

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2486 Session of
1990

INTRODUCED BY EVANS, APRIL 24, 1990

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, JUNE 26, 1990

AN ACT

1 Authorizing cities of the first class to levy, assess and
2 collect a tax upon each separate sale at retail of tangible
3 personal property or services; a tax upon the use within a
4 city of the first class of tangible personal property
5 purchased at retail and on services purchased at retail; and
6 imposing penalties.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the First Class
11 City Optional Sales and Use Tax Act.

12 Section 2. Definitions.

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

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

17 Section 3. Optional city of the first class sales and use tax.

18 (a) Sales tax.--The city council in a city of the first
19 class may levy, assess and collect, upon each separate sale at

1 retail of tangible personal property or services, a tax on the
2 purchase price. The tax shall be collected by the vendor from
3 the purchaser and shall be paid over to the Commonwealth as
4 provided in regulations.

5 (b) Use tax.--In any city of the first class which imposes a
6 tax authorized in subsection (a), there shall be levied,
7 assessed and collected, upon the use within the city of tangible
8 personal property purchased at retail and on services purchased
9 at retail, a tax at the same rate as imposed pursuant to
10 subsection (a) on the purchase price. The tax shall be paid to
11 the Commonwealth by the person who makes such use as provided in
12 regulations. The use tax shall not be paid to the Commonwealth
13 by any person who has paid any city tax imposed under this
14 section equal to or greater than the tax imposed pursuant to
15 either subsection (a) or this subsection.

16 (c) Rate of tax.--

17 (1) The tax authorized by subsections (a) and (b) shall
18 be imposed at a rate of 0.5% or 1.0%.

19 (2) The rate imposed by subsections (a) and (b) shall be
20 uniform.

21 (d) Computation of tax.--The amount of tax imposed by this
22 section shall be computed as follows:

23 (1) When the tax authorized by this section is imposed
24 at the rate of 0.5%, the tax shall be computed as follows:

25 (i) If the purchase price is 99¢ or less, no tax
26 shall be collected.

27 (ii) If the purchase price is \$1 or more but less
28 than \$3, 1¢ shall be collected.

29 (iii) If the purchase price is \$3 or more but less
30 than \$5, 2¢ shall be collected.

(iv) If the purchase price is \$5 or more but less than \$7, 3¢ shall be collected.

(v) If the purchase price is \$7 or more but less than \$9, 4¢ shall be collected.

(vi) If the purchase price is \$9 or more but less than \$10.01, 5¢ shall be collected.

(vii) If the purchase price is more than \$10, 0.5% of each \$10 of purchase price plus the above bracket charges upon any fractional part of a \$10 increment shall be collected.

(2) When the tax authorized by this section is imposed at the rate of 1%, the tax shall be computed as follows:

(i) If the purchase price is 49¢ or less, no tax shall be collected.

(ii) If the purchase price is 50¢ or more but less than \$1.50, 1¢ shall be collected.

(iii) If the purchase price is \$1.50 or more but less than \$2.50, 2¢ shall be collected.

(iv) If the purchase price is \$2.50 or more but less than \$3.50, 3¢ shall be collected.

(v) If the purchase price is \$3.50 or more but less than \$4.50, 4¢ shall be collected.

(vi) If the purchase price is \$4.50 or more but less than \$5.50, 5¢ shall be collected.

(vii) If the purchase price is \$5.50 or more but less than \$6.50, 6¢ shall be collected.

(viii) If the purchase price is \$6.50 or more but less than \$7.50, 7¢ shall be collected.

(ix) If the purchase price is \$7.50 or more but less than \$8.50, 8¢ shall be collected.

(x) If the purchase price is \$8.50 or more but less than \$9.50, 9¢ shall be collected.

(xi) If the purchase price is \$9.50 or more but less than \$10.01, 10¢ shall be collected.

(xii) If the purchase price is more than \$10, 1% of each \$10 of purchase price plus the above bracket charges upon any fractional part of a \$10 increment shall be collected.

(e) Discounts.--There shall be no discount allowed for any taxes collected and reported under this section.

Section 4. Situs for imposition of tax.

(a) Situs for retail sales.--For purposes of this section and except as otherwise provided in this section, a sale at retail shall be deemed to be consummated at the place where the vendor delivers or otherwise transfers physical possession of the tangible personal property to the customer or its agent.

(b) Situs for interstate transactions.--If the tangible personal property is shipped from outside this Commonwealth to a customer within this Commonwealth, the tangible personal property is subject to the use tax imposed by section 3(b) unless the vendor is licensed to collect the tax authorized under section 3(a).

