
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 599 Session of
2015

INTRODUCED BY GILLESPIE, KAUFFMAN AND BARRAR, MARCH 24, 2015

REFERRED TO COMMITTEE ON FINANCE, MARCH 24, 2015

AN ACT

1 Providing for tax levies and information related to taxes;
2 authorizing the imposition of a personal income tax or an
3 earned income tax by a school district subject to voter
4 approval; providing for education tax and for imposition of
5 and exclusions from a sales and use tax for the elimination
6 of residential property taxes; establishing the Public
7 Transportation Reserve Fund; providing for increase to the
8 personal income tax, for certain licenses, for hotel
9 occupancy tax, for procedure and administration of the tax,
10 for expiration of authority to issue certain debt and for
11 reporting by local government units of debt outstanding;
12 establishing the Residential Property Tax Elimination Fund;
13 providing for disbursements from this fund and for certain
14 rebates and assistance to senior citizens; and repealing
15 certain provisions of The Local Tax Enabling Act, sales tax
16 provisions of the Tax Reform Code of 1971 and earned income
17 tax of the Taxpayer Relief Act.

18 TABLE OF CONTENTS

19 Chapter 1. Preliminary Provisions
20 Section 101. Short title.
21 Section 102. Definitions.
22 Chapter 3. Taxation by School Districts
23 Section 301. Scope.
24 Section 302. Definitions.
25 Section 303. Limitation.
26 Section 304. Preemption.

1 Section 305. General tax authorization.
2 Section 306. Referendum.
3 Section 307. Continuity of tax.
4 Section 308. Collections.
5 Section 309. Credits.
6 Section 310. Exemption and special provisions.
7 Section 311. Regulations.
8 Chapter 5. Education Tax
9 Section 501. Definitions.
10 Section 502. Education tax.
11 Section 503. Imposition of tax.
12 Section 504. Deposit in Residential Property Tax Elimination
13 Fund.
14 Section 505. Combination of tax forms.
15 Chapter 7. Sales and Use Tax for the Elimination of Residential
16 Property Taxes
17 Subchapter A. General Provisions
18 Section 701. Definitions.
19 Subchapter B. Imposition of Tax
20 Section 702. Imposition of tax.
21 Section 703. Computation of tax.
22 Subchapter C. Exclusions from Tax
23 Section 704. Exclusions from tax.
24 Section 705. Alternate imposition of tax.
25 Section 706. Credit against tax.
26 Subchapter D. Licenses
27 Section 708. Licenses.
28 Subchapter E. Hotel Occupancy Tax
29 Section 709. Definitions.
30 Section 710. Imposition of tax.

1 Section 711. Seasonal tax returns.

2 Subchapter F. Returns

3 Section 715. Persons required to make returns.

4 Section 716. Form of returns.

5 Section 717. Time for filing returns.

6 Section 718. Extension of time for filing returns.

7 Section 719. Place for filing returns.

8 Section 720. Timely mailing treated as timely filing and
9 payment.

10 Subchapter G. Payment

11 Section 721. Payment.

12 Section 722. Time of payment.

13 Section 723. Other times for payment.

14 Section 724. Place for payment.

15 Section 725. Tax held in trust for Commonwealth.

16 Section 726. Local receivers of use tax.

17 Section 727. Discount.

18 Subchapter H. Assessment and Reassessment

19 Section 730. Assessment.

20 Section 731. Mode and time of assessment.

21 Section 732. Reassessment.

22 Section 733. Assessment to recover erroneous refunds.

23 Section 734. (Reserved).

24 Section 735. (Reserved).

25 Section 736. Burden of proof.

26 Subchapter I. Collection

27 Section 737. Collection of tax.

28 Section 738. Collection of tax on motor vehicles, trailers and
29 semitrailers.

30 Section 739. Precollection of tax.

1 Section 740. Bulk and auction sales.
2 Section 741. Collection upon failure to request reassessment,
3 review or appeal.

4 Subchapter J. Nonpayment

5 Section 742. Lien for taxes.
6 Section 743. Suit for taxes.
7 Section 744. Tax suit comity.
8 Section 745. Service.

9 Subchapter K. Miscellaneous Provisions

10 Section 746. Collection and payment of tax on credit sales.
11 Section 747. Prepayment of tax.
12 Section 747.1. Refund of sales tax attributed to bad debt.
13 Section 748. Registration of transient vendors.
14 Section 748.1. Bond.
15 Section 748.2. Notification to department; inspection of
16 records.
17 Section 748.3. Seizure of property.
18 Section 748.4. Fines.
19 Section 748.5. Transient vendors subject to chapter.
20 Section 748.6. Promoters.

21 Subchapter L. Refunds and Credits

22 Section 750. (Reserved).
23 Section 751. (Reserved).
24 Section 752. Refunds.
25 Section 753. Refund petition.
26 Section 754. (Reserved).
27 Section 755. (Reserved).
28 Section 756. Extended time for filing special petition for
29 refund.

30 Subchapter M. Limitations

1 Section 758. Limitation on assessment and collection.
2 Section 759. Failure to file return.
3 Section 760. False or fraudulent return.
4 Section 761. Extension of limitation period.
5 Subchapter N. Interest, Additions, Penalties and Crimes
6 Section 765. Interest.
7 Section 766. Additions to tax.
8 Section 767. Penalties.
9 Section 768. Crimes.
10 Section 769. Abatement of additions or penalties.
11 Subchapter O. Enforcement and Examinations
12 Section 770. Rules and regulations.
13 Section 771. Keeping of records.
14 Section 771.1. Reports and records of promoters.
15 Section 772. Examinations.
16 Section 773. Records and examinations of delivery agents.
17 Section 774. Unauthorized disclosure.
18 Section 775. Cooperation with other governments.
19 Section 776. Interstate compacts.
20 Section 777. Bonds.
21 Subchapter P. Appropriation, Construction, Transfers and
22 Applicability
23 Section 781. Appropriation for refunds.
24 Section 781.1. Construction of chapter.
25 Section 781.2. Transfers to Public Transportation Assistance
26 Fund.
27 Section 782. Transfers to Residential Property Tax Elimination
28 Fund.
29 Section 783. Applicability.
30 Chapter 9. Limitations on School District Taxation

1 Section 901. Authority to levy taxes and effect of future
2 Constitutional amendment.
3 Section 902. Transitional taxes.
4 Section 903. Consideration of State appropriations or
5 reimbursements.
6 Section 904. Taxes for cities and school districts of the first
7 class.
8 Chapter 11. Indebtedness
9 Section 1101. Expiration of authority to issue debt.
10 Section 1102. Notices and reporting by school districts of debt
11 outstanding.
12 Chapter 13. Funding Provisions
13 Section 1301. Definitions.
14 Section 1302. Residential Property Tax Elimination Fund.
15 Section 1303. Standard disbursements to school districts from
16 Residential Property Tax Elimination Fund.
17 Chapter 15. Miscellaneous Provisions
18 Section 1501. Transitional provision.
19 Section 1502. Construction.
20 Section 1503. Severability.
21 Section 1504. Repeals.
22 Section 1505. Effective date.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 CHAPTER 1

26 PRELIMINARY PROVISIONS

27 Section 101. Short title.

28 This act shall be known and may be cited as the Residential
29 Property Tax Elimination Act.

30 Section 102. Definitions.

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

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

5 "Fiscal year." The fiscal year of the Commonwealth beginning
6 on July 1 and ending on June 30 of the immediately following
7 calendar year.

8 "Governing body." The board of school directors of a school
9 district, except that the term shall mean the city council of a
10 city of the first class for purposes of the levy and collection
11 of any tax in a school district of the first class.

12 "Internal Revenue Code of 1986." The Internal Revenue Code
13 of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

14 "Local Tax Enabling Act." The act of December 31, 1965
15 (P.L.1257, No.511), known as The Local Tax Enabling Act.

16 "Public School Code of 1949." The act of March 10, 1949
17 (P.L.30, No.14), known as the Public School Code of 1949.

18 "Residential Property Tax Elimination Fund." The Residential
19 Property Tax Elimination Fund established in section 1302.

20 "School district." A school district of the first class,
21 first class A, second class, third class or fourth class,
22 including any independent school district. For purposes of the
23 levy, assessment and collection of any tax in a school district
24 of the first class, the term shall include the City Council.

25 "School per capita tax." The tax authorized pursuant to
26 section 679 of the act of March 10, 1949 (P.L.30, No.14), known
27 as the Public School Code of 1949.

28 "Secretary." The Secretary of Revenue of the Commonwealth.

29 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
30 No.2), known as the Tax Reform Code of 1971.

1 CHAPTER 3

2 TAXATION BY SCHOOL DISTRICTS

3 Section 301. Scope.

4 This chapter authorizes school districts to levy, assess and
5 collect a tax on personal income or a tax on earned income and
6 net profits as a means of abolishing property taxation by the
7 school district.

8 Section 302. Definitions.

9 The following words and phrases when used in this chapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Board of school directors." A board of school directors of
13 a school district of the first class A, second class, third
14 class or fourth class.

15 "Earned income." As defined in section 501 of the act of
16 December 31, 1965 (P.L.1257, No.511), known as The Local Tax
17 Enabling Act.

18 "Election officials." The board of elections of a county.

19 "Net profits." As defined in section 13 of the act of
20 December 31, 1965 (P.L.1257, No.511), known as The Local Tax
21 Enabling Act.

22 "Personal income." Income enumerated in section 303 of the
23 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
24 of 1971, as determined by the Department of Revenue, subject to
25 any correction thereof for fraud, evasion or error as finally
26 determined by the Commonwealth.

27 "Resident individual." An individual who is domiciled in a
28 school district.

29 "School district." A school district of the first class A,
30 second class, third class or fourth class.

1 "Taxpayer." An individual required under this chapter to pay
2 a tax.

3 Section 303. Limitation.

4 A tax imposed under this chapter is subject to the
5 limitations set forth in Chapter 9.

6 Section 304. Preemption.

7 No act of the General Assembly may vacate or preempt a
8 resolution passed or adopted under the authority of this chapter
9 or another act providing authority for the imposition of a tax
10 by a school district unless the act expressly vacates or
11 preempts the authority to pass or adopt resolutions.

12 Section 305. General tax authorization.

13 (a) General rule.--A board of school directors may, by
14 resolution, levy, assess and collect or provide for the levying,
15 assessment and collection of a tax on personal income or a tax
16 on earned income and net profits for general revenue purposes.

17 (b) Personal income tax.--

18 (1) A board of school directors may levy, assess and
19 collect a tax on the personal income of resident individuals
20 at a rate determined by the board of school directors.

21 (2) A school district that seeks to levy the tax
22 authorized under paragraph (1) must comply with section 306.

23 (3) If a board of school directors seeks to impose a
24 personal income tax under this subsection and the referendum
25 under section 306 is approved by the electorate, the board of
26 school directors has no authority to impose an earned income
27 and net profits tax under subsection (c) or another act.

28 (4) A personal income tax imposed under the authority of
29 this section must be levied by the school district on each of
30 the classes of income specified in section 303 of the Tax

1 Reform Code of 1971 and regulations under that section,
2 provisions of which are incorporated by reference into this
3 chapter. The following apply:

4 (i) Notwithstanding the provisions of section 353(f)
5 of the Tax Reform Code of 1971, the department may permit
6 the proper officer or an authorized agent of a school
7 district imposing a personal income tax under this
8 chapter to inspect the tax returns of a taxpayer of the
9 school district or may furnish to the officer or an
10 authorized agent an abstract of the return of income of a
11 current or former resident of the school district or
12 supply information concerning an item of income contained
13 in a tax return. The officer or authorized agent of the
14 school district imposing a tax under this chapter must be
15 furnished the requested information upon payment to the
16 department of the actual cost of providing the requested
17 information.

18 (ii) (A) Except for official purposes or as
19 provided by law, it is unlawful for an officer or
20 authorized agent of a school district to do any of
21 the following:

22 (I) Disclose to another individual or entity
23 the amount or source of income, profits, losses,
24 expenditures or any particular information
25 concerning income, profits, losses or
26 expenditures contained in a return.

27 (II) Permit another individual or entity to
28 view or examine a return or copy of a return or a
29 book containing an abstract or particulars.

30 (III) Print, publish or publicize in any

1 manner a return, any particular information
2 contained in or concerning the return, any amount
3 or source of income, profits, losses or
4 expenditures in or concerning the return, or any
5 particular information concerning income,
6 profits, losses or expenditures contained in or
7 relating to a return.

8 (B) An officer or authorized agent of a school
9 district that violates clause (A):

10 (I) may be fined not more than \$1,000 or
11 imprisoned for not more than one year, or both;
12 and

13 (II) may be removed from office or
14 discharged from employment.

15 (c) Earned income and net profits tax.--

16 (1) A board of school directors may levy, assess and
17 collect a tax on earned income and net profits of resident
18 individuals at a rate determined by the board of school
19 directors.

20 (2) A school district that seeks to levy the tax
21 authorized under paragraph (1) must comply with section 306.

22 (3) If a board of school directors seeks to impose a tax
23 on earned income and net profits under this subsection and
24 the referendum under section 306 is approved by the
25 electorate, the board of school directors has no authority to
26 impose a personal income tax under subsection (b) or another
27 act.

28 Section 306. Referendum.

29 (a) Procedures.--In order to levy a personal income tax or
30 an earned income and net profits tax under this chapter, a

1 governing body shall use the procedures set forth in subsections
2 (b), (c), (d), (e), (f) and (g).

3 (b) Requirements.--

4 (1) Subject to notice and public hearing requirements of
5 subsection (g), a governing body may levy the personal income
6 tax or earned income and net profits tax under this chapter
7 only by obtaining the approval of the electorate of the
8 affected school district in a public referendum at only the
9 primary election preceding the fiscal year when the personal
10 income tax or earned income and net profits tax will be
11 initially imposed or the rate increased.

12 (2) The referendum question must state:

13 (i) the initial rate of the proposed personal income
14 tax or earned income and net profits tax;

15 (ii) the purpose of the tax;

16 (iii) the duration of the tax; and

17 (iv) the amount of revenue to be generated by the
18 implementation of the tax.

19 (3) The question must be in clear language that is
20 readily understandable by a layperson. For the purpose of
21 illustration, a referendum question may be framed as either
22 of the following:

23 Do you favor paying a personal income tax of X% for the
24 purpose of X, for X years, which will generate \$X?

25 Do you favor paying an earned income and net profits tax
26 of X% for the purpose of X, for X years, which will
27 generate \$X?

28 (4) A nonlegal interpretative statement must accompany
29 the question in accordance with section 201.1 of the act of
30 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania

1 Election Code, that includes the following:

2 (i) the initial rate of the personal income or
3 earned income and net profits tax imposed under this
4 chapter; and

5 (ii) the estimated revenue to be derived from the
6 initial rate imposed under this chapter.

7 (c) Multicounty school district.--In the event a school
8 district is located in more than one county, petitions under
9 this section shall be filed with the election officials of the
10 county in which the administrative offices of the school
11 district are located.

12 (d) Administrative functions.--The election officials who
13 receive a petition shall perform all administrative functions in
14 reviewing and certifying the validity of the petition and
15 conduct all necessary communications with the school district.

16 (e) Duties of election officials.--

17 (1) If the election officials of the county who receive
18 the petition certify that it is sufficient under this section
19 and determine that a question should be placed on the ballot,
20 the decision must be communicated to election officials in
21 any other county in which the school district is also
22 located.

23 (2) Election officials in the other county or counties
24 shall cooperate with election officials of the county that
25 receives the petition to ensure that an identical question is
26 placed on the ballot at the same election throughout the
27 entire school district.

28 (f) Certification of results.--Election officials from each
29 county involved shall independently certify the results from
30 their county to the governing body.

1 (g) Notice and public hearing.--

2 (1) In order to levy the tax under this section, the
3 governing body shall adopt a resolution which must refer to
4 this chapter prior to placing a question on the ballot.

5 (2) Prior to adopting a resolution imposing the tax
6 authorized by this section, the governing body shall give
7 public notice of its intent to adopt the resolution in the
8 manner provided by The Local Tax Enabling Act and shall
9 conduct at least two public hearings regarding the proposed
10 adoption of the resolution. One public hearing must be
11 conducted during normal business hours and one public hearing
12 must be conducted during evening hours or on a weekend.

13 Section 307. Continuity of tax.

14 Every tax levied under this chapter shall continue in force
15 on a fiscal year basis without annual reenactment unless the
16 rate of the tax is subsequently changed or the duration placed
17 on the referendum has expired.

18 Section 308. Collections.

19 An income tax imposed under this chapter is subject to the
20 provisions for collection and delinquency found in the Local Tax
21 Enabling Act.

22 Section 309. Credits.

23 (a) Credit.--Except as set forth in subsection (b), the
24 provisions of the Local Tax Enabling Act must be applied by a
25 board of school directors to determine any credits applicable to
26 a tax imposed under this chapter.

27 (b) Limitation.--Payment of a tax on income to a state other
28 than Pennsylvania or to a political subdivision located outside
29 the boundaries of this Commonwealth by a resident of a school
30 district located in this Commonwealth may not be credited to and

1 allowed as a deduction from the person's liability for an income
2 tax imposed by the school district of residence under this
3 chapter.

4 Section 310. Exemption and special provisions.

5 (a) Earned income and net profits tax.--A school district
6 that imposes an earned income and net profits tax authorized
7 under section 305(c) may exempt a person whose total income from
8 all sources is less than \$12,000 from paying the tax.

9 (b) Applicability to personal income tax.--Section 304 of
10 the Tax Reform Code of 1971 shall apply to a personal income tax
11 levied by a school district under section 305(b).

12 Section 311. Regulations.

13 A school district that imposes:

14 (1) an earned income and net profits tax authorized
15 under section 305(c) is subject to the provisions of the
16 Local Tax Enabling Act and may adopt procedures for the
17 processing of claims for credits and exemptions under
18 sections 309 and 310; or

19 (2) a personal income tax under section 305(b)
20 is subject to the regulations adopted by the department in
21 administering the tax due to the Commonwealth under Article III
22 of the Tax Reform Code of 1971.

23 CHAPTER 5

24 EDUCATION TAX

25 Section 501. Definitions.

26 The words and phrases used in this chapter shall have the
27 same meaning given to them in Article III of the Tax Reform Code
28 of 1971.

29 Section 502. Education tax.

30 In addition to the tax collected under section 302 of the Tax

1 Reform Code of 1971, the Commonwealth shall impose the tax set
2 forth in section 503 in the same manner as the tax under the Tax
3 Reform Code of 1971.

4 Section 503. Imposition of tax.

5 (a) Residents.--Every resident individual, estate or trust
6 is subject to, and shall pay for the privilege of receiving each
7 of the classes of income enumerated in section 303 of the Tax
8 Reform Code of 1971, a tax upon each dollar of income received
9 by that resident during that resident's taxable year at the rate
10 of 1.43%.

11 (b) Nonresidents.--Every nonresident individual, estate or
12 trust is subject to, and shall pay for the privilege of
13 receiving each of the classes of income enumerated in section
14 303 of the Tax Reform Code of 1971 from sources within this
15 Commonwealth, a tax upon each dollar of income received by that
16 nonresident during that nonresident's taxable year at the rate
17 of 1.43%.

18 Section 504. Deposit in Residential Property Tax Elimination
19 Fund.

20 All moneys collected under this chapter shall be deposited in
21 the Residential Property Tax Elimination Fund.

22 Section 505. Combination of tax forms.

23 The department shall incorporate the taxpayer reporting
24 requirement for the implementation of this section into the
25 forms utilized by the department under Article III of the Tax
26 Reform Code of 1971.

27 CHAPTER 7

28 SALES AND USE TAX FOR THE

29 ELIMINATION OF RESIDENTIAL PROPERTY TAXES

30 SUBCHAPTER A

1 GENERAL PROVISIONS

2 Section 701. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Adjustment services, collection services or credit reporting
7 services." Providing collection or adjustments of accounts
8 receivable or mercantile or consumer credit reporting,
9 including, but not limited to, services of the type provided by
10 adjustment bureaus or collection agencies, consumer or
11 mercantile credit reporting bureaus, credit bureaus or agencies,
12 credit clearinghouses or credit investigation services. Such
13 services do not include providing credit card service with
14 collection by a central agency, providing debt counseling or
15 adjustment services to individuals or billing or collection
16 services provided by local exchange telephone companies.

17 "Blasting." The use of any combustible or explosive
18 composition in the removal of material resources, minerals and
19 mineral aggregates from the earth and the separation of the
20 dirt, waste and refuse in which the resources, minerals and
21 mineral aggregates are found.

22 "Building machinery and equipment." Includes, without
23 limitation, boilers, chillers, air cleaners, humidifiers, fans,
24 switchgear, pumps, telephones, speakers, horns, motion
25 detectors, dampers, actuators, grills, registers, traffic
26 signals, sensors, card access devices, guardrails, medial
27 devices, floor troughs and grates and laundry equipment,
28 together with integral coverings and enclosures, whether or not
29 the item constitutes a fixture or is otherwise affixed to the
30 real estate, whether or not damage would be done to the item or

1 its surroundings upon removal or whether or not the item is
2 physically located within a real estate structure. The term also
3 includes generation equipment, storage equipment, conditioning
4 equipment, distribution equipment and termination equipment,
5 which shall be limited to the following:

6 (1) air conditioning, limited to heating, cooling,
7 purification, humidification, dehumidification and
8 ventilation;

9 (2) electrical;

10 (3) plumbing;

11 (4) communications limited to voice, video, data, sound,
12 master clock and noise abatement;

13 (5) alarms limited to fire, security and detection;

14 (6) control system limited to energy management, traffic
15 and parking lot and building access;

16 (7) medical system limited to diagnosis and treatment
17 equipment, medical gas, nurse call and doctor paging;

18 (8) laboratory system;

19 (9) cathodic protection system; or

20 (10) furniture, cabinetry and kitchen equipment.

21 The term shall not include guardrail posts, pipes, fittings,
22 pipe supports and hangers, valves, underground tanks, wire,
23 conduit, receptacle and junction boxes, insulation, ductwork and
24 coverings thereof.

25 "Building maintenance or cleaning services." Providing
26 services which include, but are not limited to, janitorial, maid
27 or housekeeping service, office or interior building cleaning or
28 maintenance service, window cleaning service, floor waxing
29 service, lighting maintenance service such as bulb replacement,
30 cleaning, chimney cleaning service, acoustical tile cleaning

1 service, venetian blind cleaning, cleaning and maintenance of
2 telephone booths or cleaning and degreasing of service stations.
3 The term shall not include repairs on buildings and other
4 structures; nor shall this term include the maintenance or
5 repair of boilers, furnaces and residential air conditioning
6 equipment or parts thereof; the painting, wallpapering or
7 applying other like coverings to interior walls, ceilings or
8 floors; or the exterior painting of buildings.

9 "Call center." The physical location in this Commonwealth:

- 10 (1) where at least 150 employees are employed to
11 initiate or answer telephone calls;
12 (2) where there are at least 200 telephone lines; and
13 (3) which utilizes an automated call distribution system
14 for customer telephone calls in one or more of the following
15 activities:
- 16 (i) customer service and support;
 - 17 (ii) technical assistance;
 - 18 (iii) help desk service;
 - 19 (iv) providing information;
 - 20 (v) conducting surveys;
 - 21 (vi) revenue collections; or
 - 22 (vii) receiving orders or reservations.

