

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 390

Session of
1985

INTRODUCED BY SEVENTY, REBER, OLASZ AND DORR, FEBRUARY 13, 1985

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 13, 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," further defining farming; further providing for
11 the taxation on the sale of horses in certain circumstances;
12 and exempting feed for horses.

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

15 Section 1. Section 201(g) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended
17 by adding a subclause to read:

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

22 * * *

23 (g) "Purchase price."

1 * * *

2 (6) In the case of the purchase at retail of a horse at a
3 claiming race, the purchase price shall be the purchase price
4 determined without reference to this subclause, reduced, but not
5 below zero, by the amount, if any, most recently paid during the
6 calendar year for the same horse at a claiming race.

7 * * *

8 Section 2. Section 201(k)(8) of the act, amended May 9, 1972
9 (P.L.273, No.66) and December 9, 1980 (P.L.1136, No.202), is
10 amended and the section is amended by adding a clause to read:

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

15 * * *

16 (k) "Sale at retail."

17 * * *

18 (8) Any retention [of] or possession, custody or a license
19 to use or consume tangible personal property or any further
20 obtaining of services described in subclauses (2), (3) and (4)
21 of this clause pursuant to a rental or service contract or other
22 arrangement (other than as security).

23 The term "sale at retail" shall not include (i) any such
24 transfer of tangible personal property or rendition of services
25 for the purpose of resale, or (ii) such rendition of services or
26 the transfer of tangible personal property including, but not
27 limited to, machinery and equipment and parts therefor and
28 supplies to be used or consumed by the purchaser directly in any
29 of the operations of--

30 (A) The manufacture of personal property;

1 (B) Farming, dairying, agriculture, horticulture or
2 floriculture when engaged in as a business enterprise[. The term
3 "farming" shall include the propagation and raising of ranch
4 raised fur-bearing animals and the propagation of game birds for
5 commercial purposes by holders of propagation permits issued
6 under the act of June 3, 1937 (P.L.1225), known as "The Game
7 Law"];

8 (C) The producing, delivering or rendering of a public
9 utility service, or in constructing, reconstructing, remodeling,
10 repairing or maintaining the facilities which are directly used
11 in such service, whether or not such facilities constitute real
12 estate: Provided, however, "real estate" shall not include
13 buildings, roads or similar facilities;

14 (D) The processing of personal property as defined in clause
15 (d) of this section.

16 The exclusions provided in paragraphs (A), (B), (C) and (D)
17 shall not apply to any vehicle required to be registered under
18 The Vehicle Code, except those vehicles used directly by a
19 public utility engaged in business as a common carrier, or to
20 maintenance facilities or to materials or supplies to be used or
21 consumed in any construction, reconstruction, remodeling, repair
22 or maintenance of real estate other than machinery, equipment,
23 parts or foundations therefor that may be affixed to such real
24 estate.

25 The exclusions provided in paragraphs (A), (B), (C) and (D)
26 shall not apply to tangible personal property or services to be
27 used or consumed in managerial sales or other nonoperational
28 activities, nor to the purchase or use of tangible personal
29 property or services by any person other than the person
30 directly using the same in the operations described in

1 paragraphs (A), (B), (C) and (D) herein.

2 The exclusion provided in paragraph (C) shall not apply to
3 (i) construction materials used to construct, reconstruct,
4 remodel, repair or maintain facilities not used directly by the
5 purchaser in the production, delivering or rendition of public
6 utility service, or (ii) tools and equipment used but not
7 installed in the maintenance of facilities used in the
8 production, delivering or rendition of a public utility service.

9 * * *

10 (u) The term "farming" shall include (i) the breeding or
11 raising of horses for commercial purposes, including, but not
12 limited to, pleasure riding, drafting and racing, (ii) the
13 propagation and raising of ranch-raised fur-bearing animals, and
14 (iii) the propagation of game birds for commercial purposes by
15 holders of propagation permits issued under the act of June 3,
16 1937 (P.L.1225, No.316), known as "The Game Law."

17 Section 3. Section 204 of the act is amended by adding
18 clauses to read:

19 Section 204. Exclusions from Tax.--The tax imposed by
20 section 202 shall not be imposed upon

21 * * *

22 (38.1) The sale at retail or use of horses for use, by the
23 purchaser or user, for a commercial or an investment purpose.

24 * * *

25 (45) The sale at retail or use of feed for all horses.

26 Section 4. This act shall take effect in 60 days.