
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 325 Session of
2009

INTRODUCED BY MILLER, BAKER, BOYD, CALTAGIRONE, CARROLL, CAUSER,
CREIGHTON, FABRIZIO, GEORGE, GIBBONS, GINGRICH, GOODMAN,
GROVE, GRUCELA, HENNESSEY, HESS, KILLION, KOTIK, MILLARD,
MOUL, O'NEILL, PICKETT, RAPP, REICHLEY, ROCK, K. SMITH,
STABACK, STEVENSON, SWANGER AND WATSON, FEBRUARY 10, 2009

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 10, 2009

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 for exclusions from sales tax
11 and for exemption certificates.

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

14 Section 1. Section 204(10) of the act of March 4, 1971 (P.L.
15 6, No.2), known as the Tax Reform Code of 1971, amended April
16 23, 1998 (P.L.239, No.45), is amended to read:

17 Section 204. Exclusions from Tax.--The tax imposed by
18 section 202 shall not be imposed upon any of the following:

19 * * *

20 (10) The sale at retail to or use by (i) any charitable
21 organization, volunteer firemen's organization, volunteer

1 firefighters' relief association as defined in section 2 of the
2 act of June 11, 1968 (P.L.149, No.84), known as the "Volunteer
3 Firefighters' Relief Association Act," or nonprofit educational
4 institution, or (ii) a religious organization for religious
5 purposes of tangible personal property or services other than
6 pursuant to a construction contract: Provided, however, That the
7 exclusion of this clause shall not apply with respect to any
8 tangible personal property or services used in any unrelated
9 trade or business carried on by such organization or institution
10 or with respect to any materials, supplies and equipment used
11 and transferred to such organization or institution in the
12 construction, reconstruction, remodeling, renovation, repairs
13 and maintenance of any real estate structure, other than
14 building machinery and equipment, except materials and supplies
15 when purchased by such organizations or institutions for routine
16 maintenance and repairs.

17 * * *

18 Section 2. Section 237(c) of the act, amended July 1, 1985
19 (P.L.78, No.29), is amended to 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
24 indicating that the sale is not legally subject to the tax. The
25 certificate shall be in substantially such form as the
26 department may, by regulation, prescribe. Where the tangible
27 personal property or service is of a type which is never subject
28 to the tax imposed or where the sale or lease is in interstate
29 commerce, such certificate need not be furnished. Where a series
30 of transactions are not subject to tax, a purchaser or user may

1 furnish the vendor with a single exemption certificate in
2 substantially such form and valid for such period of time as the
3 department may, by regulation, prescribe[.], provided that an
4 exemption certificate furnished to a volunteer firefighters'
5 relief association or volunteer firemen's organization shall be
6 considered permanent. The department shall provide all school
7 districts and intermediate units with a permanent tax exemption
8 number. An exemption certificate, which is complete and regular
9 and on its face discloses a valid basis of exemption if taken in
10 good faith, shall relieve the vendor from the liability imposed
11 by this section. An exemption certificate accepted by a vendor
12 from a natural person domiciled within this Commonwealth or any
13 association, fiduciary, partnership, corporation or other
14 entity, either authorized to do business within this
15 Commonwealth or having an established place of business within
16 this Commonwealth, in the ordinary course of the vendor's
17 business, which on its face discloses a valid basis of exemption
18 consistent with the activity of the purchaser and character of
19 the property or service being purchased or which is provided to
20 the vendor by a charitable, religious, educational, volunteer
21 firefighters' relief association or volunteer firemen's
22 organization and contains the organization's charitable
23 exemption number and which, in the case of any purchase costing
24 two hundred dollars (\$200) or more, is accompanied by a sworn
25 declaration on a form to be provided by the department of an
26 intended usage of the property or service which would render it
27 nontaxable, shall be presumed to be taken in good faith and the
28 burden of proving otherwise shall be on the Department of
29 Revenue.

30 * * *

1 Section 3. This act shall take effect in 60 days.