23 For purposes of this definition, a physical location may include
24 multiple buildings utilized by a taxpayer located within this
25 Commonwealth.

26 "Commercial aircraft operator." A person, excluding
27 scheduled airlines, that engages in any or all of the following:
28 charter of aircraft, leasing of aircraft, aircraft sales,
29 aircraft rental, flight instruction, air freight or any other
30 flight activities for compensation.

1 "Commercial racing activities." Any of the following:

2 (1) Thoroughbred and harness racing at which pari-mutuel
3 wagering is conducted under the act of December 17, 1981
4 (P.L.435, No.135), known as the Race Horse Industry Reform
5 Act.

6 (2) Fair racing sanctioned by the State Harness Racing
7 Commission.

8 "Construction contract." A written or oral contract or
9 agreement for the construction, reconstruction, remodeling,
10 renovation or repair of real estate or a real estate structure.
11 The term shall not apply to services which are taxable under
12 paragraphs (14) and (17) of the definition of "sale at retail"
13 and paragraphs (12) and (15) of the definition of "use."

14 "Construction contractor." A person who performs an activity
15 pursuant to a construction contract, including a subcontractor.

16 "Disinfecting or pest control services." Providing
17 disinfecting, termite control, insect control, rodent control or
18 other pest control services, including, but not limited to,
19 deodorant servicing of restrooms, washroom sanitation service,
20 restroom cleaning service, extermination service or fumigating
21 service. The term "fumigating service" shall not include the
22 fumigation of agricultural commodities or containers used for
23 agricultural commodities, and the term "insect control" shall
24 not include the spraying of trees which are harvested for
25 commercial purposes for gypsy moth control.

26 "Employment agency services." Providing employment services
27 to a prospective employer or employee other than employment
28 services provided by theatrical employment agencies and motion
29 picture casting bureaus. These services shall include, but not
30 be limited to, services of the type provided by employment

1 agencies, executive placing services and labor contractor
2 employment agencies other than farm labor.

3 "Fiscal Code." The act of April 9, 1929 (P.L.343, No.176),
4 known as The Fiscal Code.

5 "Gratuity." Any amount paid or remitted for services
6 performed in conjunction with any sale of food or beverages, or
7 hotel or motel accommodations which amount is in excess of the
8 charges and the tax thereon for such food, beverages or
9 accommodations regardless of the method of billing or payment.

10 "Help supply services." Providing temporary or continuing
11 help where the help supplied is on the payroll of the supplying
12 person or entity, but is under the supervision of the individual
13 or business to which help is furnished. These services shall
14 include, but not be limited to, service of a type provided by
15 labor and manpower pools, employee leasing services, office help
16 supply services, temporary help services, usher services,
17 modeling services or fashion show model supply services. Such
18 services shall not include providing farm labor services. The
19 term shall not include nursing, home health care and personal
20 care services and other human health-related services. As used
21 in this definition, "personal care" shall include providing at
22 least one of the following types of assistance to persons with
23 limited ability for self-care:

24 (1) dressing, bathing or feeding;

25 (2) supervising self-administered medication;

26 (3) transferring a person to or from a bed or
27 wheelchair; or

28 (4) routine housekeeping chores when provided in
29 conjunction with and supplied by the same provider of the
30 assistance listed in paragraph (1), (2) or (3).

1 "Internet." The international nonproprietary computer
2 network of both Federal and non-Federal interoperable packet
3 switched data networks.

4 "Lawn care service." Providing services for lawn upkeep,
5 including, but not limited to, fertilizing, lawn mowing,
6 shrubbery trimming or other lawn treatment services.

7 "Lobbying services." Providing the services of a lobbyist,
8 as defined in the definition of "lobbyist" in 65 Pa.C.S. § 13A03
9 (relating to definitions).

10 "Maintaining a place of business in this Commonwealth." As
11 follows:

12 (1) Having, maintaining or using within this
13 Commonwealth, either directly or through a subsidiary,
14 representative or an agent, an office, distribution house,
15 sales house, warehouse, service enterprise or other place of
16 business; or any agent of general or restricted authority, or
17 representative, irrespective of whether the place of
18 business, representative or agent is located in this
19 Commonwealth, permanently or temporarily, or whether the
20 person or subsidiary maintaining the place of business,
21 representative or agent is authorized to do business within
22 this Commonwealth.

23 (2) Engagement in any activity as a business within this
24 Commonwealth by any person, either directly or through a
25 subsidiary, representative or an agent, in connection with
26 the lease, sale or delivery of tangible personal property or
27 the performance of services thereon for use, storage or
28 consumption or in connection with the sale or delivery for
29 use of the services described in paragraphs (11) through (18)
30 of the definition of "sale at retail," including, but not

1 limited to, having, maintaining or using any office,
2 distribution house, sales house, warehouse or other place of
3 business, any stock of goods or any solicitor, canvasser,
4 salesman, representative or agent under its authority, at its
5 direction or with its permission, regardless of whether the
6 person or subsidiary is authorized to do business in this
7 Commonwealth.

8 (3) Regularly or substantially soliciting orders within
9 this Commonwealth in connection with the lease, sale or
10 delivery of tangible personal property to or the performance
11 thereon of services or in connection with the sale or
12 delivery of the services described in paragraphs (11) through
13 (18) of the definition of "sale at retail" for residents of
14 this Commonwealth by means of catalogs or other advertising,
15 whether the orders are accepted within or without this
16 Commonwealth.

17 (3.1) The entering of this Commonwealth by any person to
18 provide assembly, service or repair of tangible personal
19 property, either directly or through a subsidiary,
20 representative or an agent.

21 (3.2) Delivering tangible personal property to locations
22 within this Commonwealth if the delivery includes the
23 unpacking, positioning, placing or assembling of the tangible
24 personal property.

25 (3.3) Having any contact within this Commonwealth which
26 would allow the Commonwealth to require a person to collect
27 and remit tax under the Constitution of the United States.

28 (3.4) Providing a customer's mobile telecommunications
29 service deemed to be provided by the customer's home service
30 provider under the Mobile Telecommunications Sourcing Act

1 (Public Law 106-252, 4 U.S.C. §§ 116-126). For purposes of
2 this paragraph, words and phrases used in this paragraph
3 shall have the meanings given to them in the Mobile
4 Telecommunications Sourcing Act.

5 (4) The term shall not include:

6 (i) Owning or leasing of tangible or intangible
7 property by a person who has contracted with an
8 unaffiliated commercial printer for printing, provided
9 that:

10 (A) the property is for use by the commercial
11 printer; and

12 (B) the property is located at the Pennsylvania
13 premises of the commercial printer.

14 (ii) Visits by a person's employees or agents to the
15 premises in this Commonwealth of an unaffiliated
16 commercial printer with whom the person has contracted
17 for printing in connection with the contract.

18 "Manufacture." The performance of manufacturing,
19 fabricating, compounding, processing or other operations,
20 engaged in as a business, which place any tangible personal
21 property in a form, composition or character different from that
22 in which it is acquired whether for sale or use by the
23 manufacturer, and shall include, but not be limited to:

24 (1) Every operation commencing with the first production
25 stage and ending with the completion of tangible personal
26 property having the physical qualities, including packaging,
27 if any, passing to the ultimate consumer, which it has when
28 transferred by the manufacturer to another. For purposes of
29 this paragraph, "operation" shall include clean rooms and
30 their component systems, including: environmental control

1 systems, antistatic vertical walls and manufacturing
2 platforms and floors, which are independent of the real
3 estate; process piping systems; specialized lighting systems;
4 deionized water systems; process vacuum and compressed air
5 systems; process and specialty gases; and alarm or warning
6 devices specifically designed to warn of threats to the
7 integrity of the product or people. For purposes of this
8 paragraph, a "clean room" is a location with a self-
9 contained, sealed environment with a controlled, closed air
10 system independent from the facility's general environmental
11 control system.

12 (2) The publishing of books, newspapers, magazines and
13 other periodicals and printing.

14 (3) Refining, blasting, exploring, mining and quarrying
15 for, or otherwise extracting from the earth or from waste or
16 stockpiles or from pits or banks any natural resources,
17 minerals and mineral aggregates, including blast furnace
18 slag.

19 (4) Building, rebuilding, repairing and making additions
20 to, or replacements in or upon vessels designed for
21 commercial use of registered tonnage of 50 tons or more when
22 produced upon special order of the purchaser, or when
23 rebuilt, repaired or enlarged, or when replacements are made
24 upon order of, or for the account of the owner.

25 (5) Research having as its objective the production of a
26 new or an improved:

27 (i) product or utility service; or

28 (ii) method of producing a product or utility
29 service.

30 The term does not include market research or research having

1 as its objective the improvement of administrative
2 efficiency.

3 (6) Remanufacture for wholesale distribution by a
4 remanufacturer of motor vehicle parts from used parts
5 acquired in bulk by the remanufacturer using an assembly line
6 process which involves the complete disassembly of such parts
7 and integration of the components of such parts with other
8 used or new components of parts, including the salvaging,
9 recycling or reclaiming of used parts by the remanufacturer.

10 (7) Remanufacture or retrofit by a manufacturer or
11 remanufacturer of aircraft, armored vehicles, other defense-
12 related vehicles having a finished value of at least \$50,000.
13 Remanufacture or retrofit involves the disassembly of such
14 aircraft, vehicles, parts or components, including electric
15 or electronic components, the integration of those parts and
16 components with other used or new parts or components,
17 including the salvaging, recycling or reclaiming of the used
18 parts or components and the assembly of the new or used
19 aircraft, vehicles, parts or components. For purposes of this
20 definition, the following terms or phrases have the following
21 meanings:

22 (i) "aircraft" means fixed-wing aircraft,
23 helicopters, powered aircraft, tilt-rotor or tilt-wing
24 aircraft, unmanned aircraft and gliders;

25 (ii) "armored vehicles" means tanks, armed personnel
26 carriers and all other armed track or semitrack vehicles;
27 or

28 (iii) "other defense-related vehicles" means trucks,
29 truck-tractors, trailers, jeeps and other utility
30 vehicles, including any unmanned vehicles.

1 (8) Remanufacture by a remanufacturer of locomotive
2 parts from used parts acquired in bulk by the remanufacturer
3 using an assembly line process which involves the complete
4 disassembly of such parts and integration of the components
5 of such parts with other used or new components of parts,
6 including the salvaging, recycling or reclaiming of used
7 parts by the remanufacturer.

8 The term does not include constructing, altering, servicing,
9 repairing or improving real estate or repairing, servicing or
10 installing tangible personal property; producing a commercial
11 motion picture; or cooking, freezing or baking fruits,
12 vegetables, mushrooms, fish, seafood, meats, poultry or bakery
13 products.

14 "Mobile telecommunications service." Mobile
15 telecommunications service as that term is defined in the Mobile
16 Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. §§
17 116-126).

18 "Person." A natural person, association, fiduciary,
19 partnership, corporation or other entity, including the
20 Commonwealth of Pennsylvania, its political subdivisions and
21 instrumentalities and public authorities. Whenever used in any
22 provision prescribing and imposing a penalty or imposing a fine
23 or imprisonment, or both, the term, as applied to an
24 association, shall include the members of these listed classes
25 and, as applied to a corporation, the officers of the
26 corporation.

27 "Prebuilt housing." Either of the following:

28 (1) Manufactured housing, including mobile homes, which
29 bears a label as required by and referred to in the act of
30 November 17, 1982 (P.L.676, No.192), known as the

1 Manufactured Housing Construction and Safety Standards
2 Authorization Act.

3 (2) Industrialized housing as defined in the act of May
4 11, 1972 (P.L.286, No.70), known as the Industrialized
5 Housing Act.

6 "Prebuilt housing builder." A person who makes a prebuilt
7 housing sale to a prebuilt housing purchaser.

8 "Prebuilt housing purchaser." A person who purchases
9 prebuilt housing in a transaction and who intends to occupy the
10 unit for residential purposes in this Commonwealth.

11 "Prebuilt housing sale." A sale of prebuilt housing to a
12 prebuilt housing purchaser, including a sale to a landlord,
13 without regard to whether the person making the sale is
14 responsible for installing the prebuilt housing or whether the
15 prebuilt housing becomes a real estate structure upon
16 installation. Temporary installation by a prebuilt housing
17 builder for display purposes of a unit held for resale shall not
18 be considered occupancy for residential purposes.

19 "Premium cable or premium video programming service."

20 (1) That portion of cable television services, video
21 programming services, community antenna television services
22 or any other distribution of television, video, audio or
23 radio services which meets all of the following criteria:

24 (i) Is transmitted with or without the use of wires
25 to purchasers.

26 (ii) Consists substantially of programming
27 uninterrupted by paid commercial advertising which
28 includes programming primarily composed of uninterrupted
29 full-length motion pictures or sporting events, pay-per-
30 view, paid programming or like audio or radio

1 broadcasting.

2 (iii) Does not constitute a component of a basic
3 service tier provided by a cable television system or a
4 cable programming service tier provided by a cable
5 television system. The following shall apply:

6 (A) A basic service tier shall include:

7 (I) all signals of domestic television
8 broadcast stations;

9 (II) any public, educational, governmental
10 or religious programming; and

11 (III) any additional video programming
12 signals or service added to the basic service
13 tier by the cable operator.

14 (B) The basic service tier shall include a
15 single additional lower-priced package of broadcast
16 channels and access information channels which is a
17 subset of the basic service tier as set forth in this
18 paragraph.

19 (C) A cable programming service tier includes
20 any video programming other than:

21 (I) the basic service tier;

22 (II) video programming offered on a pay-per-
23 channel or pay-per-view basis; or

24 (III) a combination of multiple channels of
25 pay-per-channel or pay-per-view programming
26 offered as a package.

27 (2) If a purchaser receives or agrees to receive premium
28 cable or premium video programming service, then the
29 following charges are included in the purchase price:

30 (i) Charges for installation or repair of any

1 premium cable or premium video programming service.

2 (ii) Upgrade to include additional premium cable or
3 premium video programming service.

4 (iii) Downgrade to exclude all or some premium cable
5 or premium video programming service.

6 (iv) Additional premium cable outlets in excess of
7 10.

8 (v) Any other charge or fee related to premium cable
9 or premium video programming services.

10 (3) The term shall not apply to any of the following:

11 (i) Transmissions by public television.

12 (ii) Public radio services.

13 (iii) Official Federal, State or local government
14 cable services.

15 (iv) Local origination programming which provides a
16 variety of public service programs unique to the
17 community.

18 (v) Programming which provides coverage of public
19 affairs issues which are presented without commentary or
20 analysis. This subparagraph includes United States
21 Congressional proceedings.

22 (vi) Programming which is substantially related to
23 religious subjects.

24 (vii) Subscriber charges for access to a video dial
25 tone system or charges by a common carrier to a video
26 programmer for the transport of video programming.

27 "Prepaid mobile telecommunications service." Mobile
28 telecommunications service which is paid for in advance and
29 which enables the origination of calls using an access number,
30 authorization code or both, whether manually or electronically

1 dialed, if the remaining amount of units of the prepaid mobile
2 telecommunications service is known by the service provider of
3 the prepaid mobile telecommunications service on a continuous
4 basis. The term does not include the advance purchase of mobile
5 telecommunications service if the purchase is pursuant to a
6 service contract between the service provider and customer and
7 if the service contract requires the customer to make periodic
8 payments to maintain the mobile telecommunications service.

9 "Prepaid telecommunications." A tangible item containing a
10 prepaid authorization number that can be used solely to obtain
11 telecommunications service, including any renewal or increases
12 in the prepaid amount.

13 "Processing." The performance of the following activities
14 when engaged in as a business enterprise:

15 (1) The filtering or heating of honey, the cooking,
16 baking or freezing of fruits, vegetables, mushrooms, fish,
17 seafood, meats, poultry or bakery products, when the person
18 engaged in such business packages such property in sealed
19 containers for wholesale distribution.

20 (1.1) The processing of fruits or vegetables by
21 cleaning, cutting, coring, peeling or chopping and treating
22 to preserve, sterilize or purify and substantially extend the
23 useful shelf life of the fruits or vegetables, when the
24 person engaged in such activity packages such property in
25 sealed containers for wholesale distribution.

26 (2) The scouring, carbonizing, cording, combing,
27 throwing, twisting or winding of natural or synthetic fibers,
28 or the spinning, bleaching, dyeing, printing or finishing of
29 yarns or fabrics, when such activities are performed prior to
30 sale to the ultimate consumer.

1 (3) The electroplating, galvanizing, enameling,
2 anodizing, coloring, finishing, impregnating or heat treating
3 of metals or plastics for sale or in the process of
4 manufacturing.

5 (3.1) The blanking, shearing, leveling, slitting or
6 burning of metals for sale to or use by a manufacturer or
7 processor.

8 (4) The rolling, drawing or extruding of ferrous and
9 nonferrous metals.

10 (5) The fabrication for sale of ornamental or structural
11 metal or of metal stairs, staircases, gratings, fire escapes
12 or railings, not including fabrication work done at the
13 construction site.

14 (6) The preparation of animal feed or poultry feed for
15 sale.

16 (7) The production, processing and bottling of
17 nonalcoholic beverages for wholesale distribution.

18 (8) The operation of a saw mill or planing mill for the
19 production of lumber or lumber products for sale. The
20 operation of a saw mill or planing mill begins with the
21 unloading by the operator of the saw mill or planing mill of
22 logs, timber, pulpwood or other forms of wood material to be
23 used in the saw mill or planing mill.

24 (9) The milling for sale of flour or meal from grains.

25 (9.1) The aging, stripping, conditioning, crushing and
26 blending of tobacco leaves for use as cigar filler or as
27 components of smokeless tobacco products for sale to
28 manufacturers of tobacco products.

29 (10) The slaughtering and dressing of animals for meat
30 to be sold or to be used in preparing meat products for sale,

1 and the preparation of meat products, including lard, tallow,
2 grease, cooking and inedible oils for wholesale distribution.

3 (11) The processing of used lubricating oils.

4 (12) The broadcasting of radio and television programs
5 of licensed commercial or educational stations.

6 (13) The cooking or baking of bread, pastries, cakes,
7 cookies, muffins and donuts when the person engaged in such
8 activity sells such items at retail at locations that do not
9 constitute an establishment from which ready-to-eat food and
10 beverages are sold. For purposes of this paragraph, a bakery,
11 a pastry shop and a donut shop shall not be considered an
12 establishment from which ready-to-eat food and beverages are
13 sold.

14 (14) The cleaning and roasting and the blending,
15 grinding or packaging for sale of coffee from green coffee
16 beans or the production of coffee extract.

17 (15) The preparation of dry or liquid fertilizer for
18 sale.

19 (16) The production, processing and packaging of ice for
20 wholesale distribution.

21 (17) The producing of mobile telecommunications
22 services.

23 (18) The collection, washing, sorting, inspecting and
24 packaging of eggs.

25 "Promoter." A person who either, directly or indirectly,
26 rents, leases or otherwise operates or grants permission to any
27 person to use space at a show for the display for sale or for
28 the sale of tangible personal property or services subject to
29 tax under section 702.

30 "Purchase at retail." Any of the following:

1 (1) The acquisition for a consideration of the
2 ownership, custody or possession of tangible personal
3 property other than for resale by the person acquiring the
4 same when such acquisition is made for the purpose of
5 consumption or use, whether such acquisition shall be
6 absolute or conditional, and by whatsoever means the same
7 shall have been effected.

8 (2) The acquisition of a license to use or consume, and
9 the rental or lease of tangible personal property, other than
10 for resale regardless of the period of time the lessee has
11 possession or custody of the property.

12 (3) The obtaining for a consideration any of those
13 services set forth under paragraphs (2), (3) and (4) of the
14 definition of "sale at retail" other than for resale.

15 (4) A retention after March 7, 1956, of possession,
16 custody or a license to use or consume pursuant to a rental
17 contract or other lease arrangement, other than as security,
18 other than for resale.

19 (5) The obtaining for a consideration any of those
20 services set forth under paragraphs (11) through (18) of the
21 definition of "sale at retail."

22 (6) With respect to liquor and malt or brewed beverages,
23 the term includes purchase of liquor from a Pennsylvania
24 Liquor Store by a person for any purpose, and purchase of
25 malt or brewed beverages from a manufacturer of malt or
26 brewed beverages, distributor or importing distributor by a
27 person for any purpose, except purchases from a manufacturer
28 of malt or brewed beverages by a distributor or importing
29 distributor or purchases from an importing distributor by a
30 distributor within the meaning of the act of April 12, 1951

1 (P.L.90, No.21), known as the Liquor Code. The term does not
2 include purchase of malt or brewed beverages from a retail
3 dispenser or purchase of liquor or malt or brewed beverages
4 from a person holding a retail liquor license within the
5 meaning of and pursuant to the provisions of the Liquor Code,
6 but shall include purchase or acquisition of liquor or malt
7 or brewed beverages other than pursuant to the provisions of
8 the Liquor Code.

9 "Purchase price." As follows:

10 (1) The total value of anything paid or delivered, or
11 promised to be paid or delivered, whether it be money or
12 otherwise, in complete performance of a sale at retail or
13 purchase at retail, without any deduction on account of the
14 cost or value of the property sold, cost or value of
15 transportation, cost or value of labor or service, interest
16 or discount paid or allowed after the sale is consummated,
17 any other taxes imposed by the Commonwealth or any other
18 expense except that there shall be excluded any gratuity or
19 separately stated deposit charge for returnable containers.

20 (2) There shall be deducted from the purchase price the
21 value of tangible personal property actually taken in trade
22 or exchange in lieu of the whole or part of the purchase
23 price. For the purpose of this paragraph, the amount allowed
24 by reason of tangible personal property actually taken in
25 trade or exchange shall be considered the value of such
26 property.

27 (3) In determining the purchase price on the sale or use
28 of taxable tangible personal property or a service where,
29 because of affiliation of interests between the vendor and
30 purchaser, or irrespective of any such affiliation, if for

1 any other reason the purchase price declared by the vendor or
2 taxpayer on the taxable sale or use of such tangible personal
3 property or service is, in the opinion of the Department of
4 Revenue, not indicative of the true value of the article or
5 service or the fair price thereof, the department shall,
6 pursuant to uniform and equitable rules, determine the amount
7 of constructive purchase price upon the basis of which the
8 tax shall be computed and levied. Such rules shall provide
9 for a constructive amount of purchase price for each sale or
10 use which would naturally and fairly be charged in an arms-
11 length transaction in which the element of common interest
12 between the vendor or purchaser is absent or if no common
13 interest exists, any other element causing a distortion of
14 the price or value is likewise absent. For the purpose of
15 this paragraph where a taxable sale or purchase at retail
16 transaction occurs between a parent and a subsidiary,
17 affiliate or controlled corporation of such parent
18 corporation, there shall be a rebuttable presumption that
19 because of such common interest such transaction was not at
20 arms-length.

