or a publication containing matters of
3 general interest and reports of current events which
4 qualifies as a "newspaper of general circulation" qualified
5 to carry a "legal advertisement" as those terms are defined
6 in 45 Pa.C.S. § 101 (relating to definitions), not including
7 magazines. The term "newspaper" also includes any printed
8 advertising materials circulated with such newspaper
9 regardless of where or by whom such printed advertising
10 material was produced.

11 (6) The sale at retail or use of caskets and burial
12 vaults for human remains and markers and tombstones for human
13 graves.

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

16 (8) The sale at retail or use of textbooks for use in
17 schools, colleges and universities, either public or private,
18 when purchased in behalf of or through such schools, colleges
19 or universities provided such institutions of learning are
20 recognized by the Department of Education.

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

24 (10) The sale at retail or use of mail order catalogs
25 and direct mail advertising literature or materials,
26 including electoral literature or materials, such as
27 envelopes, address labels and a one-time license to use a
28 list of names and mailing addresses for each delivery of
29 direct mail advertising literature or materials, including
30 electoral literature or materials, through the United States



1 Postal Service.

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

6 (12) The sale at retail of supplies and materials to
7 tourist promotion agencies, which receive grants from the
8 Commonwealth, for distribution to the public as promotional
9 material or the use of such supplies and materials by said
10 agencies for said purposes.

11 (13) 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, provided that the
15 object is erected upon publicly owned property or property to
16 be conveyed to a public entity upon the commemoration or
17 memorialization of the historical event.

18 (14) The sale at retail or use of candy or gum
19 regardless of the location from which the candy or gum is
20 sold.

21 (15) The sale at retail or use of horses to be used
22 exclusively for commercial racing activities and the sale at
23 retail and use of feed, bedding, grooming supplies, riding
24 tack, farrier services, portable stalls and sulkeys for
25 horses used exclusively for commercial racing activities.

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

29 (i) transferred pursuant to a construction contract
30 for any charitable organization, volunteer firemen's



1 organization, volunteer firefighters' relief association,
2 nonprofit educational institution or religious
3 organization for religious purposes, provided that the
4 building machinery and equipment and services thereto are
5 not used in any unrelated trade or business; or

6 (ii) transferred to the United States or the
7 Commonwealth or its instrumentalities or political
8 subdivisions.

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

10 (18) The sale at retail to or use of food and
11 nonalcoholic beverages by an airline which will transfer the
12 food or nonalcoholic beverages to passengers in connection
13 with the rendering of the airline service.

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

16 (20) The sale at retail or use of investment metal
17 bullion and investment coins. "Investment metal bullion"
18 means any elementary precious metal which has been put
19 through a process of smelting or refining, including, but not
20 limited to, gold, silver, platinum and palladium, and which
21 is in such state or condition that its value depends upon its
22 content and not its form. "Investment metal bullion" does not
23 include precious metal which has been assembled, fabricated,
24 manufactured or processed in one or more specific and
25 customary industrial, professional, aesthetic or artistic
26 uses. "Investment coins" means numismatic coins or other
27 forms of money and legal tender manufactured of gold, silver,
28 platinum, palladium or other metal and of the United States
29 or any foreign nation with a fair market value greater than
30 any nominal value of such coins. "Investment coins" does not



1 include jewelry or works of art made of coins, nor does it
2 include commemorative medallions.

3 CHAPTER 9

4 (RESERVED)

5 CHAPTER 11

6 LIMITATIONS ON

7 SCHOOL DISTRICT TAXATION

8 Section 1101. Authority to levy taxes and effect of future
9 Constitutional amendment.

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

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

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

20 (b) Collection of certain taxes unaffected.--The provisions
21 of this section or any other provision of this act shall not
22 prevent or interfere with any action of any school district to
23 collect any tax owed by any taxpayer prior to the repeal of any
24 law authorizing such tax after such law is repealed pursuant to
25 this act.

