

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1489 Session of
2007

INTRODUCED BY DeWEESE, McCALL, BRENNAN, BUXTON, CALTAGIRONE,
CARROLL, COSTA, CURRY, GALLOWAY, GIBBONS, HARHAI, HORNAMAN,
KIRKLAND, KOTIK, KULA, MAHONEY, MUNDY, SCAVELLO, SIPTROTH,
STABACK, WALKO AND YUDICHAK, JUNE 7, 2007

REFERRED TO COMMITTEE ON FINANCE, JUNE 7, 2007

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 providing, in sales and use tax, for
11 imposition of tax; repealing, in sales and use tax,
12 provisions relating to computation of tax; providing, in
13 sales and use tax, for tax table; further providing, in sales
14 and use tax, for alternative imposition of tax and credits
15 and for hotel occupancy tax imposition; and providing for the
16 deposit of certain sales tax revenue.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 202 of the act of March 4, 1971 (P.L.6,
20 No.2), known as the Tax Reform Code of 1971, amended September
21 9, 1971 (P.L.437, No.105), October 4, 1978 (P.L.987, No.201),
22 April 23, 1998 (P.L.239, No.45), May 24, 2000 (P.L.106, No.23)
23 and June 29, 2002 (P.L.559, No.89), is amended to read:

24 Section 202. Imposition of Tax.--(a) There is hereby

1 imposed upon each separate sale at retail of tangible personal
2 property or services, as defined herein, within this
3 Commonwealth a tax of six and one-half per cent of the purchase
4 price, which tax shall be collected by the vendor from the
5 purchaser, and shall be paid over to the Commonwealth as herein
6 provided.

7 (b) There is hereby imposed upon the use, on and after the
8 effective date of this article, within this Commonwealth of
9 tangible personal property purchased at retail on or after the
10 effective date of this article, and on those services described
11 herein purchased at retail on and after the effective date of
12 this article, a tax of six and one-half per cent of the purchase
13 price, which tax shall be paid to the Commonwealth by the person
14 who makes such use as herein provided, except that such tax
15 shall not be paid to the Commonwealth by such person where he
16 has paid the tax imposed by subsection (a) of this section or
17 has paid the tax imposed by this subsection (b) to the vendor
18 with respect to such use. The tax [at the rate of six per cent]
19 imposed by this subsection shall not be deemed applicable where
20 the tax has been incurred under the provisions of the "Tax Act
21 of 1963 for Education."

22 (c) Notwithstanding any other provisions of this article,
23 the tax with respect to telecommunications service within the
24 meaning of clause (m) of section 201 of this article shall,
25 except for telegrams paid for in cash at telegraph offices, be
26 computed at the rate of six and one-half per cent upon the total
27 amount charged to customers for such services, irrespective of
28 whether such charge is based upon a flat rate or upon a message
29 unit charge, but in no event shall charges for telephone calls
30 paid for by inserting money into a telephone accepting direct

1 deposits of money to operate be subject to this tax. A
2 telecommunications service provider shall have no responsibility
3 or liability to the Commonwealth for billing, collecting or
4 remitting taxes that apply to services, products or other
5 commerce sold over telecommunications lines by third-party
6 vendors. To prevent actual multistate taxation of interstate
7 telecommunications service, any taxpayer, upon proof that the
8 taxpayer has paid a similar tax to another state on the same
9 interstate telecommunications service, shall be allowed a credit
10 against the tax imposed by this section on the same interstate
11 telecommunications service to the extent of the amount of such
12 tax properly due and paid to such other state.

13 (d) Notwithstanding any other provisions of this article,
14 the sale or use of food and beverages dispensed by means of coin
15 operated vending machines shall be taxed at the rate of six and
16 one-half per cent of the receipts collected from any such
17 machine which dispenses food and beverages heretofore taxable.

18 (e) (1) Notwithstanding any provisions of this article, the
19 sale or use of prepaid telecommunications evidenced by the
20 transfer of tangible personal property shall be subject to the
21 tax imposed by subsections (a) and (b).

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

26 (3) Notwithstanding clause (2), the sale or use of prepaid
27 telecommunications service not evidenced by the transfer of
28 tangible personal property shall be taxed at the rate of six and
29 one-half per cent of the receipts collected on each sale if the
30 service provider elects to collect the tax imposed by this

1 article on receipts of each sale. The service provider shall
2 notify the department of its election and shall collect the tax
3 on receipts of each sale until the service provider notifies the
4 department otherwise.

5 (e.1) (1) Notwithstanding any other provision of this
6 article, the sale or use of prepaid mobile telecommunications
7 service evidenced by the transfer of tangible personal property
8 shall be subject to the tax imposed by subsections (a) and (b).

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

15 (3) Notwithstanding clause (2), the sale or use of prepaid
16 mobile telecommunications service not evidenced by the transfer
17 of tangible personal property shall be taxed at the rate of six
18 and one-half per cent of the receipts collected on each sale if
19 the service provider elects to collect the tax imposed by this
20 article on receipts of each sale. The service provider shall
21 notify the department of its election and shall collect the tax
22 on receipts of each sale until the service provider notifies the
23 department otherwise.

24 (f) Notwithstanding any other provision of this article, tax
25 with respect to sales of prebuilt housing shall be imposed on
26 the prebuilt housing builder at the time of the prebuilt housing
27 sale within this Commonwealth and shall be paid and reported by
28 the prebuilt housing builder to the department in the time and
29 manner provided in this article: Provided, however, That a
30 manufacturer of prebuilt housing may, at its option, precollect

1 the tax from the prebuilt housing builder at the time of sale to
2 the prebuilt housing builder. In any case where prebuilt housing
3 is purchased and the tax is not paid by the prebuilt housing
4 builder or precollected by the manufacturer, the prebuilt
5 housing purchaser shall remit tax directly to the department if
6 the prebuilt housing is used in this Commonwealth without regard
7 to whether the prebuilt housing becomes a real estate structure.