21 (4) Where there is a transfer or retention of possession
22 or custody, whether it be termed a rental, lease, service or
23 otherwise, of tangible personal property, including, but not
24 limited to, linens, aprons, motor vehicles, trailers, tires,
25 industrial office and construction equipment, and business
26 machines the full consideration paid or delivered to the
27 vendor or lessor shall be considered the purchase price, even
28 though such consideration be separately stated and be
29 designated as payment for processing, laundering, service,
30 maintenance, insurance, repairs, depreciation or otherwise.

1 Where the vendor or lessor supplies or provides an employee
2 to operate such tangible personal property, the value of the
3 labor thus supplied may be excluded and shall not be
4 considered as part of the purchase price if separately
5 stated. There shall also be included as part of the purchase
6 price the value of anything paid or delivered, or promised to
7 be paid or delivered by a lessee, whether it be money or
8 otherwise, to any person other than the vendor or lessor by
9 reason of the maintenance, insurance or repair of the
10 tangible personal property which a lessee has the possession
11 or custody of under a rental contract or lease arrangement.

12 (5) With respect to the tax imposed by section 702(b)
13 upon any tangible personal property originally purchased by
14 the user of the property six months or longer prior to the
15 first taxable use of the property within this Commonwealth.
16 The user may elect to pay tax on a substituted base
17 determined by considering the purchase price of the property
18 for tax purposes to be equal to the prevailing market price
19 of similar tangible personal property at the time and place
20 of the first use within this Commonwealth. The election must
21 be made at the time of filing a tax return with the
22 department and reporting the tax liability and paying the tax
23 due plus accrued penalties and interest within six months of
24 the due date of the report and payment under section 717(a)
25 and (c).

26 (6) The purchase price of employment agency services and
27 help supply services shall be the service fee paid by the
28 purchaser to the vendor or supplying entity. The term
29 "service fee," as used in this paragraph, shall be the total
30 charge or fee of the vendor or supplying entity minus the

1 costs of the supplied employee which costs are wages,
2 salaries, bonuses and commissions, employment benefits,
3 expense reimbursements and payroll and withholding taxes, to
4 the extent that these costs are specifically itemized or that
5 these costs in aggregate are stated in billings from the
6 vendor or supplying entity. To the extent that these costs
7 are not itemized or stated on the billings, then the service
8 fee shall be the total charge or fee of the vendor or
9 supplying entity.

10 (7) Unless the vendor separately states which portion of
11 the billing applies to premium cable services, the total bill
12 for the provision of all cable services shall be the purchase
13 price.

14 (8) The purchase price of prebuilt housing shall be 60%
15 of the manufacturer's selling price, but a manufacturer of
16 prebuilt housing who precollects tax from a prebuilt housing
17 builder at the time of the sale to the prebuilt housing
18 builder shall have the option to collect tax on 60% of the
19 selling price or on 100% of the actual cost of the supplies
20 and materials used in the manufacture of the prebuilt
21 housing.

22 "Purchaser." A person who acquires, for a consideration, the
23 ownership, custody or possession by sale, lease or otherwise, of
24 tangible personal property, or who obtains services in exchange
25 for a purchase price, but not including an employer who obtains
26 services from employees of the employer in exchange for wages or
27 salaries when the services are rendered in the ordinary scope of
28 their employment.

29 "Real estate structure." A structure or item purchased by a
30 construction contractor pursuant to a construction contract

1 with:

2 (1) a charitable organization, a volunteer firemen's
3 organization, a nonprofit educational institution or a
4 religious organization for religious purposes and which
5 qualifies as an institution of purely public charity under
6 the act of November 26, 1997 (P.L.508, No.55), known as the
7 Institutions of Purely Public Charity Act;

8 (2) the United States; or

9 (3) the Commonwealth, its instrumentalities or political
10 subdivisions.

11 The term includes building machinery and equipment; developed or
12 undeveloped land; streets; roads; highways; parking lots;
13 stadiums and stadium seating; recreational courts; sidewalks;
14 foundations; structural supports; walls; floors; ceilings;
15 roofs; doors; canopies; millwork; elevators; windows and
16 external window coverings; outdoor advertising boards or signs;
17 airport runways; bridges; dams; dikes; traffic control devices,
18 including traffic signs; satellite dishes; antennas; guardrail
19 posts; pipes; fittings; pipe supports and hangers; valves;
20 underground tanks; wire; conduit; receptacle and junction boxes;
21 insulation; ductwork and coverings thereof; and any structure or
22 item similar to any of the foregoing, whether or not the
23 structure or item constitutes a fixture or is affixed to the
24 real estate, or whether or not damage would be done to the
25 structure or item or its surroundings upon removal.

26 "Resale." As follows:

27 (1) Any transfer of ownership, custody or possession of
28 tangible personal property for a consideration, including the
29 grant of a license to use or consume and transactions where
30 the possession of the property is transferred but where the

1 transferor retains title only as security for payment of the
2 selling price whether the transaction be designated as
3 bailment lease, conditional sale or otherwise.

4 (2) The physical incorporation of tangible personal
5 property as an ingredient or constituent into other tangible
6 personal property, which is to be sold in the regular course
7 of business or the performance of those services described in
8 paragraphs (2), (3) and (4) of the definition of "sale at
9 retail" upon tangible personal property which is to be sold
10 in the regular course of business or where the person
11 incorporating such property has undertaken at the time of
12 purchase to cause it to be transported in interstate commerce
13 to a destination outside this Commonwealth. The term shall
14 include telecommunications services purchased by a cable
15 operator or video programmer that are used to transport or
16 deliver cable or video programming services which are sold in
17 the regular course of business.

18 (3) The term shall also include tangible personal
19 property purchased or having a situs within this Commonwealth
20 solely for the purpose of being processed, fabricated or
21 manufactured into, attached to or incorporated into tangible
22 personal property and thereafter transported outside this
23 Commonwealth for use exclusively outside this Commonwealth.

24 (4) The term does not include a sale of malt or brewed
25 beverages by a retail dispenser, or a sale of liquor or malt
26 or brewed beverages by a person holding a retail liquor
27 license within the meaning of the act of April 12, 1951
28 (P.L.90, No.21), known as the Liquor Code.

29 (5) The physical incorporation of tangible personal
30 property as an ingredient or constituent in the construction

1 of foundations for machinery or equipment the sale or use of
2 which is excluded from tax under the provisions of paragraph
3 (8) (ii) (A), (B), (C) and (D) of the definition of "sale at
4 retail" and paragraph (4) (ii) (B) (I), (II), (III) and (IV) of
5 the definition of "use," whether the foundations at the time
6 of construction or transfer constitute tangible personal
7 property or real estate.

8 "Resident." As follows:

9 (1) Any natural person:

10 (i) who is domiciled in this Commonwealth; or

11 (ii) who maintains a permanent place of abode within
12 this Commonwealth and spends in the aggregate more than
13 60 days of the year within this Commonwealth.

14 (2) Any corporation:

15 (i) incorporated under the laws of this
16 Commonwealth;

17 (ii) authorized to do business or doing business
18 within this Commonwealth; or

19 (iii) maintaining a place of business within this
20 Commonwealth.

21 (3) Any association, fiduciary, partnership or other
22 entity:

23 (i) domiciled in this Commonwealth;

24 (ii) authorized to do business or doing business
25 within this Commonwealth; or

26 (iii) maintaining a place of business within this
27 Commonwealth.

28 "Sale at retail." As follows:

29 (1) Any transfer, for a consideration, of the ownership,
30 custody or possession of tangible personal property,

1 including the grant of a license to use or consume whether
2 the transfer be absolute or conditional and by whatsoever
3 means the same shall have been effected.

4 (2) The rendition of the service of printing or
5 imprinting of tangible personal property for a consideration
6 for persons who furnish, either directly or indirectly, the
7 materials used in the printing or imprinting.

8 (3) The rendition for a consideration of the service of:

9 (i) Washing, cleaning, waxing, polishing or
10 lubricating of motor vehicles of another, whether or not
11 any tangible personal property is transferred in
12 conjunction therewith.

13 (ii) Inspecting motor vehicles pursuant to the
14 mandatory requirements of 75 Pa.C.S. (relating to
15 vehicles).

16 (4) The rendition for a consideration of the service of
17 repairing, altering, mending, pressing, fitting, dyeing,
18 laundering, drycleaning or cleaning tangible personal
19 property, including wearing apparel or shoes, or applying or
20 installing tangible personal property as a repair or
21 replacement part of other tangible personal property except
22 wearing apparel or shoes for a consideration, whether or not
23 the services are performed directly or by any means other
24 than by coin-operated self-service laundry equipment for
25 wearing apparel or household goods and whether or not any
26 tangible personal property is transferred in conjunction
27 therewith, except such services as are rendered in the
28 construction, reconstruction, remodeling, repair or
29 maintenance of real estate, except that this paragraph shall
30 not be deemed to impose tax on diaper service.

1 (5) (Reserved).

2 (6) (Reserved).

3 (7) (Reserved).

4 (8) (i) Any retention of possession, custody or a
5 license to use or consume tangible personal property or
6 any further obtaining of services described in paragraphs
7 (2), (3) and (4) pursuant to a rental or service contract
8 or other arrangement, other than as security.

9 (ii) The term does not include any such transfer of
10 tangible personal property or rendition of services for
11 the purpose of resale or such rendition of services or
12 the transfer of tangible personal property, including,
13 but not limited to, machinery and equipment and parts
14 therefor and supplies to be used or consumed by the
15 purchaser directly in the operations of:

16 (A) The manufacture of tangible personal
17 property.

18 (B) Farming, dairying, agriculture, horticulture
19 or floriculture when engaged in as a business
20 enterprise. The term "farming" shall include the
21 propagation and raising of ranch raised furbearing
22 animals and the propagation of game birds for
23 commercial purposes by holders of propagation permits
24 issued under 34 Pa.C.S. (relating to game) and the
25 propagation and raising of horses to be used
26 exclusively for commercial racing activities.

27 (C) The producing, delivering or rendering of a
28 public utility service, or in constructing,
29 reconstructing, remodeling, repairing or maintaining
30 the facilities which are directly used in producing,

1 delivering or rendering such service.

2 (D) Processing as defined in this section.

3 (iii) The exclusions provided in subparagraph (ii)
4 (A), (B), (C) and (D) shall not apply to any vehicle
5 required to be registered under 75 Pa.C.S., except those
6 vehicles used directly by a public utility engaged in
7 business as a common carrier; to maintenance facilities;
8 or to materials, supplies or equipment to be used or
9 consumed in the construction, reconstruction, remodeling,
10 repair or maintenance of real estate other than directly
11 used machinery, equipment, parts or foundations therefor
12 that may be fixed to the real estate.

13 (iv) The exclusions provided in subparagraph (ii)
14 (A), (B), (C) and (D) shall not apply to tangible
15 personal property or services to be used or consumed in
16 managerial sales or other nonoperational activities, nor
17 to the purchase or use of tangible personal property or
18 services by any person other than the person directly
19 using the same in the operations described in
20 subparagraph (ii)(A), (B), (C) and (D).

21 (v) The exclusion provided in subparagraph (ii)(C)
22 shall not apply to:

23 (A) construction materials, supplies or
24 equipment used to construct, reconstruct, remodel,
25 repair or maintain facilities not used directly by
26 the purchaser in the production, delivering or
27 rendition of public utility service;

28 (B) construction materials, supplies or
29 equipment used to construct, reconstruct, remodel,
30 repair or maintain a building, road or similar

1 structure; or

2 (C) tools and equipment used but not installed
3 in the maintenance of facilities used directly in the
4 production, delivering or rendition of a public
5 utility service.

6 (vi) The exclusions provided in subparagraph (ii)
7 (A), (B), (C) and (D) shall not apply to the services
8 enumerated in paragraphs (11) through (18) nor to
9 lobbying services, adjustment services, collection
10 services or credit reporting services, secretarial or
11 editing services, disinfecting or pest control services,
12 building maintenance or cleaning services, employment
13 agency services, help supply services, lawn care service
14 or self-storage service, except that the exclusion
15 provided in subparagraph (ii)(B) for farming, dairying
16 and agriculture shall apply to the service enumerated in
17 the definition of disinfecting or pest control services.

18 (9) Where tangible personal property or services are
19 utilized for purposes constituting a sale at retail and for
20 purposes excluded from this definition it shall be presumed
21 that the tangible personal property or services are utilized
22 for purposes constituting a sale at retail and subject to tax
23 unless the user thereof proves to the Department of Revenue
24 that the predominant purposes for which the tangible personal
25 property or services are utilized do not constitute a sale at
26 retail.

27 (10) With respect to liquor and malt or brewed
28 beverages, the term includes sale of liquor by a Pennsylvania
29 Liquor Store to a person for any purpose, and sale of malt or
30 brewed beverages by a manufacturer of malt or brewed

1 beverages, distributor or importing distributor to a person
2 for any purpose, except sales by a manufacturer of malt or
3 brewed beverages to a distributor or importing distributor or
4 sales by an importing distributor to a distributor within the
5 meaning of the act of April 12, 1951 (P.L.90, No.21), known
6 as the Liquor Code. The term does not include sale of malt or
7 brewed beverages by a retail dispenser or sale of liquor or
8 malt or brewed beverages by a person holding a retail liquor
9 license within the meaning of and pursuant to the provisions
10 of the Liquor Code, but shall include sale of liquor or malt
11 or brewed beverages other than pursuant to the provisions of
12 the Liquor Code.

13 (11) The rendition for a consideration of lobbying
14 services.

15 (12) The rendition for a consideration of adjustment
16 services, collection services or credit reporting services.

17 (13) The rendition for a consideration of secretarial or
18 editing services.

19 (14) The rendition for a consideration of disinfecting
20 or pest control services, building maintenance or cleaning
21 services.

22 (15) The rendition for a consideration of employment
23 agency services or help supply services.

24 (16) (Reserved).

25 (17) The rendition for a consideration of lawn care
26 service.

27 (18) The rendition for a consideration of self-storage
28 service.

29 (19) The rendition for a consideration of a mobile
30 telecommunications service.

1 "Secretarial or editing services." Providing services which
2 include, but are not limited to, editing, letter writing,
3 proofreading, resume writing, typing or word processing. Such
4 services shall not include court reporting and stenographic
5 services.

6 "Self-storage service." Providing a building, a room in a
7 building or a secured area within a building with separate
8 access provided for each purchaser of self-storage service,
9 primarily for the purpose of storing personal property. The term
10 shall not include the provision of the following:

- 11 (1) Safe deposit boxes by financial institutions.
- 12 (2) Storage in refrigerator or freezer units.
- 13 (3) Storage in commercial warehouses.
- 14 (4) Facilities for goods distribution.
- 15 (5) Lockers in airports, bus stations, museums and other
16 public places.

17 "Show." An event, the primary purpose of which involves the
18 display or exhibition of any tangible personal property or
19 services for sale, including, but not limited to, a flea market,
20 antique show, coin show, stamp show, comic book show, hobby
21 show, automobile show, fair or any similar show, whether held
22 regularly or of a temporary nature, at which more than one
23 vendor displays for sale or sells tangible personal property or
24 services subject to tax under section 702.

25 "Soft drinks." All nonalcoholic beverages, whether
26 carbonated or not, such as soda water, ginger ale, Coca-Cola,
27 lime cola, Pepsi-Cola, Dr Pepper, fruit juice when plain or
28 carbonated water, flavoring or syrup is added, carbonated water,
29 orangeade, lemonade, root beer or any and all preparations,
30 commonly referred to as soft drinks, of whatsoever kind, and are

1 further described as including any and all beverages, commonly
2 referred to as soft drinks, which are made with or without the
3 use of any syrup. The term shall not include natural fruit or
4 vegetable juices or their concentrates, or noncarbonated fruit
5 juice drinks containing not less than 25% by volume of natural
6 fruit juices or of fruit juice which has been reconstituted to
7 its original state, or natural concentrated fruit or vegetable
8 juices reconstituted to their original state, whether any of the
9 foregoing natural juices are frozen or unfrozen, sweetened or
10 unsweetened, seasoned with salt or spice or unseasoned, nor
11 shall the term include coffee, coffee substitutes, tea, cocoa,
12 natural fluid milk or noncarbonated drinks made from milk
13 derivatives.

14 "Storage." Any keeping or retention of tangible personal
15 property within this Commonwealth for any purpose, including the
16 interim keeping, retaining or exercising any right or power over
17 such tangible personal property. This term is in no way limited
18 to the provision of self-storage service.

19 "Tangible personal property." Corporeal personal property,
20 including, but not limited to, goods, wares, merchandise, steam
21 and natural and manufactured and bottled gas for nonresidential
22 use, electricity for nonresidential use, prepaid
23 telecommunications, premium cable or premium video programming
24 service, spirituous or vinous liquor and malt or brewed
25 beverages and soft drinks, interstate telecommunications service
26 originating or terminating in this Commonwealth and charged to a
27 service address in this Commonwealth, intrastate
28 telecommunications service with the exception of subscriber line
29 charges and basic local telephone service for residential use
30 and charges for telephone calls paid for by inserting money into

1 a telephone accepting direct deposits of money to operate. The
2 service address of any intrastate telecommunications service is
3 deemed to be within this Commonwealth or within a political
4 subdivision, regardless of how or where billed or paid. In the
5 case of any such interstate or intrastate telecommunications
6 service, any charge paid through a credit or payment mechanism
7 which does not relate to a service address, such as a bank,
8 travel, credit or debit card, but not including prepaid
9 telecommunications, is deemed attributable to the address of
10 origination of the telecommunications service.

11 "Taxpayer." Any person required to pay or collect the tax
12 imposed by this chapter.

13 "Telecommunications service." Any one-way transmission or
14 any two-way, interactive transmission of sounds, signals or
15 other intelligence converted to like form which effects or is
16 intended to effect meaningful communications by electronic or
17 electromagnetic means via wire, cable, satellite, light waves,
18 microwaves, radio waves or other transmission media. The term
19 includes all types of telecommunication transmissions, such as
20 local, toll, wide-area or any other type of telephone service;
21 private line service; telegraph service; radio repeater service;
22 wireless communication service; personal communications system
23 service; cellular telecommunication service; specialized mobile
24 radio service; stationary two-way radio service; and paging
25 service. The term does not include any of the following:

26 (1) Subscriber charges for access to a video dial tone
27 system.

28 (2) Charges to video programmers for the transport of
29 video programming.

30 (3) Charges for access to the Internet. Access to the

1 Internet does not include any of the following:

2 (i) The transport over the Internet or any
3 proprietary network using the Internet protocol of
4 telephone calls, facsimile transmissions or other
5 telecommunications traffic to or from end users on the
6 public switched telephone network if the signal sent from
7 or received by an end user is not in an Internet
8 protocol.

9 (ii) Telecommunications services purchased by an
10 Internet service provider to deliver access to the
11 Internet to its customers.

12 (4) Mobile telecommunications services.

13 "Transient vendor." As follows:

14 (1) Any person who:

15 (i) brings into this Commonwealth, by automobile,
16 truck or other means of transportation, or purchases in
17 this Commonwealth tangible personal property the sale or
18 use of which is subject to the tax imposed by this
19 chapter or comes into this Commonwealth to perform
20 services the sale or use of which is subject to the tax
21 imposed by this chapter;

22 (ii) offers or intends to offer such tangible
23 personal property or services for sale at retail within
24 this Commonwealth; and

25 (iii) does not maintain an established office,
26 distribution house, sales house, warehouse, service
27 enterprise, residence from which business is conducted or
28 other place of business within this Commonwealth.

29 (2) The term shall not include a person who delivers
30 tangible personal property within this Commonwealth pursuant

1 to orders for the property which were solicited or placed by
2 mail or other means.

3 (3) The term shall not include a person who handcrafts
4 items for sale at special events, including, but not limited
5 to, fairs, carnivals, art and craft shows and other festivals
6 and celebrations within this Commonwealth.

7 "Use." As follows:

8 (1) The exercise of any right or power incidental to the
9 ownership, custody or possession of tangible personal
10 property and shall include, but not be limited to,
11 transportation, storage or consumption.

12 (2) The obtaining by a purchaser of the service of
13 printing or imprinting of tangible personal property when
14 such purchaser furnishes, either directly or indirectly, the
15 articles used in the printing or imprinting.

16 (3) The obtaining by a purchaser of the services of:

17 (i) Washing, cleaning, waxing, polishing or
18 lubricating of motor vehicles whether or not any tangible
19 personal property is transferred to the purchaser in
20 conjunction with such services.

21 (ii) Inspecting motor vehicles pursuant to the
22 mandatory requirements of 75 Pa.C.S. (relating to
23 vehicles).

24 (4) (i) The obtaining by a purchaser of the service of
25 repairing, altering, mending, pressing, fitting, dyeing,
26 laundering, drycleaning or cleaning tangible personal
27 property other than wearing apparel or shoes or applying
28 or installing tangible personal property as a repair or
29 replacement part of other tangible personal property
30 other than wearing apparel or shoes, whether or not the

1 services are performed directly or by any means other
2 than by coin-operated self-service laundry equipment for
3 wearing apparel or household goods, and whether or not
4 any tangible personal property is transferred to the
5 purchaser in conjunction therewith, except such services
6 as are obtained in the construction, reconstruction,
7 remodeling, repair or maintenance of real estate, except
8 that this paragraph shall not be deemed to impose tax on
9 diaper service.

10 (ii) The term shall not include:

11 (A) Any tangible personal property acquired and
12 kept, retained or over which power is exercised
13 within this Commonwealth on which the taxing of the
14 storage, use or other consumption thereof is
15 expressly prohibited by the Constitution of the
16 United States or which is excluded from tax under
17 other provisions of this chapter.

18 (B) The use or consumption of tangible personal
19 property, including, but not limited to, machinery
20 and equipment and parts therefor, and supplies or the
21 obtaining of the services described in this paragraph
22 and paragraphs (2) and (3) directly in the operations
23 of:

24 (I) The manufacture of tangible personal
25 property.

26 (II) Farming, dairying, agriculture,
27 horticulture or floriculture when engaged in as a
28 business enterprise. The term "farming" shall
29 include the propagation and raising of ranch-
30 raised furbearing animals and the propagation of

1 game birds for commercial purposes by holders of
2 propagation permits issued under 34 Pa.C.S.
3 (relating to game) and the propagation and
4 raising of horses to be used exclusively for
5 commercial racing activities.

6 (III) The producing, delivering or rendering
7 of a public utility service, or the constructing,
8 reconstructing, remodeling, repairing or
9 maintaining the facilities which are directly
10 used in producing, delivering or rendering a
11 public utility service.

12 (IV) Processing as defined in this section.

13 (iii) The exclusions provided in subparagraph (ii)
14 (B) (I), (II), (III) and (IV) shall not apply to any
15 vehicle required to be registered under 75 Pa.C.S. except
16 those vehicles directly used by a public utility engaged
17 in the business as a common carrier; to maintenance
18 facilities; or to materials, supplies or equipment to be
19 used or consumed in the construction, reconstruction,
20 remodeling, repair or maintenance of real estate other
21 than directly used machinery, equipment, parts or
22 foundations therefor that may be affixed to such real
23 estate.

24 (iv) The exclusions provided in subparagraph (ii) (B)
25 (I), (II), (III) and (IV) shall not apply to tangible
26 personal property or services to be used or consumed in
27 managerial sales or other nonoperational activities, nor
28 to the purchase or use of tangible personal property or
29 services by any person other than the person directly
30 using the same in the operations described in

1 subparagraph (ii) (B) (I), (II), (III) and (IV).

