

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2091 Session of
1986

INTRODUCED BY LAUGHLIN AND BURNS, FEBRUARY 5, 1986

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 5, 1986

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," making provisions relating to the burden of proof
11 of taxability when exemption certificates are utilized by
12 charitable, religious, educational or voluntary firemen's
13 organizations retroactive to a certain date.

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

16 Section 1. Section 237(c) of the act of March 4, 1971
17 (P.L.6, No.2), known as the Tax Reform Code of 1971, as amended
18 by the act of July 1, 1985 (P.L.78, No.29), is reenacted to
19 read:

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

21 (c) Exemption Certificates. If the tax does not apply to the
22 sale or lease of tangible personal property or services, the
23 purchaser or lessee shall furnish to the vendor a certificate

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

1 presumed to be taken in good faith and the burden of proving
2 otherwise shall be on the Department of Revenue.

3 * * *

4 Section 2. The amendments to section 237(c) made by the act
5 of July 1, 1985 (P.L.78, No.29) shall apply retroactively to all
6 transactions occurring on or after January 1, 1983, including,
7 but not limited to, transactions for which a taxpayer petitioned
8 the Department of Revenue for a reassessment and the
9 reassessment was denied, and refunds shall be made in proper
10 cases.

11 Section 3. Section 16(e) of the act of July 1, 1985 (P.L.78,
12 No.29), entitled "An act amending the act of March 4, 1971
13 (P.L.6, No.2), entitled 'An act relating to tax reform and State
14 taxation by codifying and enumerating certain subjects of
15 taxation and imposing taxes thereon; providing procedures for
16 the payment, collection, administration and enforcement thereof;
17 providing for tax credits in certain cases; conferring powers
18 and imposing duties upon the Department of Revenue, certain
19 employers, fiduciaries, individuals, persons, corporations and
20 other entities; prescribing crimes, offenses and penalties,'
21 shifting the burden of proof from vendors to the Department of
22 Revenue on questions concerning the utilization of exemption
23 certificates; eliminating the split second quarter for filing of
24 sales tax returns; reducing the personal income tax rate;
25 permitting the equitable adjustment of taxes and penalties;
26 revising the provisions relating to net loss carryover; adding a
27 definition of 'taxable year'; providing a processing exemption
28 for computer software from the capital stock and franchise tax;
29 providing an investment credit; eliminating tentative payments
30 for corporate net income taxes and requiring the payment of

1 estimated taxes; reducing tentative tax payments for the capital
2 stock and franchise tax; changing the time period within which
3 petitions for refunds may be filed; making repeals; and making
4 an appropriation," is repealed insofar as inconsistent with the
5 provisions of this act.

6 Section 4. This act shall take effect immediately.