(c) Situs for vehicle, aircraft and motorcraft sales.--

(1) The sale at retail or use of a motor vehicle, trailer or semitrailer, as defined in 75 Pa.C.S. (relating to vehicles), shall be deemed to have been completed or used at the address of the purchaser or user. The tax due shall be paid by the purchaser or user directly to the Department of Transportation at the time of making application for the issuance of a certificate of title or directly to the

department if a certificate of title is not obtained.

(2) The sale at retail or use of motorboat, aircraft, mobile home or similar tangible personal property, required under Federal law or the laws of this Commonwealth to be registered or licensed, purchased from a person not engaged in the business of selling such property, shall be deemed to have been completed or used at the address of the purchaser or user. The tax due shall be paid by the purchaser or user at the time of registration or licensing or directly to the department if registration or licensing is not obtained.

(d) Situs for utility services.--The sale or use of steam, natural and manufactured gas, electricity and intrastate telephone and telegraph service shall be deemed to occur in the county where the telephone number under which the service is furnished is located or in the county where the telegraph originated or in the county where the meter which registers the service is located, without regard to where the services are rendered.

Section 5. Application of State law.

(a) General rule.--Except as provided in this subsection, the provisions of Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall apply to the taxes imposed by this subsection insofar as they are applicable to such taxes.

(b) Licenses.--The license issued pursuant to Article II of the Tax Reform Code of 1971 or a separate license may be issued by the department for the collection and reporting of the tax imposed by section 3. The license or licenses shall be nonassignable and shall be subject to renewal periodically at such time as may be required by the department in regulations

1 but in no event more frequently than once within a five-year
2 period. No fee shall be charged for either a license or any
3 renewal. Failure of any person to obtain a license shall not
4 relieve him of liability to pay the taxes imposed pursuant to
5 this act.

6 (c) Rules and regulations.--

7 (1) The rules and regulations promulgated under section
8 270 of the Tax Reform Code of 1971 shall be applicable to the
9 tax imposed by section 3 insofar as such rules and
10 regulations are consistent with section 3.

11 (2) The department shall administer and enforce the
12 provisions of this act and is authorized to promulgate and
13 enforce rules and regulations, not inconsistent with the
14 provisions of this act, relating to any matter or thing
15 pertaining to the administration and enforcement of the
16 provisions of this act. The department may prescribe the
17 extent to which any of the rules and regulations shall be
18 applied without retroactive effect.

19 (d) Exclusion from rate limitations.--The optional ~~county~~ <—
20 FIRST CLASS CITY sales and use tax under section 3 which may be <—
21 imposed by a ~~county of the first class coterminous with a city~~ <—
22 of the first class shall not apply to the overall rate
23 limitations set forth in section 23(c) of the act of June 27,
24 1986 (P.L.267, No.70), known as the Pennsylvania Convention
25 Center Authority Act.

26 (e) Procedure and administration.--Part VI of Article II of
27 the Tax Reform Code of 1971 is incorporated by reference into
28 this section insofar as applicable.

29 (f) Notification to department.--A certified copy of the
30 city ordinance levying the tax authorized by section 3 shall be

1 delivered to the department by July 1 of the year prior to the
2 effective date of the ordinance. The city ordinance shall become
3 effective on the January 1 following at least six months after
4 the date of enactment of the city ordinance.

5 (g) Copy of repeal ordinance.--A certified copy of a repeal
6 ordinance shall be delivered to the department by July 1 of the
7 year prior to the effective date of the repeal. The repeal of
8 any such ordinance shall become effective on the January 1
9 following at least six months after the date of enactment of the
10 repeal ordinance.

11 (h) Copy of rate change ordinance.--A certified copy of any
12 ordinance changing the rate of the tax imposed by section 3
13 shall be delivered to the department by July 1 of the year prior
14 to the effective date of the ordinance. The ordinance shall
15 become effective on the January 1 following at least six months
16 after the date of enactment of the ordinance.

17 Section 6. Disbursement to ~~municipalities and counties~~ A CITY <—
18 OF THE FIRST CLASS.

19 On or about ~~March 20, June 20, September 20 and December 20~~ <—
20 APRIL 20, JULY 20, OCTOBER 20 AND JANUARY 20, the department <—
21 shall disburse to a city imposing the tax authorized by section
22 3 an amount of money equal to the tax collected in that city and
23 remitted to the department less any refunds and credits granted
24 during the three months ending the last day of March, June,
25 September and December, respectively.

26 Section 7. Effective date.

27 This act shall take effect January 1, 1991.