2 (v) The exclusion provided in subparagraph (iii)
3 shall not apply to:

4 (A) construction materials, supplies or
5 equipment used to construct, reconstruct, remodel,
6 repair or maintain facilities not used directly by
7 the purchaser in the production, delivering or
8 rendition of public utility service; or

9 (B) tools and equipment used but not installed
10 in the maintenance of facilities used directly in the
11 production, delivering or rendition of a public
12 utility service.

13 (vi) The exclusion provided in subparagraph (ii) (B)
14 (I), (II), (III) and (IV) shall not apply to the services
15 enumerated in paragraphs (9) through (16) nor to lobbying
16 services, adjustment services, collection services or
17 credit reporting services, secretarial or editing
18 services, disinfecting or pest control services, building
19 maintenance or cleaning services, employment agency
20 services, help supply services, lawn care service or
21 self-storage service, except that the exclusion provided
22 in subparagraph (ii) (B) (II) for farming, dairying and
23 agriculture shall apply to the service enumerated in the
24 definition of "disinfecting or pest control services."

25 (5) Where tangible personal property or services are
26 utilized for purposes constituting a use, and for purposes
27 excluded from this definition, it shall be presumed that the
28 property or services are utilized for purposes constituting a
29 sale at retail and subject to tax unless the user thereof
30 proves to the Department of Revenue that the predominant

1 purposes for which the property or services are utilized do
2 not constitute a sale at retail.

3 (6) The term with respect to "liquor" and "malt or
4 brewed beverages" shall include the purchase of "liquor" from
5 any "Pennsylvania Liquor Store" by any person for any purpose
6 and the purchase of "malt or brewed beverages" from a
7 "manufacturer of malt or brewed beverages," "distributor" or
8 "importing distributor" by any person for any purpose, except
9 purchases from a "manufacturer of malt or brewed beverages"
10 by a "distributor" or "importing distributor," or purchases
11 from an "importing distributor" by a "distributor" within the
12 meaning of the act of April 12, 1951 (P.L.90, No.21), known
13 as the Liquor Code. The term shall not include any purchase
14 of "malt or brewed beverages" from a "retail dispenser" or
15 any purchase of "liquor" or "malt or brewed beverages" from a
16 person holding a "retail liquor license" within the meaning
17 of and pursuant to the provisions of the Liquor Code, but
18 shall include the exercise of any right or power incidental
19 to the ownership, custody or possession of "liquor" or "malt
20 or brewed beverages" obtained by the person exercising such
21 right or power in any manner other than pursuant to the
22 provisions of the Liquor Code.

23 (7) The use of tangible personal property purchased at
24 retail upon which the services described in paragraphs (2),
25 (3) and (4) have been performed shall be deemed to be a use
26 of the services by the person using the property.

27 (8) The term shall not include the providing of a motor
28 vehicle to a nonprofit private or public school to be used by
29 the school for the sole purpose of driver education.

30 (9) The obtaining by the purchaser of lobbying services.

1 (10) The obtaining by the purchaser of adjustment
2 services, collection services or credit reporting services.

3 (11) The obtaining by the purchaser of secretarial or
4 editing services.

5 (12) The obtaining by the purchaser of disinfecting or
6 pest control services, building maintenance or cleaning
7 services.

8 (13) The obtaining by the purchaser of employment agency
9 services or help supply services.

10 (14) (Reserved).

11 (15) The obtaining by the purchaser of lawn care
12 service.

13 (16) The obtaining by the purchaser of self-storage
14 service.

15 (17) The obtaining by a construction contractor of
16 tangible personal property or services provided to tangible
17 personal property which will be used pursuant to a
18 construction contract whether or not the tangible personal
19 property or services are transferred.

20 (18) The obtaining of mobile telecommunications service
21 by a customer.

22 "Used prebuilt housing." Prebuilt housing that was
23 previously subject to a sale to a prebuilt housing purchaser.

24 "Vendor." Any person maintaining a place of business in this
25 Commonwealth, selling or leasing tangible personal property, or
26 rendering services, the sale or use of which is subject to the
27 tax imposed by this chapter, but not including any employee who
28 in the ordinary scope of employment renders services to the
29 employer of the employee in exchange for wages and salaries.

30 SUBCHAPTER B

IMPOSITION OF TAX

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Section 702. Imposition of tax.

(a) Sales tax.--There is hereby imposed upon each separate sale at retail of tangible personal property or services within this Commonwealth a tax of 7% of the purchase price. The tax shall be collected by the vendor from the purchaser and shall be paid over to this Commonwealth as provided in this chapter.

(b) Use tax.--There is hereby imposed upon the use within this Commonwealth of tangible personal property purchased at retail and on those services purchased at retail a tax of 7% of the purchase price. The tax shall be paid to the Commonwealth by the person who makes such use, except that such tax shall not be paid to the Commonwealth by that person where that person has paid the tax imposed by subsection (a) or has paid the tax imposed by this subsection to the vendor with respect to such use.

(c) Telecommunications services.--

(1) Notwithstanding any other provision of this chapter, the tax with respect to telecommunications service shall, except for telegrams paid for in cash at telegraph offices, be computed at the rate of 7% upon the total amount charged to customers for such services, irrespective of whether that charge is based upon a flat rate or upon a message unit charge; but charges for telephone calls paid for by inserting money into a telephone accepting direct deposits of money to operate shall not be subject to this tax.

(2) A telecommunications service provider shall have no responsibility or liability to the Commonwealth for billing, collecting or remitting taxes that apply to services, products or other commerce sold over telecommunications lines

1 by third-party vendors.

2 (3) To prevent actual multistate taxation of interstate
3 telecommunications service, a taxpayer, upon proof that the
4 taxpayer has paid a similar tax to another state on the same
5 interstate telecommunications service, shall be allowed a
6 credit against the tax imposed by this section on the same
7 interstate telecommunications service to the extent of the
8 amount of the tax properly due and paid to the other state.

9 (d) (Reserved).

10 (e) Prepaid telecommunications.--

11 (1) Notwithstanding any provisions of this chapter, the
12 sale or use of prepaid telecommunications evidenced by the
13 transfer of tangible personal property shall be subject to
14 the tax imposed by subsections (a) and (b).

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

19 (3) (i) Notwithstanding paragraph (2), the sale or use
20 of prepaid telecommunications service not evidenced by
21 the transfer of tangible personal property shall be taxed
22 at the rate of 7% of the receipts collected on each sale
23 if the service provider elects to collect the tax imposed
24 by this chapter on receipts of each sale.

25 (ii) The service provider shall notify the
26 department of its election and shall collect the tax on
27 receipts of each sale until the service provider notifies
28 the department otherwise.

29 (e.1) Prepaid mobile telecommunications services.--

30 (1) Notwithstanding any other provision of this chapter,

1 the sale or use of prepaid mobile telecommunications service
2 evidenced by the transfer of tangible personal property shall
3 be subject to the tax imposed by subsections (a) and (b).

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

11 (3) (i) Notwithstanding paragraph (2), the sale or use
12 of prepaid mobile telecommunications service not
13 evidenced by the transfer of tangible personal property
14 shall be taxed at the rate of 7% of the receipts
15 collected on each sale if the service provider elects to
16 collect the tax imposed by this chapter on receipts of
17 each sale.

18 (ii) The service provider shall notify the
19 department of its election and shall collect the tax on
20 receipts of each sale until the service provider notifies
21 the department otherwise.

22 (f) Prebuilt housing.--

23 (1) Notwithstanding any other provision of this chapter,
24 tax with respect to sales of prebuilt housing shall be
25 imposed, subject to the provisions of paragraph (2), on the
26 prebuilt housing builder at the time of the prebuilt housing
27 sale within this Commonwealth and shall be paid and reported
28 by the prebuilt housing builder to the department in the time
29 and manner provided in this chapter.

30 (2) A manufacturer of prebuilt housing may, at its

1 option, precollect the tax from the prebuilt housing builder
2 at the time of sale to the prebuilt housing builder.

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

10 (g) Mobile telecommunications services provided by home
11 service provider.--Notwithstanding any other provisions of this
12 chapter and in accordance with the Mobile Telecommunications
13 Sourcing Act (Public Law 106-252, 4 U.S.C. §§ 116-126), the sale
14 or use of mobile telecommunications services which are deemed to
15 be provided to a customer by a home service provider under 4
16 U.S.C. § 117(a) and (b) shall be subject to the tax of 7% of the
17 purchase price. The tax shall be collected by the home service
18 provider from the customer and shall be paid over to the
19 Commonwealth as provided in this chapter if the customer's place
20 of primary use is located within this Commonwealth, regardless
21 of where the mobile telecommunications services originate,
22 terminate or pass through. The words and phrases used in this
23 subsection shall have the same meanings given to them in the
24 Mobile Telecommunications Sourcing Act.

25 Section 703. Computation of tax.

26 (a) Computation.--The amount of tax imposed by section 702
27 shall be computed as follows:

28 (1) If the purchase price is 10¢ or less, no tax shall
29 be collected.

30 (2) If the purchase price is 11¢ or more but less than

1 18¢, 1¢ shall be collected.

2 (3) If the purchase price is 18¢ or more but less than
3 35¢, 2¢ shall be collected.

4 (4) If the purchase price is 35¢ or more but less than
5 51¢, 3¢ shall be collected.

6 (5) If the purchase price is 51¢ or more but less than
7 68¢ cents, 4¢ shall be collected.

8 (6) If the purchase price is 68¢ or more but less than
9 85¢, 5¢ shall be collected.

10 (7) If the purchase price is 85¢ or more but less than
11 \$1.01, 6¢ shall be collected.

12 (8) If the purchase price is more than \$1.00, 7% of each
13 dollar of purchase price plus the charges set forth in this
14 section upon any fractional part of a dollar in excess of
15 even dollars shall be collected.

16 (b) Deposit into Residential Property Tax Elimination
17 Fund.--The tax collected under section 702 shall be deposited
18 into the Residential Property Tax Elimination Fund.

19 SUBCHAPTER C

20 EXCLUSIONS FROM TAX

21 Section 704. Exclusions from tax.

22 The tax imposed by section 702 shall not be imposed upon any
23 of the following:

24 (1) The sale at retail or use of tangible personal
25 property, other than motor vehicles, trailers, semitrailers,
26 motor boats, aircraft or other similar tangible personal
27 property required under Federal or State law to be registered
28 or licensed, or services sold by or purchased from a person
29 that is not a vendor in an isolated transaction or sold by or
30 purchased from a person that is a vendor but is not a vendor

1 with respect to the tangible personal property or services
2 sold or purchased in the transaction. Inventory and stock in
3 trade sold at retail or used shall not be excluded from the
4 tax by this paragraph.

5 (2) The use of tangible personal property purchased by a
6 nonresident person outside of, and brought into, this
7 Commonwealth for use in this Commonwealth for a period not to
8 exceed seven days or for a period of time when the
9 nonresident is a tourist or vacationer, as long as the
10 tangible personal property is not consumed within this
11 Commonwealth.

12 (3) The use of tangible personal property in accordance
13 with the following:

14 (i) The property is purchased outside this
15 Commonwealth for use outside this Commonwealth by an
16 individual or business entity that, at the time of
17 purchase, is not:

18 (A) a resident of this Commonwealth; nor

19 (B) actually doing business within this
20 Commonwealth.

21 (ii) The purchaser later brings the tangible
22 personal property into this Commonwealth in connection
23 with the establishment of a permanent business or
24 residence in this Commonwealth.

25 (iii) The property has been purchased more than six
26 months prior to the earlier of:

27 (A) the date it was first brought into this
28 Commonwealth; or

29 (B) the establishment of a business or residence
30 under subparagraph (ii).

1 (iv) This paragraph does not apply to tangible
2 personal property temporarily brought into this
3 Commonwealth for the performance of contracts for the
4 construction, reconstruction, remodeling, repairing and
5 maintenance of real estate.

6 (4) The sale at retail or use of disposable diapers;
7 premoistened wipes; incontinence products; colostomy
8 deodorants; toilet paper; sanitary napkins, tampons or
9 similar items used for feminine hygiene; or toothpaste,
10 toothbrushes or dental floss.

11 (5) The sale at retail or use of steam, natural and
12 manufactured and bottled gas, fuel oil, electricity or
13 intrastate subscriber line charges, basic local telephone
14 service or telegraph service when purchased directly by the
15 user thereof solely for his own residential use and charges
16 for telephone calls paid for by inserting money into a
17 telephone accepting direct deposits of money to operate.

18 (6) (Reserved).

19 (7) (Reserved).

20 (8) (Reserved).

21 (9) (Reserved).

22 (10) (i) The sale at retail to or use by:

23 (A) any charitable organization, volunteer
24 firemen's organization, volunteer firefighters'
25 relief association as defined in 35 Pa.C.S. § 7412
26 (relating to definitions) or nonprofit educational
27 institution; or

28 (B) a religious organization for religious
29 purposes of tangible personal property or services
30 other than pursuant to a construction contract.

1 (ii) The exclusion under this paragraph shall not
2 apply with respect to any tangible personal property or
3 services used in any unrelated trade or business carried
4 on by such organization or institution or with respect to
5 any materials, supplies and equipment used and
6 transferred to the organization or institution in the
7 construction, reconstruction, remodeling, renovation,
8 repairs and maintenance of any real estate structure,
9 other than building machinery and equipment, except
10 materials and supplies when purchased by such
11 organizations or institutions for routine maintenance and
12 repairs.

13 (iii) If the department has issued sales-tax-exempt
14 status to a volunteer firefighters' organization or a
15 volunteer firefighters' relief association, the sales-
16 tax-exempt status may not expire unless the activities of
17 the organization or association change so that the
18 organization or association does not qualify as an
19 institution of purely public charity in which case the
20 organization or association shall immediately notify the
21 department of the change. If the department ascertains
22 that an organization or association no longer qualifies
23 as an institution of purely public charity, the
24 department may revoke the sales-tax-exempt status of the
25 organization or association.

26 (11) The sale at retail or use of gasoline and other
27 motor fuels, the sales of which are otherwise subject to
28 excise taxes under 75 Pa.C.S. Ch. 90 (relating to liquid
29 fuels and fuels tax).

30 (12) The sale at retail to, or use by the United States,

1 this Commonwealth or its instrumentalities or political
2 subdivisions of tangible personal property or services.

3 (13) The sale at retail or use of wrapping paper,
4 wrapping twine, bags, cartons, tape, rope, labels,
5 nonreturnable containers and all other wrapping supplies, if
6 the use is incidental to the delivery of personal property.
7 Unless the property wrapped or packaged will be resold by the
8 purchaser of the wrapping or packaging service, this
9 paragraph does not apply to a charge for wrapping or
10 packaging.

11 (14) Sale at retail or use of vessels designed for
12 commercial use of registered tonnage of 50 tons or more when
13 produced by the builders thereof upon special order of the
14 purchaser.

15 (15) Sale at retail of tangible personal property or
16 services used or consumed in building, rebuilding, repairing
17 and making additions to or replacements in and upon vessels
18 designed for commercial use of registered tonnage of 50 tons
19 or more upon special order of the purchaser, or when rebuilt,
20 repaired or enlarged, or when replacements are made upon
21 order of or for the account of the owner.

22 (16) The sale at retail or use of tangible personal
23 property or services to be used or consumed for ship cleaning
24 or maintenance or as fuel, supplies, ships' equipment, ships'
25 stores or sea stores on vessels designed for commercial use
26 of registered tonnage of 50 tons or more to be operated
27 principally outside the limits of this Commonwealth.

28 (17) The sale at retail or use of any of the following:

29 (i) Prescription or nonprescription medicines, drugs
30 or medical supplies.

1 (ii) Crutches and wheelchairs for the use of persons
2 who are walking-impaired.

3 (iii) Artificial limbs, artificial eyes and
4 artificial hearing devices when designed to be worn on
5 the person of the purchaser or user.

6 (iv) False teeth and materials used by a dentist in
7 dental treatment.

8 (v) Eyeglasses when especially designed or
9 prescribed by an ophthalmologist, oculist or optometrist
10 for the personal use of the owner or purchaser.

11 (vi) Artificial braces and supports designed solely
12 for the use of persons who are walking-impaired or any
13 other therapeutic, prosthetic or artificial device
14 designed for the use of a particular individual to
15 correct or alleviate a physical incapacity, including,
16 but not limited to, hospital beds, iron lungs and kidney
17 machines.

18 (18) The sale at retail or use of coal.

19 (19) (Reserved).

20 (20) (Reserved).

21 (21) (Reserved).

22 (22) (Reserved).

23 (23) (Reserved).

24 (24) The sale at retail or use of motor vehicles,
25 trailers and semitrailers, or bodies attached to the chassis
26 of motor vehicles, trailers or semitrailers which are:

27 (i) sold to a nonresident;

28 (ii) to be used outside of this Commonwealth; and

29 (iii) registered in another state within 20 days

30 after delivery to the vendee.

1 (25) The sale at retail or use of water.

2 (26) (Reserved).

3 (27) (Reserved).

4 (28) The sale at retail or use of religious publications
5 sold by religious groups and Bibles and religious articles.

6 (29) The sale at retail of malt and brewed beverages and
7 spirituous and vinous liquors.

8 (29.1) The sale at retail of food and beverages at or
9 from a school or church in the ordinary course of the
10 activities of such organization.

11 (30) (i) The sale at retail or use of newspapers.

12 (ii) For purposes of this paragraph, the term
13 "newspaper" shall mean a "legal newspaper" or publication
14 containing matters of general interest and reports of
15 current events which qualifies as a "newspaper of general
16 circulation" qualified to carry a "legal advertisement"
17 as those terms are defined in 45 Pa.C.S. § 101 (relating
18 to definitions), not including magazines.

19 (iii) This paragraph includes any printed
20 advertising materials circulated with such newspaper
21 regardless of where or by whom the advertising material
22 was produced.

23 (31) The sale at retail or use of caskets and burial
24 vaults for human remains and markers and tombstones for human
25 graves.

26 (32) The sale at retail or use of flags of the United
27 States of America and the Commonwealth.

28 (33) The sale at retail or use of textbooks for use in
29 schools, colleges and universities, either public or private,
30 that are recognized by the Department of Education, when the

1 textbooks are purchased on behalf of or through such schools,
2 colleges or universities.

3 (34) The sale at retail or use of motion picture film
4 rented or licensed from a distributor for the purpose of
5 commercial exhibition.

6 (35) (Reserved).

7 (36) The sale at retail or use of rail transportation
8 equipment used in the movement of personalty.

9 (37) The sale at retail of buses to be used under
10 contract with school districts that are replacements for
11 buses destroyed or lost in the flood of 1977 for a period
12 ending December 31, 1977, in the counties of Armstrong,
13 Bedford, Cambria, Indiana, Jefferson, Somerset and
14 Westmoreland, or the use of such buses.

15 (38) The sale at retail of horses, if, at the time of
16 purchase, the seller is directed to ship or deliver the horse
17 to an out-of-State location, whether or not the charges for
18 shipment are paid for by the seller or the purchaser. The
19 seller must obtain a bill of lading, either from the carrier
20 or from the purchaser, who, in turn, has obtained the bill of
21 lading from the carrier, reflecting delivery to the out-of-
22 State address to which the horse has been shipped. The seller
23 must execute a "Certificate of Delivery to Destination
24 Outside of the Commonwealth" for each bill of lading
25 reflecting out-of-State delivery. The seller shall retain the
26 certificate of delivery form to justify the noncollection of
27 sales tax with respect to the transaction to which the form
28 relates. In transactions where a horse is sold by the seller
29 and delivered to a domiciled person, agent or corporation
30 prior to its being delivered to an out-of-State location, the

1 "Certificate of Delivery to Destination Outside of the
2 Commonwealth" form must have attached to it bills of lading
3 both for the transfer to the domiciled person, agent or
4 corporation and from the aforementioned to the out-of-State
5 location.

6 (39) The sale at retail or use of fish feed purchased by
7 or on behalf of sportsmen's clubs, fish cooperatives or
8 nurseries approved by the Pennsylvania Fish and Boat
9 Commission.

10 (40) (Reserved).

11 (41) The sale at retail of supplies and materials to
12 tourist promotion agencies which receive grants from the
13 Commonwealth for distribution to the public as promotional
14 material and the use of supplies and materials by the
15 agencies for the purposes set forth in this paragraph.

16 (42) The sale or use of brook trout (*Salvelinus*
17 *fontinalis*), brown trout (*Salmo trutta*) or rainbow trout
18 (*Salmo gairdneri*).

19 (43) The sale at retail or use of buses to be used
20 exclusively for the transportation of children for school
21 purposes.

22 (44) The sale at retail or use of firewood. For the
23 purpose of this paragraph, "firewood" means the product of
24 trees when severed from the land and cut into proper lengths
25 for burning and pellets made from pure wood sawdust if used
26 for fuel for cooking, hot water production or to heat
27 residential dwellings.

28 (45) The sale at retail or use of materials used in the
29 construction and erection of objects purchased by not-for-
30 profit organizations for purposes of commemoration and

1 memorialization of historical events, provided that the
2 object is erected upon publicly owned property or property to
3 be conveyed to a public entity upon the commemoration or
4 memorialization of the historical event.

5 (46) The sale at retail or use of tangible personal
6 property purchased in accordance with the Food Stamp Act of
7 1977 (Public Law 88-525, 7 U.S.C. §§ 2011-2029).

8 (47) (Reserved).

9 (48) (Reserved).

10 (49) The sale at retail or use of food and beverages by
11 nonprofit associations which support sports programs. For
12 purposes of this paragraph, the words and phrases shall have
13 the following meanings:

14 "Nonprofit association." An entity which is
15 organized as a nonprofit corporation or nonprofit
16 unincorporated association under the laws of the United
17 States or this Commonwealth or any entity which is
18 authorized to do business in this Commonwealth as a
19 nonprofit corporation or unincorporated association under
20 the laws of this Commonwealth, including youth or
21 athletic, volunteer fire, ambulance, religious,
22 charitable, fraternal, veterans or civic, or any
23 separately chartered auxiliary of the association, if
24 organized and operated on a nonprofit basis.

25 "Sports program." Baseball, including softball,
26 football, basketball, soccer and any other competitive
27 sport formally recognized as a sport by the United States
28 Olympic Committee as specified by and under the
29 jurisdiction of the Ted Stevens Olympic and Amateur
30 Sports Act (Public Law 105-277, 36 U.S.C. § 220501 et

1 seq.), the Amateur Athletic Union or the National
2 Collegiate Athletic Association. The term shall be
3 limited to a program or that portion of a program that is
4 organized for recreational purposes. The term shall be
5 limited to a program or that portion of a program which
6 is organized for recreational purposes and the activities
7 of which are substantially for such purposes and which is
8 primarily for participants who are 18 years of age or
9 younger or whose 19th birthdays occur during the year of
10 participation or the competitive season, whichever is
11 longer. There shall, however, be no age limitation for
12 programs operated for persons with physical disabilities
13 or persons with mental retardation.

14 "Support." The funds raised from sales are used to
15 pay the expenses of a sports program or the nonprofit
16 association sells the food and beverages at a location
17 where a sports program is being conducted under this act.