8 (g) Notwithstanding any other provisions of this article and
9 in accordance with the Mobile Telecommunications Sourcing Act (4
10 U.S.C. § 116), the sale or use of mobile telecommunications
11 services which are deemed to be provided to a customer by a home
12 service provider under section 117(a) and (b) of the Mobile
13 Telecommunications Sourcing Act shall be subject to the tax of
14 six and one-half per cent of the purchase price, which tax shall
15 be collected by the home service provider from the customer, and
16 shall be paid over to the Commonwealth as herein provided if the
17 customer's place of primary use is located within this
18 Commonwealth, regardless of where the mobile telecommunications
19 services originate, terminate or pass through. For purposes of
20 this subsection, words and phrases used in this subsection shall
21 have the same meanings given to them in the Mobile
22 Telecommunications Sourcing Act.

23 Section 2. Section 203 of the act is repealed:

24 [Section 203. Computation of Tax.--The amount of tax imposed
25 by section 202 of this article shall be computed as follows:

26 (a) If the purchase price is ten cents (10¢) or less, no tax
27 shall be collected.

28 (b) If the purchase price is eleven cents (11¢) or more but
29 less than eighteen cents (18¢), one cent (1¢) shall be
30 collected.

1 (c) If the purchase price is or more but less than thirty-
2 five cents (35¢), two cents (2¢) shall be collected.

3 (d) If the purchase price is thirty-five cents or more but
4 less than fifty-one cents (51¢), three cents (3¢) shall be
5 collected.

6 (e) If the purchase price is fifty-one cents (51¢) or more
7 but less than sixty-eight cents (68¢), four cents (4¢) shall be
8 collected.

9 (f) If the purchase price is sixty-eight cents (68¢) or more
10 but less than eighty-five cents (85¢), five cents (5¢) shall be
11 collected.

12 (g) If the purchase price is eighty-five cents (85¢) or more
13 but less than one dollar and one cent (\$1.01), six cents (6¢)
14 shall be collected.

15 (h) If the purchase price is more than one dollar (\$1.00),
16 six per centum of each dollar of purchase price plus the above
17 bracket charges upon any fractional part of a dollar in excess
18 of even dollars shall be collected.]

19 Section 3. The act is amended by adding a section to read:

20 Section 203.1. Tax Table.--Within thirty days of the
21 effective date of this section, the department shall prepare and
22 publish as a notice in the Pennsylvania Bulletin a table setting
23 forth the amount of tax imposed under section 202 for purchase
24 prices that result in a tax containing a fraction of less than a
25 cent.

26 Section 4. Section 205 of the act, amended June 9, 1978
27 (P.L.463, No.62) and July 12, 2006 (P.L.1137, No.116), is
28 amended to read:

29 Section 205. Alternate Imposition of Tax; Credits.--(a) If
30 any person actively and principally engaged in the business of

1 selling new or used motor vehicles, trailers or semi-trailers,
2 and registered with the department in the "dealer's class,"
3 acquires a motor vehicle, trailer or semi-trailer for the
4 purpose of resale, and prior to such resale, uses the motor
5 vehicle, trailer or semi-trailer for a taxable use under this
6 act, the person may pay a tax equal to six and one-half per cent
7 of the fair rental value of the motor vehicle, trailer or semi-
8 trailer during such use. This section shall not apply to the use
9 of a vehicle as a wrecker, parts truck, delivery truck or
10 courtesy car.

11 (b) A commercial aircraft operator who acquires an aircraft
12 for the purpose of resale, or lease, or is entitled to claim
13 another valid exemption at the time of purchase, and subsequent
14 to such purchase, periodically uses the same aircraft for a
15 taxable use under this act, may elect to pay a tax equal to six
16 and one-half per cent of the fair rental value of the aircraft
17 during such use.

18 Section 5. Section 210 of the act is amended to read:

19 Section 210. Imposition of Tax.--There is hereby imposed an
20 excise tax of six and one-half per cent of the rent upon every
21 occupancy of a room or rooms in a hotel in this Commonwealth,
22 which tax shall be collected by the operator from the occupant
23 and paid over to the Commonwealth as herein provided.

24 Section 6. The act is amended by adding a section to read:

25 Section 281.3. Transfers to Property Tax Relief Fund.--
26 Notwithstanding any other law to the contrary, all revenues
27 received by the department on or after July 1, 2007, from the
28 increase in the rate of sales and use tax and hotel occupancy
29 tax effective July 1, 2007, shall be transferred monthly within
30 ten calendar days of the end of the month to the Property Tax

1 Relief Fund established in 4 Pa.C.S. § 1409 (relating to
2 Property Tax Relief Fund) to be used in accordance with the
3 provisions of the act of June 27, 2006 (1st Sp.Sess., P.L.1873,
4 No.1), known as the "Taxpayer Relief Act."

5 Section 7. The amendment, addition or repeal of sections
6 202, 203, 203.1, 205, 210 and 281.3 of the act shall be
7 applicable on or after July 1, 2007.

8 Section 8. This act shall take effect as follows:

9 (1) The following provisions shall take effect
10 immediately:

11 (i) This section.

12 (ii) The addition of section 203.1 of the act.

13 (2) The remainder of this act shall take effect July 1,
14 2007.