26 (c) Limitations on adoption of personal income taxes and
27 earned income taxes authorized under Chapter 3.--A school
28 district that adopts a personal income tax pursuant to Chapter 3
29 may not adopt an earned income tax. A school district that
30 adopts an earned income tax under Chapter 3 may not adopt a



1 personal income tax.

2 Section 1102. Transitional taxes.

3 (a) Transitional taxes for school districts other than
4 school districts of the first class.--Notwithstanding any other
5 provision of the Public School Code of 1949 or any other law to
6 the contrary:

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

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

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

18 (1) Any school district of the first class and city of
19 the first class may continue to levy, assess and collect a
20 real property tax and all other taxes in existence on July
21 31, 2013 at the rates in effect on that date for the use of a
22 coterminous school district of the first class for fiscal
23 year 2013-2014. The authority to levy, assess and collect
24 such taxes for the use of coterminous school districts shall
25 expire at midnight on December 31, 2013.

26 (2) For all fiscal years beginning after June 30, 2013,
27 no city of the first class shall have any power or authority
28 to levy, assess and collect any of the taxes identified under
29 paragraph (1) for school purposes, except as necessary to
30 fund the annual debt service payments for its outstanding



1 debt in existence on December 31, 2012.

2 Section 1103. Consideration of State appropriations or
3 reimbursements.

4 The personal income or earned income tax levied shall not be
5 invalidated by reason of the fact that in determining the amount
6 to be raised by such tax no deduction was made for
7 appropriations or reimbursements paid or payable by the
8 Commonwealth to the school district.

9 Section 1104. Taxes for cities and school districts of the
10 first class.

11 Notwithstanding any other provision of the Public School Code
12 of 1949 or any other law to the contrary, nothing in this act
13 shall be construed to limit or impair a city of the first class
14 from levying, assessing or collecting any tax for municipal
15 purposes or from increasing the millage for real estate taxes or
16 revenues if the revenues derived from the real property tax are
17 used solely for municipal purposes.

18 CHAPTER 12

19 INDEBTEDNESS

20 Section 1201. Expiration of authority to issue debt.

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

26 Section 1202. Notices and reporting by school districts of debt
27 outstanding.

28 (a) Duties.--

29 (1) Each school district, including a school district of
30 the first class, shall identify the outstanding amount of all



1 electoral debt, lease rental debt or nonelectoral debt
2 incurred as of December 31, 2012.

3 (2) On or before September 30, 2013, each school
4 district, including a school district of the first class,
5 shall certify and report to the Department of Revenue the
6 outstanding amount of all electoral debt, lease rental debt
7 or nonelectoral debt incurred as of December 31, 2012,
8 together with any information requested by the department in
9 order for the Commonwealth to comply with requirements of
10 this section.

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

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

16 (2) If the Department of Revenue disputes all or any
17 portion of a report submitted under subsection (a), the
18 department shall not include such amount in the certification
19 to the State Treasurer and shall notify the school district
20 in writing of the exclusion from the certification.

21 CHAPTER 13

22 FUNDING PROVISIONS

23 Section 1301. Definitions.

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

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



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

2 (1) the average annual percentage increase in the
3 Consumer Price Index for All Urban Consumers (CPI-U) for the
4 Pennsylvania, New Jersey and Maryland area for the preceding
5 calendar year; or

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

8 "Department." The Department of Education of the
9 Commonwealth.

10 "Fund." The Education Stabilization Fund established in
11 section 1302.

12 Section 1302. Education Stabilization Fund.

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

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

16 (1) Money collected by the department under:

17 (i) section 401; or

18 (ii) Chapter 7.

19 (2) All revenue transferred to or received by the
20 property tax relief fund under:

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

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

25 (3) Appropriations.

26 (4) Return on money in the fund.

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

29 (d) Continuing appropriation.--The money of the fund is
30 hereby continuously appropriated to the department as provided



1 in this act. This appropriation shall not lapse at the end of
2 any fiscal year.

3 Section 1303. Standard disbursements to school districts from
4 Education Stabilization Fund.

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

7 (1) Ascertain base revenue.

8 (2) Multiply:

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

10 (ii) the cost of living factor.