18 (50) The sale at retail or use of subscriptions for
19 magazines. The term "magazine" refers to a periodical
20 published at regular intervals not exceeding three months and
21 which are circulated among the general public, containing
22 matters of general interest and reports of current events
23 published for the purpose of disseminating information of a
24 public character or devoted to literature, the sciences, art
25 or some special industry. This paragraph includes any printed
26 advertising material circulated with the periodical or
27 publication, regardless of where or by whom the printed
28 advertising material was produced.

29 (51) The sale at retail or use of interior office
30 building cleaning services but only as relates to the costs

1 of the supplied employee, which (costs) are wages, salaries,
2 bonuses and commissions, employment benefits, expense
3 reimbursements, and payroll and withholding taxes, to the
4 extent that these costs are specifically itemized or that
5 these costs in aggregate are stated in billings from the
6 vender or supplying entity.

7 (52) (Reserved).

8 (53) The sale at retail or use of candy or gum
9 regardless of the location from which the candy or gum is
10 sold.

11 (54) (Reserved).

12 (55) The sale at retail or use of horses to be used
13 exclusively for commercial racing activities and the sale at
14 retail and use of feed, bedding, grooming supplies, riding
15 tack, farrier services, portable stalls and sulkies for
16 horses used exclusively for commercial racing activities.

17 (56) The sale at retail or use of tangible personal
18 property or services used, transferred or consumed in
19 installing or repairing equipment or devices designed to
20 assist persons in ascending or descending a stairway when:

21 (i) The equipment or devices are used by a person
22 who, by virtue of a physical disability, is unable to
23 ascend or descend stairs without the aid of such
24 equipment or device.

25 (ii) The equipment or device is installed or used in
26 the person's place of residence.

27 (iii) A physician has certified the physical
28 disability of the person in whose residence the equipment
29 or device is installed or used.

30 (57) The sale at retail to or use by a construction

1 contractor of building machinery and equipment and services
2 thereto that are:

3 (i) transferred pursuant to a construction contract
4 for any charitable organization, volunteer firemen's
5 organization, volunteer firefighters' relief association,
6 nonprofit educational institution or religious
7 organization for religious purposes, if the building
8 machinery and equipment and services thereto are not used
9 in any unrelated trade or business; or

10 (ii) transferred to the United States or the
11 Commonwealth or its instrumentalities or political
12 subdivisions.

13 (58) The sale at retail or use of a personal computer, a
14 peripheral device or an Internet access device, or a service
15 contract or single-user licensed software purchased in
16 conjunction with a personal computer, peripheral device or
17 Internet access device, during the exclusion period by an
18 individual purchaser for nonbusiness use. The exclusion does
19 not include a sale at retail or use of, leasing, rental or
20 repair of a personal computer, peripheral device or Internet
21 access device; mainframe computers; network servers; local
22 area network hubs; routers and network cabling; network
23 operating systems; multiple-user licensed software;
24 minicomputers; hand-held computers; personal digital
25 assistants without Internet access; hardware word processors;
26 graphical calculators; video game consoles; telephones;
27 digital cameras; pagers; compact discs encoded with music or
28 movies; and digital versatile discs encoded with music or
29 movies. For purposes of this paragraph, the phrase "exclusion
30 period" means the period of time from August 5, 2001, to and

1 including August 12, 2001, and from February 17, 2002, to and
2 including February 24, 2002. For purposes of this paragraph,
3 "purchaser" means an individual who places an order and pays
4 the purchase price by cash or credit during the exclusion
5 period even if delivery takes place after the exclusion
6 period.

7 (59) The sale at retail or use of molds and related mold
8 equipment used directly and predominantly in the manufacture
9 of products, regardless of whether the person that holds
10 title to the equipment manufactures a product.

11 (60) The sale or use of used prebuilt housing.

12 (61) The sale at retail to or use of food and
13 nonalcoholic beverages by an airline which will transfer the
14 food or nonalcoholic beverages to passengers in connection
15 with the rendering of the airline service.

16 (62) The sale at retail or use of tangible personal
17 property or services which are directly used in farming,
18 dairying or agriculture when engaged in as a business
19 enterprise whether or not the sale is made to the person
20 directly engaged in the business enterprise or to a person
21 contracting with the person directly engaged in the business
22 enterprise for the production of food.

23 (63) The sale at retail or use of separately stated fees
24 paid pursuant to 13 Pa.C.S. § 9525 (relating to fees).

25 (64) The sale at retail to or use by a construction
26 contractor, employed by a public school district pursuant to
27 a construction contract, of any materials and building
28 supplies which, during construction or reconstruction, are
29 made part of any public school building utilized for
30 instructional classroom education within this Commonwealth,

1 if the construction or reconstruction:

2 (i) is necessitated by a disaster emergency, as
3 defined in 35 Pa.C.S. § 7102 (relating to definitions);

4 and

5 (ii) takes place during the period when there is a
6 declaration of disaster emergency under 35 Pa.C.S. §
7 7301(c) (relating to general authority of Governor).

8 (65) The sale at retail or use of investment metal
9 bullion and investment coins. "Investment metal bullion"
10 means any elementary precious metal which has been put
11 through a process of smelting or refining, including, but not
12 limited to, gold, silver, platinum and palladium, and which
13 is in such state or condition that its value depends upon its
14 content and not its form. "Investment metal bullion" does not
15 include precious metal which has been assembled, fabricated,
16 manufactured or processed in one or more specific and
17 customary industrial, professional, aesthetic or artistic
18 uses. "Investment coins" means numismatic coins or other
19 forms of money and legal tender manufactured of gold, silver,
20 platinum, palladium or other metal and of the United States
21 or any foreign nation with a fair market value greater than
22 any nominal value of such coins. "Investment coins" does not
23 include jewelry or works of art made of coins, nor does it
24 include commemorative medallions.

25 (66) The sale at retail or use of copies of an official
26 document sold by a government agency or a court. For the
27 purposes of this paragraph, the following terms or phrases
28 shall have the following meanings:

29 (i) "Court." Includes:

30 (A) an "appellate court" as defined in 42

1 Pa.C.S. § 102 (relating to definitions);

2 (B) a "court of common pleas" as defined in 42
3 Pa.C.S. § 102; and

4 (C) the "minor judiciary" as defined in 42
5 Pa.C.S. § 102.

6 (ii) "Government agency." An "agency" as defined in
7 section 102 of the act of February 14, 2008 (P.L.6,
8 No.3), known as the Right-to-Know Law.

9 (iii) "Official document." A "record" as defined in
10 section 102 of the Right-to-Know Law. The term shall
11 include notes of court testimony, deposition transcripts,
12 driving records, accident reports, birth and death
13 certificates, deeds, divorce decrees and other similar
14 documents.

15 (67) The sale at retail or use of repair or replacement
16 parts, including the installation of those parts, exclusively
17 for use in helicopters and similar rotorcraft or in
18 overhauling or rebuilding of helicopters and similar
19 rotorcraft or helicopters and similar rotorcraft components.

20 (68) The sale at retail or use of helicopters and
21 similar rotorcraft.

22 (69) The sale at retail of food and beverages that are
23 federally approved items for the Women, Infants and Children
24 Program under section 17 of the Child Nutrition Act of 1966
25 (Public Law 89-642, 42 U.S.C. § 1786).

26 (70) The sale of food and beverages dispensed by means
27 of a coin-operated vending machine.

28 Section 705. Alternate imposition of tax.

29 (a) Dealers of motor vehicles.--

30 (1) This subsection applies to a person actively and

1 principally engaged in the business of selling new or used
2 motor vehicles, trailers or semitrailers, and registered with
3 the department in the dealer's class who:

4 (i) acquires a motor vehicle, trailer or semitrailer
5 for the purpose of resale; and

6 (ii) prior to the resale, uses the motor vehicle,
7 trailer or semitrailer for a taxable use under this
8 chapter.

9 (2) A person under paragraph (1) may elect to pay a tax
10 equal to 6% of the fair rental value of the motor vehicle,
11 trailer or semitrailer during that use.

12 (b) Commercial aircraft operators.--

13 (1) This subsection applies to a commercial aircraft
14 operator who:

15 (i) acquires an aircraft for the purpose of resale,
16 or lease, or is entitled to claim another valid exemption
17 at the time of purchase; and

18 (ii) subsequent to the purchase, periodically uses
19 the same aircraft for a taxable use under this chapter.

20 (2) A commercial aircraft operator under paragraph (1)
21 may elect to pay a tax equal to 6% of the fair rental value
22 of the aircraft during that use.

23 (c) Nonapplicability.--This section shall not apply to the
24 use of a vehicle as a wrecker, parts truck, delivery truck or
25 courtesy car.

26 Section 706. Credit against tax.

27 (a) Prerequisites.--

28 (1) Subject to the provisions of paragraph (2), a credit
29 against the tax imposed by section 702 shall be granted with
30 respect to tangible personal property or services purchased

1 for use outside this Commonwealth equal to the tax paid to
2 another state by reason of the imposition by the other state
3 of a tax similar to the tax imposed by this chapter.

4 (2) No credit shall be granted under this section unless
5 the other state grants substantially similar tax relief by
6 reason of the payment of tax under this chapter.

7 (b) Call center credit.--A credit against the tax imposed by
8 section 702 on telecommunications services shall be granted to a
9 call center for gross receipts tax paid by a telephone company
10 on the receipts derived from the sale of incoming and outgoing
11 interstate telecommunications services to the call center under
12 section 1101(a)(2) of the Tax Reform Code of 1971. The following
13 apply:

14 (1) A telephone company, upon request, shall notify a
15 call center of the amount of gross receipts tax paid by the
16 telephone company on the receipts derived from the sale of
17 incoming and outgoing interstate telecommunications services
18 to the call center.

19 (2) A call center that is eligible for the credit in
20 this subsection may apply for a tax credit as set forth in
21 this subsection.

22 (3) By February 15, a taxpayer must submit an
23 application to the department for gross receipts tax paid on
24 the receipts derived from the sale of incoming and outgoing
25 interstate telecommunications services incurred in the prior
26 calendar year.

27 (4) By April 15 of the calendar year following the close
28 of the calendar year during which the gross receipts tax was
29 incurred, the department shall notify the applicant of the
30 amount of the applicant's tax credit approved by the

1 department.

2 (5) The total amount of tax credits provided for in this
3 subsection and approved by the department shall not exceed
4 \$30,000,000 in any fiscal year. If the total amount of tax
5 credits applied for by all applicants exceeds the amount
6 allocated for those credits, then the credit to be received
7 by each applicant shall be determined as follows:

8 (i) Divide:

9 (A) the tax credit applied for by the applicant;

10 by

11 (B) the total of all tax credits applied for by
12 all applicants.

13 (ii) Multiply:

14 (A) the quotient under subparagraph (i); by

15 (B) the amount allocated for all tax credits.

16 SUBCHAPTER D

17 LICENSES

18 Section 708. Licenses.

19 (a) General rule.--Every person maintaining a place of
20 business in this Commonwealth, selling or leasing services or
21 tangible personal property, the sale or use of which is subject
22 to tax and who has not obtained a license from the department,
23 shall, prior to the beginning of business, make application to
24 the department, on a form prescribed by the department, for a
25 license. If the person maintains more than one place of business
26 in this Commonwealth, the license shall be issued for the
27 principal place of business in this Commonwealth.

28 (b) Conditions of licensure.--The department shall, after
29 the receipt of an application, issue the license applied for
30 under subsection (a), if the applicant has filed all required

1 State tax reports and paid any State taxes not subject to a
2 timely perfected administrative or judicial appeal or subject to
3 a duly authorized deferred payment plan. The license shall be
4 nonassignable and valid for a period of five years.

5 (b.1) Grounds for refusal to issue license.--

6 (1) If an applicant for a license or any person holding
7 a license has not filed all required State tax reports and
8 paid any State taxes not subject to a timely perfected
9 administrative or judicial appeal or subject to a duly
10 authorized deferred payment plan, the department may refuse
11 to issue, may suspend or may revoke said license.

12 (2) The department shall notify the applicant or
13 licensee of any refusal, suspension or revocation. The notice
14 shall contain a statement that the refusal, suspension or
15 revocation may be made public and shall be sent by first
16 class mail.

17 (3) An applicant or licensee aggrieved by the
18 determination of the department may file an appeal pursuant
19 to the provisions for administrative appeals in this chapter.

20 (4) In the case of a suspension or revocation which is
21 appealed, the license shall remain valid pending a final
22 outcome of the appeals process. Notwithstanding sections 274,
23 353(f), 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform
24 Code of 1971 or any other provision of law to the contrary,
25 if no appeal is taken or if an appeal is taken and denied at
26 the conclusion of the appeal process, the department may
27 disclose, by publication or otherwise, the identity of a
28 person and the fact that the person's license has been
29 refused, suspended or revoked under this subsection. The
30 department may include the basis for refusal, suspension or

1 revocation in the disclosure.

2 (c) Penalties.--

3 (1) A person who maintains a place of business in this
4 Commonwealth for the purpose of selling or leasing services
5 or tangible personal property, the sale or use of which is
6 subject to tax, without having first been licensed by the
7 department shall be guilty of a summary offense and, upon
8 conviction thereof, be sentenced to pay a fine of not less
9 than \$300 nor more than \$1,500 and, in default thereof, to
10 imprisonment of not less than five days nor more than 30
11 days.

12 (2) The penalties imposed under this subsection shall be
13 in addition to any other penalties imposed by this chapter.

14 (3) For purposes of this subsection, the offering for
15 sale or lease of any service or tangible personal property,
16 the sale or use of which is subject to tax, during any
17 calendar day shall constitute a separate violation.

18 (4) The Secretary of Revenue may designate employees of
19 the department to enforce the provisions of this subsection.
20 Those employees shall exhibit proof of and be within the
21 scope of the designation when instituting proceedings as
22 provided by the Pennsylvania Rules of Criminal Procedure.

23 (d) Liability to pay tax remains.--The failure of any person
24 to obtain a license shall not relieve that person of liability
25 to pay the tax imposed by this chapter.

26 SUBCHAPTER E

27 HOTEL OCCUPANCY TAX

28 Section 709. Definitions.

29 (a) General rule.--For the purposes of this subchapter, the
30 following words, terms and phrases shall have the meaning given

1 to them in this subsection, unless the context clearly indicates
2 otherwise:

3 "Hotel." A building or buildings in which the public may,
4 for a consideration, obtain sleeping accommodations. The term
5 shall not include any charitable, educational or religious
6 institution summer camp for children, hospital or nursing home.

7 "Occupancy." The use or possession or the right to the use
8 or possession by any person other than a permanent resident of
9 any room or rooms in a hotel for any purpose or the right to the
10 use or possession of the furnishings or to the services and
11 accommodations accompanying the use and possession of the room
12 or rooms.

13 "Occupant." A person other than a permanent resident who for
14 a consideration uses, possesses or has a right to use or possess
15 any room or rooms in a hotel under any lease, concession,
16 permit, right of access, license or agreement.

17 "Operator." A person who operates a hotel.

18 "Permanent resident." An occupant who has occupied or has
19 the right to occupancy of a room or rooms in a hotel for at
20 least 30 consecutive days.

21 "Rent." The consideration received for occupancy valued in
22 money, whether received in money or otherwise, including all
23 receipts, cash, credits and property or services of any kind or
24 nature, and also any amount for which the occupant is liable for
25 the occupancy without any deduction therefrom whatsoever. The
26 term shall not include a gratuity.

27 (b) Special definitions.--The following words and phrases,
28 when used in Subchapters D and F, for the purposes of those
29 subchapters only, shall, in addition to the meaning ascribed to
30 them in section 701, have the meaning ascribed to them in this

1 subsection, except where the context clearly indicates a
2 different meaning:

3 "Maintaining a place of business in this Commonwealth."

4 Being the operator of a hotel in this Commonwealth.

5 "Purchase at retail." Occupancy.

6 "Purchase price." Rent.

7 "Purchaser." An occupant.

8 "Sale at retail." The providing of occupancy to an occupant
9 by an operator.

10 "Services." Occupancy.

11 "Tangible personal property." Occupancy.

12 "Use." Occupancy.

13 "Vendor." Operator.

14 Section 710. Imposition of tax.

15 There is hereby imposed an excise tax of 7% of the rent upon
16 every occupancy of a room or rooms in a hotel in this
17 Commonwealth, which tax shall be collected by the operator from
18 the occupant and paid to the Commonwealth as provided by this
19 chapter and deposited into the Residential Property Tax
20 Elimination Fund.

21 Section 711. Seasonal tax returns.

22 Notwithstanding any other provision of this chapter or the
23 Tax Reform Code of 1971, the department may, by regulation,
24 waive the requirement for the filing of quarterly returns in the
25 case of an operator whose hotel is operated only during certain
26 seasons of the year, and may provide for the filing of returns
27 by such persons at times other than those provided by former
28 section 221 of the Tax Reform Code of 1971.

29 SUBCHAPTER F

30 RETURNS

1 Section 715. Persons required to make returns.

2 A person required to pay tax to the department or collect and
3 remit tax to the department shall file returns with respect to
4 such tax.

5 Section 716. Form of returns.

6 The returns required by section 715 shall be on forms
7 prescribed by the department and shall show such information
8 with respect to the taxes imposed by this chapter as the
9 department may reasonably require.

10 Section 717. Time for filing returns.

11 (a) Quarterly and monthly returns.--

12 (1) A return shall be filed quarterly by every licensee
13 on or before the 20th day of April, July, October and January
14 for the three months ending the last day of March, June,
15 September and December.

16 (2) A return shall be filed monthly with respect to each
17 month by every licensee whose actual tax liability for the
18 third calendar quarter of the preceding year equals or
19 exceeds \$600 and is less than \$25,000. The returns shall be
20 filed on or before the 20th day of the next succeeding month
21 with respect to which the return is made. Any licensee
22 required to file monthly returns under this section shall be
23 relieved from filing quarterly returns.

24 (3) With respect to every licensee whose actual tax
25 liability for the third calendar quarter of the preceding
26 year equals or exceeds \$25,000 and is less than \$100,000, the
27 licensee shall, on or before the 20th day of each month, file
28 a single return consisting of all of the following:

29 (i) Either of the following:

30 (A) An amount equal to 50% of the licensee's

1 actual tax liability for the same month in the
2 preceding calendar year if the licensee was a monthly
3 filer or, if the licensee was a quarterly or
4 semiannual filer, 50% of the licensee's average
5 actual tax liability for that tax period in the
6 preceding calendar year. The average actual tax
7 liability shall be the actual tax liability for the
8 tax period divided by the number of months in that
9 tax period. For licensees that were not in business
10 during the same month in the preceding calendar year
11 or were in business for only a portion of that month,
12 50% of the average actual tax liability for each tax
13 period the licensee has been in business. If the
14 licensee is filing a tax liability for the first time
15 with no preceding tax periods, the amount shall be
16 zero.

17 (B) An amount equal to or greater than 50% of
18 the licensee's actual tax liability for the same
19 month.

20 (ii) An amount equal to the taxes due for the
21 preceding month, less any amounts paid in the preceding
22 month as required under subparagraph (i).

23 (4) With respect to each month by every licensee whose
24 actual tax liability for the third calendar quarter of the
25 preceding year equals or exceeds \$100,000, the licensee
26 shall, on or before the 20th day of each month, file a single
27 return consisting of the amounts under paragraph (3)(i)(A)
28 and (ii).

29 (5) The amount due under paragraph (3)(i) or (4) shall
30 be due the same day as the remainder of the preceding month's

1 tax.

2 (6) The department shall determine whether the amounts
3 reported under paragraph (3) or (4) shall be remitted as one
4 combined payment or as two separate payments.

5 (7) The department may require the filing of the returns
6 and the payments for these types of filers by electronic
7 means approved by the department.

8 (8) Any licensee filing returns under paragraph (3) or
9 (4) shall be relieved of filing quarterly returns.

10 (9) If a licensee required to remit payments under
11 paragraph (3) or (4) fails to make a timely payment or makes
12 a payment which is less than the required amount, the
13 department may, in addition to any applicable penalties,
14 impose an additional penalty equal to 5% of the amount due
15 under paragraph (3) or (4) which was not timely paid. The
16 penalty under this paragraph shall be determined when the tax
17 return is filed for the tax period.

18 (b) Annual returns.--For the calendar year 1971 and for each
19 year thereafter no annual return shall be filed except as may be
20 required by rules and regulations of the department promulgated
21 and published at least 60 days prior to the end of the year with
22 respect to which the returns are made. Where annual returns are
23 required, licensees shall not be required to file the returns
24 prior to the 20th day of the year succeeding the year with
25 respect to which the returns are made.

26 (c) Other returns.--A person, other than a licensee, who is
27 liable to pay to the department any tax under this chapter,
28 shall file a return on or before the 20th day of the month
29 succeeding the month in which the person becomes liable for the
30 tax.

1 (d) Small taxpayers.--The department, by regulation, may
2 waive the requirement for the filing of a quarterly return in
3 the case of any licensee whose individual tax collections do not
4 exceed \$75 per calendar quarter and may provide for reporting on
5 a less frequent basis in such cases.

6 Section 718. Extension of time for filing returns.

7 The department may on written application and for good cause
8 shown grant a reasonable extension of time for filing any return
9 required under this chapter. The time for making a return shall
10 not be extended for more than three months.

11 Section 719. Place for filing returns.

12 Returns shall be filed with the department at its main office
13 or at any branch office which it may designate for filing
14 returns.

15 Section 720. Timely mailing treated as timely filing and
16 payment.

17 (a) General rule.--Notwithstanding the provisions of any
18 State tax law to the contrary, when a report or payment of all
19 or any portion of a State tax is required by law to be received
20 by the department or other agency of this Commonwealth on or
21 before a day certain, the taxpayer shall be deemed to have
22 complied with that law if the letter transmitting the report or
23 payment of the tax which has been received by the department is
24 postmarked by the United States Postal Service on or prior to
25 the final day on which the payment is to be received.

26 (b) Presentation of receipt.--For the purposes of this
27 chapter, presentation of a receipt indicating that the report or
28 payment was mailed by registered or certified mail on or before
29 the due date shall be evidence of timely filing and payment.

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SUBCHAPTER G

PAYMENT

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Section 721. Payment.

When a return of tax is required under this subchapter, the person required to make the return shall pay the tax to the department.

Section 722. Time of payment.

(a) Monthly and quarterly payments.--The tax imposed by this chapter and incurred or collected by a licensee shall be due and payable by the licensee on the day the return is required to be filed under the provisions of section 717 and the payment must accompany the return.

(b) Annual payments.--If the amount of tax due for the preceding year as shown by the annual return of any taxpayer is greater than the amount already paid by the taxpayer in connection with the taxpayer's monthly or quarterly returns, the taxpayer shall send with such annual return a remittance for the unpaid amount of tax for the year.

(c) Other payments.--A person other than a licensee liable to pay any tax under this chapter shall remit the tax at the time of filing the return required by this chapter.

Section 723. Other times for payment.

In the event that the department authorizes a taxpayer to file a return at other times than those specified in section 717, the tax due shall be paid at the time the return is filed.

Section 724. Place for payment.

The tax imposed by this chapter shall be paid to the department at the place fixed for filing the return.

Section 725. Tax held in trust for Commonwealth.

