

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 136

Session of
1985

INTRODUCED BY LAUGHLIN, TRELLO, NAHILL, WILSON, LLOYD,
DOMBROWSKI, KOSINSKI, FEE, TIGUE, COLAFELLA, DALEY, MERRY,
GEIST, HALUSKA, ITKIN, REBER, FARGO, VAN HORNE, SCHULER,
PETRARCA, BELFANTI, SEMMEL, CLYMER, SALOOM, AFFLERBACH,
LETTERMAN, DeLUCA, BIRMELIN, MORRIS, BURD, PRESSMANN, NOYE,
PRATT, D. W. SNYDER, DAWIDA, COWELL, PISTELLA, VEON,
CAPPABIANCA AND LESCOVITZ, JANUARY 30, 1985

REFERRED TO COMMITTEE ON FINANCE, JANUARY 30, 1985

AN ACT

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

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

15 Section 1. Section 237(c) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
17 March 26, 1976 (P.L.60, No.26), is amended to read:

18 Section 237. Collection of Tax.--* * *

19 (c) Exemption Certificates. If the tax does not apply to the
20 sale or lease of tangible personal property or services, the

1 purchaser or lessee shall furnish to the vendor a certificate
2 indicating 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. Where the tangible
5 personal property or service is of a type which is never subject
6 to the tax imposed or where the sale or lease is in interstate
7 commerce, such certificate need not be furnished. Where a series
8 of transactions are not subject to tax, a purchaser or user may
9 furnish the vendor with a single exemption certificate in
10 substantially such form and valid for such period of time as the
11 department may, by regulation, prescribe. The department shall
12 provide all school districts and intermediate units with a
13 permanent tax exemption number. An exemption certificate, which
14 is complete and regular and on its face discloses a valid basis
15 of exemption if taken in good faith, shall relieve the vendor
16 from the liability imposed by this section. An exemption
17 certificate accepted by a vendor from a natural person domiciled
18 within this Commonwealth or any association, fiduciary,
19 partnership, corporation or other entity, either authorized to
20 do business within this Commonwealth or having an established
21 place of business within this Commonwealth, in the ordinary
22 course of the vendor's business, which on its face discloses a
23 valid basis of exemption consistent with the activity of the
24 purchaser and character of the property or service being
25 purchased or which is provided to the vendor by a charitable,
26 religious, educational or volunteer firemen's organization and
27 contains the organization's charitable exemption number and
28 which, in the case of any purchase costing two hundred dollars
29 (\$200) or more, is accompanied by a sworn declaration on a form
30 to be provided by the department of an intended usage of the

1 property or service which would render it nontaxable, shall be
2 presumed to be taken in good faith and the burden of proving
3 otherwise shall be on the Department of Revenue.

4 * * *

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