

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, WATSON, SIPTROTH, MURT, EVERETT, FARRY, MARSHALL, SONNEY, SOLOBAY, BROOKS, GABLER, CASORIO, BELFANTI, QUINN, M. SMITH AND LENTZ, FEBRUARY 10, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 24, 2010

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 \* \* \*

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

19 \* \* \*

20 Section 2. Section 237(c) of the act, amended July 1, 1985  
21 (P.L.78, No.29), is amended AND THE SECTION IS AMENDED BY ADDING ←  
22 A SUBSECTION to read:

23 Section 237. Collection of Tax.--\* \* \*

24 (c) Exemption Certificates. If the tax does not apply to the  
25 sale or lease of tangible personal property or services, the  
26 purchaser or lessee shall furnish to the vendor a certificate  
27 indicating that the sale is not legally subject to the tax. The  
28 certificate shall be in substantially such form as the  
29 department may, by regulation, prescribe. Where the tangible  
30 personal property or service is of a type which is never subject

1 to the tax imposed or where the sale or lease is in interstate  
2 commerce, such certificate need not be furnished. Where a series  
3 of transactions are not subject to tax, a purchaser or user may  
4 furnish the vendor with a single exemption certificate in  
5 substantially such form and valid for such period of time as the  
6 department may, by regulation, prescribe[.], provided that an  
7 exemption certificate furnished to a volunteer firefighters'  
8 relief association or volunteer firemen's organization shall be  
9 considered permanent. The department shall provide all school  
10 districts and intermediate units with a permanent tax exemption  
11 number. An exemption certificate, which is complete and regular  
12 and on its face discloses a valid basis of exemption if taken in  
13 good faith, shall relieve the vendor from the liability imposed  
14 by this section. An exemption certificate accepted by a vendor  
15 from a natural person domiciled within this Commonwealth or any  
16 association, fiduciary, partnership, corporation or other  
17 entity, either authorized to do business within this  
18 Commonwealth or having an established place of business within  
19 this Commonwealth, in the ordinary course of the vendor's  
20 business, which on its face discloses a valid basis of exemption  
21 consistent with the activity of the purchaser and character of  
22 the property or service being purchased or which is provided to  
23 the vendor by a charitable, religious, educational, volunteer  
24 firefighters' relief association or volunteer firemen's  
25 organization and contains the organization's charitable  
26 exemption number and which, in the case of any purchase costing  
27 two hundred dollars (\$200) or more, is accompanied by a sworn  
28 declaration on a form to be provided by the department of an  
29 intended usage of the property or service which would render it  
30 nontaxable, shall be presumed to be taken in good faith and the

1 burden of proving otherwise shall be on the Department of  
2 Revenue.

3 (C.1) SURRENDER OF EXEMPTION CERTIFICATE.--IF A VOLUNTEER ←  
4 FIREFIGHTERS' RELIEF ASSOCIATION OR VOLUNTEER FIREMEN'S  
5 ORGANIZATION THAT HAS BEEN FURNISHED AN EXEMPTION CERTIFICATE  
6 DISSOLVES, THE ASSOCIATION OR ORGANIZATION SHALL HAVE SIXTY DAYS  
7 TO SURRENDER THE EXEMPTION CERTIFICATE TO THE DEPARTMENT.

8 \* \* \*

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