(a) General rule.--All taxes collected by any person from purchasers in accordance with this chapter and all taxes

1 collected by any person from purchasers under color of this
2 chapter which have not been properly refunded by the person to
3 the purchaser shall constitute a trust fund for the
4 Commonwealth. The trust shall be enforceable against that
5 person, his representatives and any person, other than a
6 purchaser to whom a refund has been made properly, receiving any
7 part of the fund without consideration, or knowing that the
8 taxpayer is committing a breach of trust.

9 (b) Presumption.--A person who receives payment of a lawful
10 obligation of the taxpayer from the fund shall be presumed to
11 have received the same in good faith and without any knowledge
12 of the breach of trust.

13 (c) Appeal.--A person, other than a taxpayer, against whom
14 the department makes any claim under this section shall have the
15 same right to petition and appeal as is given taxpayers by any
16 provisions of this subchapter.

17 Section 726. Local receivers of use tax.

18 (a) County treasurers.--

19 (1) A county treasurer may receive use tax due and
20 payable under the provisions of this chapter from any person
21 other than a licensee. The receiving of the taxes shall be
22 pursuant to rules and regulations promulgated by the
23 department and upon forms furnished by the department.

24 (2) Each county treasurer shall remit to the department
25 all use taxes received under the authority of this section
26 minus the costs of administering this provision not to exceed
27 1% of the amount of use taxes received, which amount shall be
28 retained in lieu of any commission otherwise allowable by law
29 for the collection of the tax.

30 (b) Nonapplicability.--This section shall not apply to

1 counties of the first class.

2 Section 727. Discount.

3 If a return is filed by a licensee and the tax shown to be
4 due thereon less any discount is paid all within the time
5 prescribed, the licensee shall be entitled to credit and apply
6 against the tax payable by the licensee a discount of 1% of the
7 amount of the tax collected by the licensee as compensation for
8 the expense of collecting and remitting the same and as a
9 consideration of the prompt payment thereof.

10 SUBCHAPTER H

11 ASSESSMENT AND REASSESSMENT

12 Section 730. Assessment.

13 (a) Investigation.--The department is authorized and
14 required to make the inquiries, determinations and assessments
15 of the tax, including interest, additions and penalties, imposed
16 by this chapter. A notice of assessment and demand for payment
17 shall be mailed to the taxpayer. The notice shall set forth the
18 basis of the assessment.

19 (b) (Reserved).

20 Section 731. Mode and time of assessment.

21 (a) Underpayment of tax.--Within a reasonable time after any
22 return is filed, the department shall examine it and, if the
23 return shows a greater tax due or collected than the amount of
24 tax remitted with the return, the department shall issue an
25 assessment for the difference, together with an addition of 3%
26 of such difference, which shall be paid to the department within
27 10 days after a notice of the assessment has been mailed to the
28 taxpayer. If such assessment is not paid within 10 days, there
29 shall be added to the assessment and paid to the department an
30 additional 3% of the difference for each month during which the

1 assessment remains unpaid, but the total of all additions shall
2 not exceed 18% of the difference shown on the assessment.

3 (b) Understatement of tax.--If the department determines
4 that any return or returns of any taxpayer understates the
5 amount of tax due, it shall determine the proper amount and
6 shall ascertain the difference between the amount of tax shown
7 in the return and the amount determined, the difference being
8 hereafter sometimes referred to as the "deficiency." A notice of
9 assessment for the deficiency and the reasons for the deficiency
10 shall then be sent to the taxpayer. The deficiency shall be paid
11 to the department within 30 days after a notice of the
12 assessment has been mailed to the taxpayer.

13 (c) Failure to file return.--In the event that any taxpayer
14 fails to file a return required by this chapter, the department
15 may make an estimated assessment, based on information
16 available, of the proper amount of tax owed by the taxpayer. A
17 notice of assessment in the estimated amount shall be sent to
18 the taxpayer. The tax shall be paid within 30 days after a
19 notice of the estimated assessment has been mailed to the
20 taxpayer.

21 (d) Authority to establish effective rates by business
22 classification.--The department is authorized to make the
23 studies necessary to compute effective rates by business
24 classification, based upon the ratio between the tax required to
25 be collected and taxable sales and to use the rates in arriving
26 at the apparent tax liability of a taxpayer. Any assessment
27 based upon such rates shall be prima facie correct, except that
28 the rate shall not be considered where a taxpayer establishes
29 that the rate is based on a sample inapplicable to the taxpayer.
30 Section 732. Reassessment.

1 Any taxpayer against whom an assessment is made may petition
2 the department for a reassessment under Article XXVII of the Tax
3 Reform Code of 1971.

4 Section 733. Assessment to recover erroneous refunds.

5 The department may, within two years of the granting of any
6 refund or credit, or within the period in which an assessment
7 could have been filed by the department with respect to the
8 transaction pertaining to which the refund was granted,
9 whichever period occurs last, file an assessment to recover any
10 refund or part thereof or credit or part thereof which was
11 erroneously made or allowed.

12 Section 734. (Reserved).

13 Section 735. (Reserved).

14 Section 736. Burden of proof.

15 In all cases of petitions for reassessment, review or appeal,
16 the burden of proof shall be upon the petitioner or appellant,
17 as the case may be.

18 SUBCHAPTER I

19 COLLECTION

20 Section 737. Collection of tax.

21 (a) Collection by department.--The department shall collect
22 the tax in the manner provided by law for the collection of
23 taxes imposed by the laws of this Commonwealth.

24 (b) Collection by persons maintaining a place of business in
25 this Commonwealth.--Every person maintaining a place of business
26 in this Commonwealth and selling or leasing tangible personal
27 property or services, the sale or use of which is subject to
28 tax, shall collect the tax from the purchaser or lessee at the
29 time of making the sale or lease, and shall remit the tax to the
30 department, unless such collection and remittance is otherwise

1 provided for in this chapter.

2 (c) Collection by persons delivering property in this
3 Commonwealth.--Every person not otherwise required to collect
4 tax that delivers tangible personal property to a location
5 within this Commonwealth and that unpacks, positions, places or
6 assembles the tangible personal property shall collect the tax
7 from the purchaser at the time of delivery and shall remit the
8 tax to the department if the person delivering the tangible
9 personal property is responsible for collecting any portion of
10 the purchase price of the tangible personal property delivered
11 and the purchaser has not provided the person with proof that
12 the tax imposed by this chapter has been or will be collected by
13 the seller or that the purchaser provided the seller with a
14 valid exemption certificate. Every person required to collect
15 tax under this paragraph shall be deemed to be selling or
16 leasing tangible personal property or services, the sale or use
17 of which is subject to the tax imposed under section 702.

18 (d) Failure to collect tax.--Any person required under this
19 chapter to collect tax from another person, who shall fail to
20 collect the proper amount of such tax, shall be liable for the
21 full amount of the tax which the person should have collected.

22 (e) Exemption certificates.--If the tax does not apply to
23 the sale or lease of tangible personal property or services, the
24 purchaser or lessee shall furnish to the vendor a certificate
25 indicating that the sale is not legally subject to the tax. The
26 certificate shall be in substantially the form as the department
27 may, by regulation, prescribe. Where the tangible personal
28 property or service is of a type that is never subject to the
29 tax imposed or where the sale or lease is in interstate
30 commerce, a certificate need not be furnished. Where a series of

1 transactions is not subject to tax, a purchaser or user may
2 furnish the vendor with a single exemption certificate in
3 substantially such form and valid for such period of time as the
4 department may, by regulation, prescribe. The department shall
5 provide all school districts and intermediate units with a
6 permanent tax exemption number.

7 (f) Good faith reliance on exemption certificate.--An
8 exemption certificate, which is complete and regular and on its
9 face discloses a valid basis of exemption if taken in good
10 faith, shall relieve the vendor from the liability imposed by
11 this section. An exemption certificate accepted by a vendor from
12 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 \$200 or more, is accompanied by a sworn declaration on a form to
25 be provided by the department of an intended usage of the
26 property or service which would render it nontaxable, shall be
27 presumed to be taken in good faith and the burden of proving
28 otherwise shall be on the department.

29 (g) Direct payment permits.--The department may authorize a
30 purchaser or lessee who acquires tangible personal property or

1 services under circumstances that make it impossible at the time
2 of acquisition to determine the manner in which the tangible
3 personal property or service will be used, to pay the tax
4 directly to the department, and waive the collection of the tax
5 by the vendor. No such authority shall be granted or exercised,
6 except upon application to the department and the issuance by
7 the department, in its discretion, of a direct payment permit.
8 If a direct payment permit is granted, its use shall be subject
9 to conditions specified by the department, and the payment of
10 tax on all acquisitions pursuant to the permit shall be made
11 directly to the department by the permit holder.

12 Section 738. Collection of tax on motor vehicles, trailers and
13 semitrailers.

14 (a) Direct payment of tax.--Notwithstanding the provisions
15 of section 737(b), tax due on the sale at retail or use of a
16 motor vehicle, trailer or semitrailer, except mobile homes as
17 defined in 75 Pa.C.S. § 102 (relating to definitions) required
18 by law to be registered with the department, shall be paid by
19 the purchaser or user directly to the department upon
20 application to the department for an issuance of a certificate
21 of title upon such motor vehicle, trailer or semitrailer. The
22 department shall not issue a certificate of title until the tax
23 has been paid, or evidence satisfactory to the department has
24 been given to establish that tax is not due.

25 (b) Failure to pay tax.--The department may cancel or
26 suspend any record of certificate of title or registration of a
27 motor vehicle, trailer or semitrailer when the check received in
28 payment of the tax on such vehicle is not paid upon demand. Such
29 tax shall be considered as a first encumbrance against such
30 vehicle and the vehicle may not be transferred without first

1 payment in full of such tax and any interest additions or
2 penalties which shall accrue thereon in accordance with this
3 chapter.

4 Section 739. Precollection of tax.

5 (a) General rule.--The department may, by regulation,
6 authorize or require particular categories of vendors selling
7 tangible personal property for resale to precollect from the
8 purchaser the tax which the purchaser will collect upon making a
9 sale at retail of such tangible personal property. The
10 department, however, may not, pursuant to this section, require
11 a vendor to precollect tax from a purchaser who purchases for
12 resale more than \$1,000 worth of tangible personal property from
13 such vendor per year.

14 (b) License exception.--In any case in which a vendor has
15 been authorized to prepay the tax to the person from whom the
16 vendor purchased the tangible personal property for resale, the
17 vendor so authorized to prepay the tax may, under the
18 regulations of the department, be relieved from his duty to
19 secure a license if the duty shall arise only by reason of the
20 vendor's sale of the tangible personal property with respect to
21 which the vendor is, under authorization of the department, to
22 prepay the tax.

23 (c) Sale at retail.--The vendor, on making a sale at retail
24 of tangible personal property with respect to which the vendor
25 has prepaid the tax, must separately state at the time of resale
26 the proper amount of tax on the transaction, and reimburse
27 himself on account of the taxes which he has previously prepaid.
28 Should such vendor collect a greater amount of tax in any
29 reporting period than the vendor had previously prepaid upon
30 purchase of the goods with respect to which he prepaid the tax,

1 the vendor must file a return and remit the balance to the
2 Commonwealth at the time at which a return would otherwise be
3 due with respect to such sales.

4 Section 740. Bulk and auction sales.

5 A person that sells or causes to be sold at auction, or that
6 sells or transfers in bulk, 51% or more of any stock of goods,
7 wares or merchandise of any kind, fixtures, machinery,
8 equipment, buildings or real estate, involved in a business for
9 which the person is licensed or required to be licensed under
10 the provisions of this chapter, or is liable for filing use tax
11 returns in accordance with the provisions of this chapter, shall
12 be subject to the provisions of section 1403 of the Fiscal Code.

13 Section 741. Collection upon failure to request reassessment,
14 review or appeal.

15 (a) General rule.--The department may collect any tax:

16 (1) If an assessment of tax is not paid within 10 days
17 or 30 days as the case may be after notice thereof to the
18 taxpayer, and no petition for reassessment has been filed.

19 (2) Within 60 days from the date of reassessment, if no
20 petition for review has been filed.

21 (3) Within 30 days from the date of the decision of the
22 Board of Finance and Revenue upon a petition for review, or
23 of the expiration of the board's time for acting upon such
24 petition, if no appeal has been made.

25 (4) In all cases of judicial sales, receiverships,
26 assignments or bankruptcies.

27 (b) Defenses.--In any such case in a proceeding for the
28 collection of such taxes, the person against whom they were
29 assessed shall not be permitted to set up any ground of defense
30 that might have been determined by the department, the Board of

1 Finance and Revenue or the courts. The defense of failure of the
2 department to mail notice of assessment or reassessment to the
3 taxpayer and the defense of payment of assessment or
4 reassessment, however, may be raised in proceedings for
5 collection by a motion to stay the proceedings.

6 SUBCHAPTER J

7 NONPAYMENT

8 Section 742. Lien for taxes.

9 (a) Lien imposed.--If any person liable to pay any tax
10 neglects or refuses to pay the tax after demand, the amount,
11 including any interest, addition or penalty, together with any
12 costs that may accrue in addition thereto, shall be a lien in
13 favor of the Commonwealth upon the property, both real and
14 personal, of the person but only after the lien has been entered
15 and docketed of record by the prothonotary of the county where
16 the property is situated. The department may, at any time,
17 transmit, to the prothonotaries of the respective counties,
18 certified copies of all liens for taxes imposed by this chapter
19 and penalties and interest. It shall be the duty of each
20 prothonotary receiving the lien to enter and docket the lien of
21 record in the prothonotary's office, which lien shall be indexed
22 as judgments are indexed. No prothonotary shall require, as a
23 condition precedent to the entry of the liens, the payment of
24 the costs incident to the liens.

25 (b) Priority of lien and effect on judicial date; no
26 discharge by sale on junior lien.--The lien imposed under this
27 section shall have priority from the date of its recording under
28 subsection (a), and shall be fully paid and satisfied out of the
29 proceeds of any judicial sale of property subject to the lien
30 before any other obligation, judgment, claim, lien or estate to

1 which the property may subsequently become subject, except costs
2 of the sale and of the writ upon which the sale was made, and
3 real estate taxes and municipal claims against the property, but
4 shall be subordinate to mortgages and other liens existing and
5 duly recorded or entered of record prior to the recording of the
6 tax lien. In the case of a judicial sale of property, subject to
7 a lien imposed under this section, upon a lien or claim over
8 which the lien imposed under this section has priority, the sale
9 shall discharge the lien imposed under this section to the
10 extent only that the proceeds are applied to its payment, and
11 the lien shall continue in full force and effect as to the
12 balance remaining unpaid. There shall be no inquisition or
13 condemnation upon any judicial sale of real estate made by the
14 Commonwealth pursuant to the provisions hereof. The lien of the
15 taxes, interest and penalties shall continue for five years from
16 the date of entry, and may be revived and continued in the
17 manner now or hereafter provided for renewal of judgments, or as
18 may be provided in the Fiscal Code, and a writ of execution may
19 directly issue upon the lien without the issuance and
20 prosecution to judgment of a writ of scire facias. Not less than
21 10 days before issuance of any execution on the lien, however,
22 notice of the filing and the effect of the lien shall be sent by
23 registered mail to the taxpayer at his last known post office
24 address. The lien shall have no effect upon any stock of goods,
25 wares or merchandise regularly sold or leased in the ordinary
26 course of business by the person against whom the lien has been
27 entered, unless a writ of execution has been issued and a levy
28 made upon the stock of goods, wares and merchandise.

29 (c) Duty of prothonotary.--Any willful failure of any
30 prothonotary to carry out any duty imposed upon the prothonotary

1 by this section shall be a misdemeanor and, upon conviction, the
2 prothonotary shall be sentenced to pay a fine not exceeding
3 \$1,000 and costs of prosecution, or to imprisonment for not more
4 than one year, or both.

5 (d) Priority of tax.--Except as otherwise provided in this
6 section, in the distribution, voluntary or compulsory, in
7 receivership, bankruptcy or otherwise, of the property or estate
8 of any person, all taxes imposed by this chapter which are due
9 and unpaid and are not collectible under the provisions of
10 section 725 shall be paid from the first money available for
11 distribution in priority to all other claims and liens, except
12 insofar as the laws of the United States may give a prior claim
13 to the Federal Government. Any person charged with the
14 administration or distribution of any such property or estate,
15 who shall violate the provisions of this section, shall be
16 personally liable for any taxes imposed by this chapter, which
17 are accrued and unpaid and are chargeable against the person
18 whose property or estate is being administered or distributed.

19 (e) Other remedies.--Subject to the limitations contained in
20 this chapter as to the assessment of taxes, nothing contained in
21 this section shall be construed to restrict, prohibit or limit
22 the use by the department in collecting taxes finally due and
23 payable of any other remedy or procedure available at law or
24 equity for the collection of debts.

25 Section 743. Suit for taxes.

26 (a) Commencement.--At any time within three years after any
27 tax or any amount of tax shall be finally due and payable, the
28 department may commence an action in the courts of this
29 Commonwealth, of any state or of the United States, in the name
30 of the Commonwealth of Pennsylvania, to collect the amount of

1 tax due together with additions, interest, penalties and costs
2 in the manner provided at law or in equity for the collection of
3 ordinary debts.

4 (b) Procedure.--The Attorney General shall prosecute the
5 action and, except as provided in this chapter, the provisions
6 of the Rules of Civil Procedure and the provisions of the laws
7 of this Commonwealth relating to civil procedures and remedies
8 shall, to the extent that they are applicable, be available in
9 such proceedings.

10 (c) Other remedies.--The provisions of this section are in
11 addition to any process, remedy or procedure for the collection
12 of taxes provided by this chapter or by the laws of this
13 Commonwealth, and this section is neither limited by nor
14 intended to limit any such process, remedy or procedure.
15 Section 744. Tax suit comity.

16 The courts of this Commonwealth shall recognize and enforce
17 liabilities for sales and use taxes, lawfully imposed by any
18 other state, provided that the other state extends a like comity
19 to this Commonwealth.

20 Section 745. Service.

21 Any person maintaining a place of business within this
22 Commonwealth is deemed to have appointed the Secretary of the
23 Commonwealth his agent for the acceptance of service of process
24 or notice in any proceedings for the enforcement of the civil
25 provisions of this chapter, and any service made upon the
26 Secretary of the Commonwealth as such agent shall be of the same
27 legal force and validity as if such service had been personally
28 made upon such person. Where service cannot be made upon such
29 person in the manner provided by other laws of this Commonwealth
30 relating to service of process, service may be made upon the

1 Secretary of the Commonwealth and, in such case, a copy of the
2 process or notice shall also be personally served upon any agent
3 or representative of such person who may be found within this
4 Commonwealth, or where no such agent or representative may be
5 found a copy of the process or notice shall be sent by
6 registered mail to such person at the last known address of his
7 principal place of business, home office or residence.

8 SUBCHAPTER K

9 MISCELLANEOUS PROVISIONS

10 Section 746. Collection and payment of tax on credit sales.

11 If any sale subject to tax under this chapter is wholly or
12 partly on credit, the vendor shall require the purchaser to pay
13 in cash at the time the sale is made, or within 30 days
14 thereafter, the total amount of tax due upon the entire purchase
15 price. The vendor shall remit the tax to the department,
16 regardless of whether payment was made by the purchaser to the
17 vendor, with the next return required to be filed under section
18 717.

19 Section 747. Prepayment of tax.

20 (a) General rule.--Whenever a vendor is forbidden by law or
21 governmental regulation to charge and collect the purchase price
22 in advance of or at the time of delivery, the vendor shall
23 prepay the tax as required by section 722, but in such case if
24 the purchaser fails to pay to the vendor the total amount of the
25 purchase price and the tax, and such amount is written off as
26 uncollectible by the vendor, the vendor shall not be liable for
27 the tax and shall be entitled to a credit or refund of the tax
28 paid. If the purchase price is thereafter collected, in whole or
29 in part, the amount collected shall be applied first to the
30 payment of the entire tax portion of the bill, and shall be

1 remitted to the department by the vendor with the first return
2 filed after the collection.

3 (b) Petition for refund.--Tax prepaid shall be subject to
4 refund upon petition to the department under the provisions of
5 section 752 filed within 105 days of the close of the fiscal
6 year in which the accounts are written off.

7 Section 747.1. Refund of sales tax attributed to bad debt.

8 (a) Petition for refund.--A vendor may file a petition for
9 refund of sales tax paid to the department that is attributed to
10 a bad debt if all of the following apply:

11 (1) The purchaser fails to pay the total purchase price.

12 (2) The purchase price is written off, either in whole
13 or in part, as a bad debt on the books and records of the
14 vendor or an affiliate of the vendor.

15 (3) The debt has been deducted for Federal income tax
16 purposes under section 166 of the Internal Revenue Code of
17 1986.

18 (a.1) Petition.--A petition for refund, which is authorized
19 by this section, must be filed with the department within the
20 time limitations prescribed by section 3003.1(a) of the Tax
21 Reform Code of 1971.

22 (a.2) Nonqualifying accounts.--In the case of private-label
23 credit card accounts not qualifying under subsection (a), a
24 vendor or lender that makes an election pursuant to subsection
25 (a.3) shall be entitled to file a petition for refund of sales
26 tax that the vendor has previously reported and paid to the
27 department if all of the following conditions are met:

28 (1) No refund was previously allowed with respect to the
29 portion of the account written off as a bad debt.

30 (2) The account has been found worthless and written

1 off, either in whole or in part, as bad debt on the books and
2 records of the lender or an affiliate of the lender.

3 (3) The account has been deducted for Federal income tax
4 purposes under section 166 of the Internal Revenue Code of
5 1986 by the lender or an affiliate of the lender.

6 (a.3) Eligibility.--In order to be eligible for a refund
7 under subsection (a.2), the lender and the vendor must execute
8 and file with the department a joint election, signed by both
9 parties, designating which party is entitled to claim the
10 refund. This election may not be revoked unless a written notice
11 is signed by the party that signed the election being revoked
12 and is filed with the department.

13 (b) Amount of refund.--The refund authorized by this section
14 shall be limited to the sales tax paid to the department that is
15 attributed to the bad debt, less any discount under section 727.
16 Partial payments by the purchaser shall be prorated between the
17 original purchase price and the sales tax due on the sale.
18 Payments made on any transaction that includes both taxable and
19 nontaxable components shall be allocated proportionally between
20 the taxable and nontaxable components.

21 (c) Assignment of right to petition.--A vendor or a lender
22 may assign its right to petition and receive a refund of sales
23 tax attributed to a bad debt to an affiliate.

24 (d) Exclusions.--No refund shall be granted under this
25 section for any of the following:

26 (1) Interest.

27 (2) Finance charges.

28 (3) Expenses incurred in attempting to collect any
29 amount receivable.

30 (e) Refund procedure.--Documentation requirements are as

1 follows:

2 (1) Any person claiming a refund under this section
3 shall, on request, make available adequate books, records or
4 other documentation supporting the claimed refund, including:

5 (i) Date of original sale and name and Pennsylvania
6 sales tax license number of the retailer.

7 (ii) Name and address of purchaser.

8 (iii) Amount that the purchaser paid or agreed to
9 pay.

10 (iv) Taxable and nontaxable charges.