11 (3) Divide:

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

13 (ii) four.

14 (4) Each quarter, disburse the quotient under paragraph

15 (3).

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

19 (1) Take the amount received in the prior fiscal year
20 under this section.

21 (2) Multiply:

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

23 (ii) the cost of living factor.

24 (3) Divide:

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

26 (ii) four.

27 (4) Each quarter, disburse the quotient under paragraph

28 (3).

29 CHAPTER 15

30 MISCELLANEOUS PROVISIONS



1 Section 1501. Transitional provision.

2 (a) Sales and use tax.--Notwithstanding the repeal of
3 Article II of the Tax Reform Code of 1971, under section 1504,
4 the department shall have the authority to enforce the
5 collection of taxes imposed for transactions that occur prior to
6 the effective date of this section under former Article II of
7 the Tax Reform Code of 1971. The taxes collected after January
8 1, 2014, regardless of the transaction date, shall be deposited
9 as provided in section 782.

10 (b) Other taxes.--Notwithstanding the repeal of any
11 provision of the Public School Code of 1949 or of any other law
12 authorizing school districts to impose taxes, a governing body
13 shall have the authority to enforce, after the effective date of
14 the repeal, the collection of taxes levied and assessed under
15 those former provisions prior to the effective date of the
16 repeal under section 1504.

17 Section 1502. Construction.

18 Any and all references in any other act to Article II or any
19 provision in Article II of the Tax Reform Code of 1971 shall be
20 deemed a reference to Chapter 7 of this act or the corresponding
21 provisions in Chapter 7 of this act.

22 Section 1503. Severability.

23 The provisions of this act are severable as follows:

24 (1) If any provision of this act is held invalid, the
25 invalidity shall not affect other provisions or applications
26 of this act which can be given effect without the invalid
27 provision or application.

28 (2) Under no circumstances shall the invalidity of any
29 provision or application of this act affect the validity of
30 any provision in this act that abolishes the power of the



1 governing body and any school district and city of the first
2 class or any other political subdivision to levy, assess or
3 collect a tax on any interest in real property for school
4 purposes.

5 Section 1504. Repeals.

6 (a) Intent.--The General Assembly declares that the repeals
7 under subsection (b) are necessary to effectuate this act.

8 (b) Provisions.--The following acts and parts of acts are
9 repealed:

10 (1) Section 631 of the act of March 10, 1949 (P.L.30,
11 No.14), known as the Public School Code of 1949, is repealed.

12 (2) Any provision of the Public School Code of 1949 and
13 of any other law relating to the authority of any school
14 district to levy, assess and collect any tax on real property
15 and the power of any city of the first class to levy, assess
16 and collect any tax real property for school purposes is
17 repealed upon the expiration of the respective schedule
18 prescribed in sections 1101 and 1102.

19 (3) Any provision of the act of the Public School Code
20 of 1949 and any other law relating to debt is repealed to the
21 extent that it is inconsistent with this act.

22 (4) Any provision of the Public School Code of 1949 and
23 any home rule charter adopted pursuant thereto is repealed
24 insofar as it is inconsistent with this act.

25 (5) Any provision of the act of August 9, 1963 (P.L.643,
26 No.341), known as the First Class City Public Education Home
27 Rule Act, and any home rule school district charter adopted
28 pursuant thereto is repealed insofar as it is inconsistent
29 with this act.

30 (6) Article II of the act of March 4, 1971 (P.L.6,



1 No.2), known as the Tax Reform Code of 1971, is repealed.

2 (7) All acts and parts of acts that are inconsistent
3 with this act are repealed to the extent of such
4 inconsistency.

5 Section 1505. Applicability.

6 Section 1504(b) (6) and Chapter 7 shall apply January 1, 2014.

7 Section 1506. Effective date.

8 This act shall take effect as follows:

9 (1) Section 1504(b) (2) and (7) and Chapters 3 and 4
10 shall take effect January 1, 2014.

11 (2) The remainder of this act shall take effect
12 immediately.