11 (v) Amount on which the retailer reported and paid
12 sales tax.

13 (vi) All payments or other credits applied to the
14 account of the purchaser.

15 (vii) Evidence that the uncollected amount has been
16 designated as a bad debt in the books and records of the
17 vendor or lender, as appropriate, and that the amount has
18 been claimed as a bad debt deduction for Federal income
19 tax purposes.

20 (viii) The county in which any local sales tax was
21 incurred.

22 (ix) The unpaid portion of the sales price.

23 (x) A certification, under penalty of perjury, that
24 no person has collected money on the bad debt for which
25 the refund is claimed.

26 (xi) Any other information required by the
27 department.

28 (2) A person claiming a refund under this section may
29 provide alternative forms of documentation acceptable to the
30 department if appropriate in light of the volume and

1 character of uncollectible accounts, including the following:

2 (i) If a vendor remits sales or use tax to the
3 Commonwealth and to another state, the entity claiming a
4 refund under this section may use an apportionment method
5 to substantiate the amount of Pennsylvania tax included
6 in the bad debts to which the refund applies.

7 (ii) The apportionment method must use the vendor's
8 Pennsylvania and non-Pennsylvania sales, the vendor's
9 taxable and nontaxable sales and the amount of tax the
10 vendor remitted to Pennsylvania.

11 (f) Return of refund.--The following apply:

12 (1) If the purchase price that is attributed to a prior
13 bad debt refund is thereafter collected, in whole or in part
14 by the vendor or lender, or an affiliate of the vendor or
15 lender, the entity claiming the refund shall remit the
16 proportional tax to the department with the first return
17 filed after the collection. If the entity is not required to
18 file periodic returns, the entity shall remit the
19 proportional tax to the department with another return under
20 section 717(c).

21 (2) Any consideration received for the assignment, sale
22 or other transfer of a bad debt with respect to which a
23 refund has been granted shall be deemed to be a collection of
24 a prior bad debt. This paragraph shall not apply to a
25 transfer to an entity that is part of the same affiliated
26 group, as defined by section 1504 of the Internal Revenue
27 Code of 1986.

28 (3) A person that collects, in whole or in part, the
29 purchase price attributed to a prior bad debt refund is
30 required to maintain adequate books, records or other

1 documentation to allow the department to determine whether
2 the purchase price attributed to a prior bad debt refund has
3 been collected. Information under this paragraph includes the
4 pertinent facts required under subsection (e).

5 (4) If it is determined by the department that a prior
6 bad debt has been collected, in whole or in part, and the
7 proportional tax has not been properly reported and paid to
8 the department, the person that claimed the refund on the
9 transaction shall report and pay the proportional tax to the
10 department plus applicable interest and penalty under this
11 article.

12 (g) Interest.--Notwithstanding the provisions of section
13 806.1 of the Fiscal Code, no interest shall be paid by the
14 Commonwealth on refunds of sales tax attributed to bad debt
15 under this section.

16 (h) Exclusive remedy.--No refund or credit of sales tax
17 shall be made for any uncollected purchase price or bad debt
18 except as authorized by this section. No deduction or credit for
19 bad debt may be taken on any return filed with the department.
20 This section shall provide the exclusive procedure for claiming
21 a refund or credit of sales tax attributed to uncollected
22 purchase price or bad debt.

23 (i) Definitions.--As used in this section, the following
24 words and phrases shall have the meanings given to them in this
25 subsection:

26 "Affiliate." A person that is:

27 (1) an affiliated entity, under section 1504 of the
28 Internal Revenue Code of 1986, of a vendor; or

29 (2) a person described in paragraph (1) or (2) of the
30 definition of "lender" that would be an affiliated entity,

1 under section 1504 of the Internal Revenue Code of 1986, of a
2 vendor but for the fact the person is not a corporation, an
3 assignee or another transferee of a person described in those
4 paragraphs.

5 "Lender." Any of the following:

6 (1) A person that owns or has owned a private-label
7 credit card account purchased directly from a vendor that
8 reported the tax under this chapter.

9 (2) A person that owns or has owned a private-label
10 credit card account pursuant to a contract directly with the
11 vendor that reported the tax under this chapter.

12 (3) A person that is:

13 (i) an affiliate of a person described in paragraph

14 (1) or (2); or

15 (ii) an assignee or other transferee of a person
16 described in paragraph (1) or (2).

17 "Private-label credit card." Any charge card, credit card or
18 other instrument serving similar purpose which carries, refers
19 to or is branded with the name or logo of a vendor and which can
20 be used for purchases from the vendor. The term does not include
21 a card or instrument which may also be used to make purchases
22 from persons other than the vendor whose name or logo appears on
23 the card or instrument or that vendor's affiliates. Nothing in
24 this definition authorizes a refund with respect to bad debts
25 attributable to sales by unrelated persons referred to in this
26 definition.

27 Section 748. Registration of transient vendors.

28 (a) General rule.--Prior to conducting business or otherwise
29 commencing operations within this Commonwealth, a transient
30 vendor shall register with the department. The application for

1 registration shall be in such form and contain such information
2 as the department, by regulation, shall prescribe and shall set
3 forth truthfully and accurately the information desired by the
4 department. This registration shall be renewed and updated
5 annually.

6 (b) Issuance of certificate.--Upon registration and the
7 posting of the bond required by section 748.1, the department
8 shall issue to the transient vendor a certificate, valid for one
9 year. Upon renewal of registration, the department shall issue a
10 new certificate, valid for one year, providing the department is
11 satisfied that the transient vendor has complied with the
12 provisions of this chapter.

13 (c) Possession of certificate.--The transient vendor shall
14 possess the certificate at all times when conducting business
15 within this Commonwealth and shall exhibit the certificate upon
16 demand by authorized employees of the department or any law
17 enforcement officer.

18 (d) Notice on certificate.--The certificate issued by the
19 department shall state that the transient vendor named therein
20 has registered with the department and shall provide notice to
21 the transient vendor that:

22 (1) The transient vendor must notify the department in
23 writing before it enters this Commonwealth to conduct
24 business, of the location or locations where it intends to
25 conduct business and the date or dates on which it intends to
26 conduct business.

27 (2) Failure to notify or giving false information to the
28 department may result in suspension or revocation of the
29 transient vendor's certificate.

30 (3) Conducting business within this Commonwealth after a

1 certificate has been suspended or revoked may result in
2 criminal conviction and the imposition of fines or other
3 penalties.

4 Section 748.1. Bond.

5 (a) Bond required.--Upon registration with the department, a
6 transient vendor shall also post a bond with the department in
7 the amount of \$500 as surety for compliance with the provisions
8 of this chapter. After a period of demonstrated compliance with
9 these provisions, or, if the transient vendor provides the
10 license number of a promoter who has notified the department of
11 a show, in accordance with the provisions of section 748.6(a),
12 the department may reduce the amount of bond required of a
13 transient vendor or may eliminate the bond entirely.

14 (b) Request for voluntary suspension of certificate.--A
15 transient vendor may file a request for voluntary suspension of
16 certificate with the department. If the department is satisfied
17 that the provisions of this chapter have been complied with and
18 has possession of the transient vendor's certificate, it shall
19 return the bond posted to the transient vendor.

20 Section 748.2. Notification to department; inspection of
21 records.

22 (a) Notification to department.--Prior to entering this
23 Commonwealth to conduct business, a transient vendor shall
24 notify the department in writing of the location or locations
25 where it intends to conduct business and the date or dates on
26 which it intends to conduct business.

27 (b) Inspection of records.--While conducting business within
28 this Commonwealth, the transient vendor shall permit authorized
29 employees of the department to inspect its sales records,
30 including, but not limited to, sales receipts and inventory or

1 price lists and to permit inspection of the tangible personal
2 property offered for sale at retail.

3 (c) Suspension or revocation of certificate.--The department
4 may suspend or revoke a certificate issued to a transient vendor
5 if the transient vendor:

6 (1) fails to notify the department as required by
7 subsection (a);

8 (2) provides the department with false information
9 regarding the conduct of business within this Commonwealth;

10 (3) fails to collect sales tax on all tangible personal
11 property or services sold subject to the sales tax; or

12 (4) fails to file with the department a tax return as
13 required by section 717.

14 (d) Rules and regulations.--The department shall promulgate
15 the rules and regulations necessary to implement this section.

16 Section 748.3. Seizure of property.

17 (a) General rule.--If a transient vendor conducting business
18 within this Commonwealth fails to exhibit a valid certificate
19 upon demand by authorized employees of the department, those
20 authorized employees shall have the authority to seize, without
21 warrant, the tangible personal property and the automobile,
22 truck or other means of transportation used to transport or
23 carry that property. All property seized shall be deemed
24 contraband and shall be subject to immediate forfeiture
25 proceedings instituted by the department pursuant to procedures
26 adopted by regulation, except as otherwise provided by this
27 section.

28 (b) Release of seized property.--Property seized pursuant to
29 subsection (a) shall be released upon:

30 (1) presentation of a valid certificate to authorized

1 employees of the department; or

2 (2) registration by the transient vendor with the
3 department and the posting of a bond in the amount of \$500,
4 either immediately or within 15 days after the property is
5 seized.

6 Section 748.4. Fines.

7 Any transient vendor conducting business within this
8 Commonwealth while its certificate is suspended or revoked, as
9 provided by sections 748.1(b) and 748.2(c), commits a
10 misdemeanor of the third degree and shall, upon conviction, be
11 sentenced to pay a fine of not more than \$2,500 for each
12 offense.

13 Section 748.5. Transient vendors subject to chapter.

14 Except as otherwise provided, a transient vendor shall be
15 subject to the provisions of this chapter in the same manner as
16 a vendor who maintains a place of business within this
17 Commonwealth.

18 Section 748.6. Promoters.

19 (a) License application.--A promoter of a show or shows
20 within this Commonwealth may annually file with the department
21 an application for a promoter's license stating the location and
22 dates of such show or shows. The application shall be filed at
23 least 30 days prior to the opening of the first show and shall
24 be in such form as the department may prescribe.

25 (b) Issuance of license.--Except as provided in this
26 section, the department shall, within 15 days after receipt of
27 an application for a license, issue to the promoter without
28 charge a license to operate such shows. If application for a
29 license under this section has been timely filed and if the
30 license has not been received by the promoter prior to the

1 opening of the show, the authorization contained in this section
2 with respect to the obtaining of a promoter's license shall be
3 deemed to have been complied with, unless or until the promoter
4 receives notice from the department denying the application for
5 a promoter's license.

6 (c) Compliance with vendor provisions.--Any promoter who is
7 a vendor under the provisions of section 701 shall comply with
8 all the provisions of this chapter applicable to vendors and
9 with the provisions of this section applicable to promoters.

10 (d) Duty of promoters at show.--No licensed promoter shall
11 permit any person to display for sale or to sell tangible
12 personal property or services subject to tax under section 702
13 at a show unless such person is licensed under section 708 and
14 provides to the promoter the information required under section
15 771.1.

16 (e) Denial or revocation of license.--Any licensed promoter
17 who permits any person to display for sale or to sell tangible
18 personal property or service without first having been licensed
19 under section 708 fails to maintain records of a show under
20 section 771.1, knowingly maintains false records or fails to
21 comply with any provision contained in this section or any
22 regulation promulgated by the department pertaining to shows
23 shall be subject to denial of a license or the revocation of any
24 existing license issued pursuant to this section. In addition,
25 the department may deny such promoter a license certificate to
26 operate a show for a period of not more than six months from the
27 date of such denial. Such penalty shall be in addition to any
28 other penalty imposed by this chapter. Within 20 days of notice
29 of denial or revocation of a license by the department, the
30 promoter may petition the department for a hearing, pursuant to

1 2 Pa.C.S. (relating to administrative law and procedure).

2 SUBCHAPTER L

3 REFUNDS AND CREDITS

4 Section 750. (Reserved).

5 Section 751. (Reserved).

6 Section 752. Refunds.

7 The department shall, under Article XXVII of the Tax Reform
8 Code of 1971, refund all taxes, interest and penalties paid to
9 the Commonwealth under the provisions of this chapter and to
10 which the Commonwealth is not rightfully entitled. Refunds shall
11 be made to the person, his heirs, successors, assigns or other
12 personal representatives, who actually paid the tax. No refund
13 shall be made under this section with respect to any payment
14 made by reason of an assessment with respect to which a taxpayer
15 has filed a petition for reassessment under section 2702 of the
16 Tax Reform Code of 1971 to the extent that the petition has been
17 determined adversely to the taxpayer by a decision which is no
18 longer subject to further review or appeal. Nothing contained
19 herein shall be deemed to prohibit a taxpayer who has filed a
20 timely petition for reassessment from amending it to a petition
21 for refund where the petitioner has paid the tax assessed.

22 Section 753. Refund petition.

23 (a) Petition requirements and hearing.--Except as provided
24 for in section 756 and in subsection (b), the refund or credit
25 of tax, interest or penalty provided for by section 752 shall be
26 made only where the person who has actually paid the tax files a
27 petition for refund with the department under Article XXVII of
28 the Tax Reform Code of 1971 within the time limits of section
29 3003.1 of the Tax Reform Code of 1971.

30 (b) Refund upon assessment.--A refund or credit of tax,

1 interest or penalty, paid as a result of an assessment made by
2 the department under section 731, shall be made only where the
3 person who has actually paid the tax files with the department a
4 petition for a refund with the department under Article XXVII of
5 the Tax Reform Code of 1971 within the time limits of section
6 3003.1 of the Tax Reform Code of 1971. The filing of a petition
7 for refund, under the provisions of this subsection, shall not
8 affect the abatement of interest, additions or penalties to
9 which the person may be entitled by reason of his payment of the
10 assessment.

11 (c) (Reserved).

12 (d) (Reserved).

13 Section 754. (Reserved).

14 Section 755. (Reserved).

15 Section 756. Extended time for filing special petition for
16 refund.

17 Any party to a transaction who has paid tax by reason of a
18 transaction with respect to which the department is assessing
19 tax against another person may, within six months after the
20 filing by the department of the assessment against such other
21 person, file a special petition for refund, notwithstanding his
22 failure to timely file a petition under section 3003.1 of the
23 Tax Reform Code of 1971. Article XXVII of the Tax Reform Code of
24 1971 shall be applicable to such special petition for refund,
25 except that the department need not act on such petition until
26 there is a final determination as to the propriety of the
27 assessment filed against the other party to the transaction.
28 Where a petition is filed under this provision in order to take
29 advantage of the extended period of limitations, overpayments by
30 the petitioner shall be refunded but only to the extent of the

1 actual tax, without consideration of interest and penalties,
2 paid by the other party to the transaction. The purpose of this
3 section is to avoid duplicate payment of tax where a
4 determination is made by the department that one party to a
5 transaction is subject to tax, and another party to the
6 transaction has previously paid tax with respect to such
7 transaction; and this section shall be construed as extending
8 right beyond that provided for by section 753, and not to limit
9 such other section.

10 SUBCHAPTER M

11 LIMITATIONS

12 Section 758. Limitation on assessment and collection.

13 The amount of the tax imposed by this chapter shall be
14 assessed within three years after the date when the return
15 provided for by section 717(a) or (c) is filed or the end of the
16 year in which the tax liability arises, whichever occurs last.
17 The assessment may be made at any time during such period
18 notwithstanding that the department may have made one or more
19 previous assessments against the taxpayer for the year in
20 question, or for any part of such year. In any such case, no
21 credit shall be given for any penalty previously assessed or
22 paid.

23 Section 759. Failure to file return.

24 Where no return is filed, the amount of the tax due may be
25 assessed and collected at any time as to taxable transactions
26 not reported.

27 Section 760. False or fraudulent return.

28 Where the taxpayer willfully files a false or fraudulent
29 return with intent to evade the tax imposed by this chapter, the
30 amount of tax due may be assessed and collected at any time.

1 Section 761. Extension of limitation period.

2 Notwithstanding any of the foregoing provisions of this
3 chapter, where, before the expiration of the period prescribed
4 therein for the assessment of a tax, a taxpayer has consented in
5 writing that the period be extended, the amount of tax due may
6 be assessed at any time within the extended period. The period
7 so extended may be extended further by subsequent consents in
8 writing made before the expiration of the extended period.

9 SUBCHAPTER N

10 INTEREST, ADDITIONS, PENALTIES AND CRIMES

11 Section 765. Interest.

12 If any amount of tax imposed by this chapter is not paid to
13 the department on or before the last date prescribed for
14 payment, interest on the amount at the rate of .75% per month
15 for each month, or fraction thereof, from such date, shall be
16 paid for the period from the last date to the date paid. The
17 last date prescribed for payment shall be determined under
18 section 722(a) or (c) without regard to any extension of time
19 for payment. In the case of any amount assessed as a deficiency
20 or as an estimated assessment, the date prescribed for payment
21 shall be 30 days after notice of the assessment.

22 Section 766. Additions to tax.

23 (a) Failure to file return.--In the case of failure to file
24 any return required by section 715 on the date prescribed for
25 filing, determined with regard to any extension of time for
26 filing, and in the case in which a return filed understates the
27 true amount due by more than 50%, there shall be added to the
28 amount of tax actually due 5% of the amount of such tax if the
29 failure to file a proper return is for not more than one month,
30 with an additional 5% for each additional month, or fraction

1 thereof, during which the failure continues, not exceeding 25%
2 in the aggregate. In every such case at least \$2 shall be added.

3 (b) Addition for understatement.--There shall be added to
4 every assessment under section 731(b) an addition equal to 5% of
5 the amount of the understatement and no addition to the tax
6 shall be paid under section 731(a).

7 (c) Interest.--If the department assesses a tax according to
8 section 731(a), (b) or (c), there shall be added to the amount
9 of the deficiency interest at the rate of .75% per month for
10 each month, or fraction thereof, from the date prescribed by
11 section 722(a) or (c) for the payment of the tax to the date of
12 notice of the assessment.

13 Section 767. Penalties.

14 (a) Penalty assessed as tax.--The penalties, additions,
15 interest and liabilities provided by this chapter shall be paid
16 upon notice and demand by the department, and shall be assessed
17 and collected in the same manner as taxes. Except as otherwise
18 provided, any reference in this chapter to "tax" imposed by this
19 chapter shall be deemed also to refer to the penalties,
20 additions, interest and liabilities provided by this chapter.

21 (b) Attempt to evade or defeat tax.--Any person who
22 willfully attempts, in any manner, to evade or defeat the tax
23 imposed by this chapter, or the payment thereof, or to assist
24 any other person to evade or defeat the tax imposed by this
25 chapter, or the payment thereof, or to receive a refund
26 improperly, shall, in addition to other penalties provided by
27 law, be liable for a penalty equal to one-half of the total
28 amount of the tax evaded.

29 (c) Burden of proof.--In any direct proceeding arising out
30 of a petition for reassessment or refund as provided in this

1 chapter, in which an issue of fact is raised with respect to
2 whether a return is fraudulent or with respect to the propriety
3 of the imposition by the department of the penalty prescribed in
4 subsection (b), the burden of proof with respect to such issue
5 shall be upon the department.

6 Section 768. Crimes.

7 (a) Fraudulent return.--Any person who with intent to
8 defraud the Commonwealth shall willfully make, or cause to be
9 made, any return required by this chapter, which is false,
10 commits a misdemeanor and shall, upon conviction, be sentenced
11 to pay a fine not exceeding \$2,000 or to imprisonment for not
12 more than three years, or both.

13 (b) Other crimes.--Except as otherwise provided by
14 subsection (a), the following persons commit a misdemeanor and
15 shall, upon conviction, be sentenced to pay a fine not exceeding
16 \$1,000 and costs of prosecution, or to imprisonment for not more
17 than one year, or both:

18 (1) Any person who advertises or holds out or states to
19 the public or to any purchaser or user, directly or
20 indirectly, that the tax or any part thereof imposed by this
21 chapter will be absorbed by such person, or that it will not
22 be added to the purchase price of the tangible personal
23 property or services described in paragraphs (2), (3), (4)
24 and (11) through (18) under the definition of "sale at
25 retail" in section 701 sold or, if added, that the tax or any
26 part thereof will be refunded, other than when the person
27 refunds the purchase price because of the property being
28 returned to the vendor.

29 (2) Any person selling or leasing tangible personal
30 property or services the sale or use of which by the

1 purchaser is subject to tax under this chapter, who shall
2 willfully fail to collect the tax from the purchaser and
3 timely remit the same to the department.

4 (3) Any person who shall willfully fail or neglect to
5 timely file any return or report required by this chapter or
6 any taxpayer who shall refuse to timely pay any tax, penalty
7 or interest imposed or provided for by this chapter, or who
8 shall willfully fail to preserve his books, papers and
9 records as directed by the department.

10 (4) Any person who shall refuse to permit the department
11 or any of its authorized agents to examine his books, records
12 or papers, or who shall knowingly make any incomplete, false
13 or fraudulent return or report, or who shall do, or attempt
14 to do, anything whatever to prevent the full disclosure of
15 the amount or character of taxable sales purchases or use
16 made by himself or any other person, or shall provide any
17 person with a false statement as to the payment of tax with
18 respect to particular tangible personal property or services,
19 or shall make, utter or issue a false or fraudulent exemption
20 certificate.

21 (c) Place of business outside Commonwealth.--Any person
22 maintaining a place of business outside this Commonwealth may
23 absorb the tax with respect to taxable sales made in the normal
24 course of business to customers present at the place of business
25 without being subject to the penalty and fines under subsection
26 (b).

27 (d) Prepaid mobile telecommunications services.--Advertising
28 tax-included prices shall be permissible, if the prepaid
29 services are sold by the service provider, for prepaid
30 telecommunications services not evidenced by the transfer of

1 tangible personal property or for prepaid mobile
2 telecommunications services.

3 (e) Other penalties.--The penalties imposed by this section
4 shall be in addition to any other penalties imposed by any
5 provision of this chapter.

6 Section 769. Abatement of additions or penalties.

7 Upon the filing of a petition for reassessment or a petition
8 for refund as provided under this chapter by a taxpayer,
9 additions or penalties imposed upon such taxpayer by this
10 chapter may be waived or abated, in whole or in part, where the
11 petitioner has established that he has acted in good faith,
12 without negligence and with no intent to defraud.

13 SUBCHAPTER O

14 ENFORCEMENT AND EXAMINATIONS

15 Section 770. Rules and regulations.

16 (a) General rule.--The department is charged with the
17 enforcement of this chapter, and is authorized and empowered to
18 prescribe, adopt, promulgate and enforce rules and regulations
19 not inconsistent with the provisions of this chapter, relating
20 to any matter or thing pertaining to the administration and
21 enforcement of this chapter, and the collection of taxes,
22 penalties and interest imposed by this chapter. The department
23 may prescribe the extent, if any, to which its rules and
24 regulations shall be applied without retroactive effect.

25 (b) Sales between affiliated interests.--In determining the
26 purchase price of taxable sales where, because of affiliation of
27 interests between the vendor and the purchaser or irrespective
28 of any affiliation, if for any other reason, the purchase price
29 of the sale is in the opinion of the department not indicative
30 of the true value of the article or the fair price thereof, the

1 department shall, pursuant to uniform and equitable rules,
2 determine the amount of constructive purchase price upon the
3 basis of which the tax shall be computed and levied. The rules
4 shall provide for a constructive amount of a purchase price for
5 each sale, which price shall equal a price for the article which
6 would naturally and fairly be charged in an arm's-length
7 transaction in which the element of common interests between
8 vendor and purchaser, or, if no common interest exists, any
9 other element causing a distortion of the price or value is
10 absent. For the purpose of this chapter where a taxable sale
11 occurs between a parent corporation and a subsidiary affiliate
12 or controlled corporation of the parent, there shall be a
13 rebuttable presumption that because of the common interest the
14 transaction was not at arm's-length.

15 Section 771. Keeping of records.

16 (a) General rule.--Each person liable for any tax imposed by
17 this chapter, or for the collection of any tax imposed by this
18 chapter, shall keep the records, render the statements, make the
19 returns and comply with the rules and regulations that the
20 department may, from time to time, prescribe regarding matters
21 pertinent to the person's business. Whenever in the judgment of
22 the department it is necessary, it may require any person, by
23 notice served upon the person, or by regulations, to make
24 returns, render statements or keep records as the department
25 deems sufficient to show whether or not the person is liable to
26 pay or collect tax under this chapter.

27 (b) Persons collecting tax from others.--Any person liable
28 to collect tax from another person under this chapter shall file
29 reports, keep records, make payments and be subject to interest
30 and penalties as provided for under this chapter, in the same

1 manner as if the person were directly subject to the tax.

2 (c) Records of nonresidents.--A nonresident who does
3 business in this Commonwealth as a retail dealer shall keep
4 adequate records of the business or businesses and of the tax
5 due with respect to the business or businesses, which records
6 shall at all times be retained within this Commonwealth unless
7 retention outside this Commonwealth is authorized by the
8 department. No taxes collected from purchasers shall be sent
9 outside this Commonwealth without the written consent of and in
10 accordance with conditions prescribed by the department. The
11 department may require a taxpayer who desires to retain records
12 or tax collections outside this Commonwealth to assume
13 reasonable out-of-State audit expenses.

14 (d) Keeping of separate records.--Any person doing business
15 as a retail dealer who at the same time is engaged in another
16 business or businesses which do not involve the making of sales
17 taxable under this chapter shall keep separate books and records
18 of the person's businesses so as to show the sales taxable under
19 this chapter separately from the person's sales not taxable
20 under this chapter. If the person fails to keep separate books
21 and records, the person shall be liable for tax at the rate
22 designated in section 702 upon the entire purchase price of
23 sales from both or all of the person's businesses.

24 (e) Other methods.--

25 (1) In those instances where a vendor gives no sales
26 memoranda or uses registers showing only total sales, the
27 vendor must adopt some method of segregating tax from sales
28 receipts and keep records showing the segregation, all in
29 accordance with proper accounting and business practices.

30 (2) A vendor may apply to the department for permission

1 to use a collection and recording procedure which will show
2 the information as the law requires with reasonable accuracy
3 and simplicity. A vendor's application must contain a
4 detailed description of the procedure to be adopted.

5 Permission to use the proposed procedure is not to be
6 construed as relieving the vendor from remitting the full
7 amount of tax collected. The department may revoke permission
8 upon 30 days' notice to the vendor. Refusal of the department
9 to grant permission in advance to use the procedure shall not
10 be construed to invalidate a procedure which upon examination
11 shows the information as the law requires.

12 Section 771.1. Reports and records of promoters.

13 Each licensed promoter shall keep a record of the date and
14 place of each show and the name, address, sales, use and hotel
15 occupancy license number of each person whom the licensed
16 promoter permits to display for sale or to sell tangible
17 personal property or services subject to tax under section 702
18 at the show. The records shall be open for inspection and
19 examination at any reasonable time by the department or its
20 authorized representative, and the records shall, unless the
21 department consents in writing to an earlier destruction, be
22 preserved for three years after the date the report was filed or
23 the date it was due, whichever occurs later, except that the
24 department may by regulation require that they be kept for a
25 longer period of time.

26 Section 772. Examinations.

27 The department or any of its authorized agents are authorized
28 to examine the books, papers and records of any taxpayer in
29 order to verify the accuracy and completeness of any return made
30 or, if no return was made, to ascertain and assess the tax

1 imposed by this chapter. The department may require the
2 preservation of any books, papers and records for any period
3 deemed proper by it but not to exceed three years from the end
4 of the calendar year to which the records relate. Each taxpayer
5 is required to give to the department, or its agent, the means,
6 facilities and opportunity for examinations and investigation.
7 The department is further authorized to examine any person,
8 under oath, concerning taxable sales or use by any taxpayer or
9 concerning any other matter relating to the enforcement or
10 administration of this chapter, and to this end may compel the
11 production of books, papers and records and the attendance of
12 all persons whether as parties or witnesses whom it believes to
13 have knowledge of such matters. The procedure for hearings or
14 examinations shall be the same as that provided by the Fiscal
15 Code, relating to inquisitorial powers of fiscal officers.
16 Section 773. Records and examinations of delivery agents.

17 Each agent for the purpose of delivery of goods shipped into
18 this Commonwealth by a nonresident, including, but not limited
19 to, common carriers, shall maintain adequate records of the
20 deliveries pursuant to rules and regulations adopted by the
21 department and shall make the records available to the
22 department upon request after due notice.

23 Section 774. Unauthorized disclosure.

24 Any information gained by the department as a result of any
25 return, examination, investigation, hearing or verification,
26 required or authorized by this chapter, shall be confidential,
27 except for official purposes and except in accordance with
28 proper judicial order or as otherwise provided by law, and any
29 person unlawfully divulging the information commits a
30 misdemeanor and shall, upon conviction, be sentenced to pay a

1 fine of not more than \$1,000 and costs of prosecution, or to
2 imprisonment for not more than one year, or both.

3 Section 775. Cooperation with other governments.

4 Notwithstanding the provisions of section 774, the department
5 may permit the Commissioner of Internal Revenue of the United
6 States, or the proper officer of any state, or the authorized
7 representative of either, to inspect the tax returns of any
8 taxpayer, or may furnish to such officer or to an authorized
9 representative an abstract of the return of any taxpayer, or
10 supply the officer with information concerning any item
11 contained in any return or disclosed by the report of any
12 examination or investigation of the return of any taxpayer. This
13 permission shall be granted only if the statutes of the United
14 States or of the other state, as the case may be, grant
15 substantially similar privileges to the proper officer of the
16 Commonwealth charged with the administration of this chapter.
17 Section 776. Interstate compacts.

18 The Governor, or an authorized representative, has the
19 authority to confer with the governors and the authorized
20 representatives of other states with respect to reciprocal use
21 tax collection between Pennsylvania and the other states. The
22 Governor, or a representative, is authorized to join with the
23 authorities of other states to conduct joint investigations, to
24 exchange information, to hold joint hearings and to enter into
25 compacts or interstate agreements with the other states to
26 accomplish uniform reciprocal use tax collections between those
27 states who are parties to any compact or interstate agreement
28 and the Commonwealth of Pennsylvania.

29 Section 777. Bonds.

30 (a) Taxpayer to file bond.--

1 (1) Whenever the department, in its discretion, deems it
2 necessary to protect the revenues to be obtained under this
3 chapter, it may require any nonresident natural person or any
4 foreign corporation, association, fiduciary, partnership or
5 other entity not authorized to do business within this
6 Commonwealth or not having an established place of business
7 in this Commonwealth and subject to the tax imposed by
8 section 702 to file a bond issued by a surety company
9 authorized to do business in this Commonwealth and approved
10 by the Insurance Commissioner as to solvency and
11 responsibility, in an amount as the department may fix, to
12 secure the payment of any tax or penalties due, or which may
13 become due, from the natural person or corporation.

14 (2) In order to protect the revenues to be obtained
15 under this chapter, the department shall require any
16 nonresident natural person or any foreign corporation,
17 association, fiduciary, partnership or entity, who or which
18 is a building contractor, or who or which is a supplier
19 delivering building materials for work in this Commonwealth
20 and is not authorized to do business within this Commonwealth
21 or does not have an established place of business in this
22 Commonwealth and is subject to the tax imposed by section 702
23 to file a bond issued by a surety company authorized to do
24 business in this Commonwealth and approved by the Insurance
25 Commissioner as to solvency and responsibility, in an amount
26 as the department may fix, to secure the payments of any tax
27 or penalties due, or which may become due, from the natural
28 person, corporation or other entity.

29 (3) The department may also require a bond of any person
30 petitioning the department for reassessment, in the case of

1 any assessment over \$500 or where it is of the opinion that
2 the ultimate collection is in jeopardy. The department may,
3 for a period of three years, require a bond of any person who
4 has on three or more occasions within a 12-month period
5 either filed a return or made payment to the department more
6 than 30 days late.

7 (4) In the event that the department determines that a
8 taxpayer is to file a bond, it shall give notice to the
9 taxpayer to that effect, specifying the amount of the bond
10 required. The taxpayer shall file the bond within five days
11 after the giving of notice by the department unless, within
12 the five days, the taxpayer shall request, in writing, a
13 hearing before the Secretary of Revenue or a representative
14 at which hearing the necessity, propriety and amount of the
15 bond shall be determined by the secretary or representative.
16 The determination shall be final and shall be complied with
17 within 15 days after notice of the determination is mailed to
18 the taxpayer.

19 (b) Securities in lieu of bond.--In lieu of the bond
20 required by this section, securities approved by the department,
21 or cash in an amount as prescribed by the department, may be
22 deposited. The securities or cash shall be kept in the custody
23 of the department, which may, at any time, without notice to the
24 depositor, apply them to any tax, interest or penalties due, and
25 for that purpose the securities may be sold by the department,
26 at public or private sale, upon five days' written notice to the
27 depositor.

28 (c) Failure to file bond.--The department may file a lien
29 pursuant to section 742 against any taxpayer who fails to file a
30 bond when required to do so under this section. All funds

1 received upon execution of the judgment on a lien shall be
2 refunded to the taxpayer with 3% interest should a final
3 determination be made that the taxpayer does not owe any payment
4 to the department.

5 SUBCHAPTER P

6 APPROPRIATION, CONSTRUCTION,
7 TRANSFERS AND APPLICABILITY

8 Section 781. Appropriation for refunds.

9 So much of the proceeds of the tax imposed by this chapter as
10 shall be necessary for the payment of refunds, enforcement or
11 administration under this chapter is hereby appropriated for
12 such purposes.

13 Section 781.1. Construction of chapter.

14 To the extent that the language of this chapter is identical
15 to that of equivalent provisions in the former act of March 6,
16 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for
17 Education, or Article II of the Tax Reform Code of 1971, the
18 language shall be deemed a reenactment of the identical
19 provisions.

20 Section 781.2. Transfers to Public Transportation Assistance
21 Fund.

22 (a) Transfer from imposition of tax on periodicals.--All
23 revenues received after June 30, 1992, from the imposition of
24 the tax on periodicals shall be transferred to the Public
25 Transportation Assistance Fund according to the formula set
26 forth in subsection (b).

27 (b) Transfer to Public Transportation Assistance Fund.--
28 Within 30 days of the close of any calendar month, 0.44% of the
29 taxes received in the previous month under this chapter, less
30 any amounts collected in that previous calendar month under

1 former 74 Pa.C.S. § 1314(d) (relating to Public Transportation
2 Assistance Fund), shall be transferred to the Public
3 Transportation Assistance Fund established under Article XXIII
4 of the Tax Reform Code of 1971.

5 (c) (Reserved).

6 (d) Other transfer.--Within 30 days of the close of any
7 calendar month, 0.09% of the taxes received in the previous
8 month under this chapter shall be transferred to the Public
9 Transportation Assistance Fund established under Article XXIII
10 of the Tax Reform Code of 1971.

11 (e) Transfer.--Within 30 days of the close of a calendar
12 month, 0.417% of the taxes received in the previous month under
13 this chapter shall be transferred to the Public Transportation
14 Assistance Fund established under Article XXIII of the Tax
15 Reform Code of 1971.

16 Section 782. Transfers to Residential Property Tax Elimination
17 Fund.

18 (a) Legislative intent.--It is the intent of the General
19 Assembly to broaden the sales tax base in order to provide funds
20 for the operating expenses of school districts and as a means to
21 abolish the school property tax.

22 (b) Source of funding for transfers.--Except as otherwise
23 provided under section 781.2, all revenues received on or after
24 January 1, 2015, from the tax imposed by this chapter shall be
25 transferred to the Residential Property Tax Elimination Fund.

26 Section 783. Applicability.

27 This chapter shall apply to sales and uses occurring on or
28 after January 1, 2017.

29 CHAPTER 9

30 LIMITATIONS ON

SCHOOL DISTRICT TAXATION

Section 901. Authority to levy taxes and effect of future
Constitutional amendment.

(a) Abrogating authority to impose certain taxes.--

(1) The authority of any school district to levy, assess and collect any residential real property tax under the Public School Code of 1949 or any other act shall expire, subject to the provisions of section 902, at midnight December 31, 2017.

(2) The authority of a city of the first class to impose or continue to provide for the imposition or continuation of any tax, including, but not limited to, the residential real property tax, for the use of a school district of the first class shall expire in accordance with section 902(b).

(b) Collection of certain taxes unaffected.--The provisions of this section or any other provision of this act shall not prevent or interfere with any action of any school district to collect any tax owed by any taxpayer prior to the repeal of any law authorizing such tax after such law is repealed pursuant to this act.

(c) Limitations on adoption of personal income taxes and earned income taxes authorized under Chapter 3.--A school district that adopts a personal income tax pursuant to Chapter 3 may not adopt an earned income tax under Chapter 3. A school district that adopts an earned income tax under Chapter 3 may not adopt a personal income tax under Chapter 3.

Section 902. Transitional taxes.

(a) Transitional taxes for school districts other than school districts of the first class.--Notwithstanding any other provision of the Public School Code of 1949 or any other law to

1 the contrary:

2 (1) Any school district, other than a school district of
3 the first class, may continue to levy, assess and collect a
4 real property tax for fiscal year 2018-2019.

5 (2) For all fiscal years beginning after June 30, 2019,
6 no school district shall have any power or authority to levy,
7 assess and collect any real property tax, except as necessary
8 to reduce the amount of its outstanding debt in existence on
9 December 31, 2017.

10 (b) Transitional taxes for school districts of the first
11 class.--Notwithstanding any other provision of the Public School
12 Code of 1949 or any other law to the contrary:

13 (1) Any school district of the first class and city of
14 the first class may continue to levy, assess and collect a
15 real property tax and all other taxes in existence on July
16 31, 2017, at the rates in effect on that date for the use of
17 a coterminous school district of the first class for fiscal
18 year 2018-2019. The authority to levy, assess and collect
19 such taxes for the use of coterminous school districts shall
20 expire at midnight on December 31, 2017.

21 (2) For all fiscal years beginning after June 30, 2017,
22 no city of the first class shall have any power or authority
23 to levy, assess and collect any of the taxes identified under
24 paragraph (1) for school purposes, except as necessary to
25 reduce the amount of its outstanding debt in existence on
26 December 31, 2017.

27 Section 903. Consideration of State appropriations or
28 reimbursements.

29 The personal income or earned income tax levied shall not be
30 invalidated by reason of the fact that in determining the amount

1 to be raised by such tax no deduction was made for
2 appropriations or reimbursements paid or payable by the
3 Commonwealth to the school district.

4 Section 904. Taxes for cities and school districts of the first
5 class.

6 Notwithstanding any other provision of the Public School Code
7 of 1949, or any other law to the contrary, nothing in this act
8 shall be construed to limit or impair a city of the first class
9 from levying, assessing or collecting any tax for municipal
10 purposes or from increasing the millage for real estate taxes or
11 revenues if the revenues derived from the real property tax are
12 used solely for municipal purposes.

13 CHAPTER 11

14 INDEBTEDNESS

15 Section 1101. Expiration of authority to issue debt.

16 Notwithstanding any other provision of 53 Pa.C.S. Pt. VII
17 Subpt. B (relating to indebtedness and borrowing) or any other
18 law to the contrary, no school district, including a school
19 district of the first class, shall incur any electoral debt,
20 lease rental debt or nonelectoral debt under 53 Pa.C.S. Pt. VII
21 Subpt. B after the effective date of this section.

22 Section 1102. Notices and reporting by school districts of debt
23 outstanding.

24 (a) Duties.--

25 (1) Each school district, including a school district of
26 the first class, shall identify the outstanding amount of all
27 electoral debt, lease rental debt or nonelectoral debt
28 incurred as of December 31, 2017.

29 (2) On or before September 30, 2018, each school
30 district, including a school district of the first class,

1 shall certify and report to the department the outstanding
2 amount of all electoral debt, lease rental debt or
3 nonelectoral debt incurred as of December 31, 2017, together
4 with any information requested by the department in order for
5 the Commonwealth to comply with requirements of this section.

6 (b) Audit by department.--

7 (1) The department shall audit each report submitted
8 under subsection (a) and shall certify the amount of each
9 report and the total aggregate amount of all reports to the
10 State Treasurer on or before March 31, 2019.

11 (2) If the department disputes all or any portion of a
12 report submitted under subsection (a), the department shall
13 not include such amount in the certification to the State
14 Treasurer and shall notify the school district in writing of
15 the exclusion from the certification.

16 CHAPTER 13

17 FUNDING PROVISIONS

18 Section 1301. Definitions.

19 The following words and phrases when used in this chapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Base revenue." The money a school district receives from
23 property tax during fiscal year 2017-2018.

24 "Cost of living factor." The lesser of:

25 (1) the average annual percentage increase in the
26 Consumer Price Index for All Urban Consumers (CPI-U) for the
27 Pennsylvania, New Jersey and Maryland area for the preceding
28 calendar year; or

29 (2) the percentage increase in sales and use tax
30 collected under section 702 from the previous calendar year.

1 "Fund." The Residential Property Tax Elimination Fund
2 established in section 1302.

3 Section 1302. Residential Property Tax Elimination Fund.

4 (a) Establishment.--The Residential Property Tax Elimination
5 Fund is established as a separate fund in the State Treasury.

6 (b) Sources.--The following are the sources of the fund:

7 (1) Money collected by the Department of Education
8 under:

9 (i) Chapter 5; or

10 (ii) Chapter 7.

11 (2) Revenue transferred to the General Fund under:

12 (i) 4 Pa.C.S. § 1402(a)(3), (5) and (7) (relating to
13 gross terminal revenue deductions);

14 (ii) 4 Pa.C.S. § 1406(a)(2)(i) and (2.1)(i)
15 (relating to distributions from Pennsylvania Race Horse
16 Development Fund); or

17 (iii) 4 Pa.C.S. § 1407(d)(2) (relating to
18 Pennsylvania Gaming Economic Development and Tourism
19 Fund).

20 (3) Appropriations.

21 (4) Return on money in the fund.

22 (c) Use.--The Department of Education shall use the fund to
23 make disbursements under section 1303.

24 (d) Continuing appropriation.--The money in the fund is
25 continuously appropriated into the fund. This appropriation
26 shall not lapse at the end of any fiscal year.

27 Section 1303. Standard disbursements to school districts from
28 Residential Property Tax Elimination Fund.

29 (a) Initial.--For fiscal year 2017-2018, the Department of
30 Education shall make disbursements to each school district as

1 follows:

2 (1) Ascertain base revenue.

3 (2) Multiply:

4 (i) the amount ascertained under paragraph (1); by

5 (ii) the cost of living factor.

6 (3) Divide:

7 (i) the product under paragraph (2); by

8 (ii) four.

9 (4) Each quarter, disburse the quotient under paragraph

10 (3).

11 (b) Subsequent.--For fiscal years beginning after June 30,

12 2017, the Department of Education shall make disbursements to

13 each school district as required by statute.

14 CHAPTER 15

15 MISCELLANEOUS PROVISIONS

16 Section 1501. Transitional provision.

17 (a) Sales tax.--Notwithstanding the repeal of Article II of

18 the Tax Reform Code of 1971, under section 1504, the department

19 shall have the authority to enforce the collection of taxes

20 imposed for transactions that occur prior to the effective date

21 of this section under former Article II of the Tax Reform Code

22 of 1971. The taxes collected after January 1, 2018, regardless

23 of the transaction date, shall be deposited into the Residential

24 Property Tax Elimination Fund.

25 (b) Other taxes.--Notwithstanding the repeal of any

26 provision of the Public School Code of 1949 or of any other law

27 authorizing school districts to impose taxes, a governing body

28 shall have the authority to enforce, after the effective date of

29 the repeal, the collection of taxes levied and assessed under

30 those former provisions prior to the effective date of the

1 repeal under section 1504.

2 Section 1502. Construction.

3 Any and all references in any other act to Article II or any
4 provision in Article II of the Tax Reform Code of 1971 shall be
5 deemed a reference to Chapter 7 of this act or the corresponding
6 provisions in Chapter 7 of this act.

7 Section 1503. Severability.

8 The provisions of this act are severable as follows:

9 (1) If any provision of this act is held invalid, the
10 invalidity shall not affect other provisions or applications
11 of this act which can be given effect without the invalid
12 provision or application.

13 (2) Under no circumstances shall the invalidity of any
14 provision or application of this act affect the validity of
15 any provision in this act that abolishes the power of the
16 governing body and any school district and city of the first
17 class or any other political subdivision to levy, assess or
18 collect a tax on any interest in real property for school
19 purposes.

20 Section 1504. Repeals.

21 (a) Intent.--The General Assembly declares that the repeals
22 under subsection (b) are necessary to effectuate this act.

23 (b) Provisions.--The following acts and parts of acts are
24 repealed:

25 (1) Section 631 of the act of March 10, 1949 (P.L.30,
26 No.14), known as the Public School Code of 1949, is repealed.

27 (2) Any provision of the Public School Code of 1949 and
28 of any other law relating to the authority of any school
29 district to levy, assess and collect any tax on real property
30 and the power of any city of the first class to levy, assess

1 and collect any tax on real property for school purposes is
2 repealed upon the expiration of the respective schedule
3 prescribed in sections 901 and 902.

4 (3) Any provision of the Public School Code of 1949 and
5 any other law relating to debt is repealed to the extent that
6 it is inconsistent with this act.

7 (4) Any provision of the Public School Code of 1949 and
8 any home rule charter adopted pursuant thereto is repealed
9 insofar as it is inconsistent with this act.

10 (5) Any provision of the act of August 9, 1963 (P.L.643,
11 No.341), known as the First Class City Public Education Home
12 Rule Act, and any home rule school district charter adopted
13 pursuant thereto is repealed insofar as it is inconsistent
14 with this act.

15 (6) Article II of the act of March 4, 1971 (P.L.6,
16 No.2), known as the Tax Reform Code of 1971, is repealed.

17 (7) Section 321(b) of the act of June 27, 2006 (1st
18 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act,
19 is repealed regarding the tax on earned income.

20 (8) Any provision of the act of June 27, 2006 (1st
21 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act,
22 is repealed insofar as it is inconsistent with this act.

23 (9) All acts and parts of acts that are inconsistent
24 with this act are repealed to the extent of such
25 inconsistency.

26 Section 1505. Effective date.

27 This act shall take effect upon the amendment of the
28 Constitution of Pennsylvania to provide for special tax
29 provisions that prohibit a school district from imposing a tax
30 on real property classified as residential property.