
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **76** Session of
2015

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AUMENT, SMUCKER, BROWNE, EICHELBERGER AND MCGARRIGLE,
JUNE 18, 2015

REFERRED TO FINANCE, JUNE 18, 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 imposition of and exclusions from a
5 sales and use tax for the stabilization of education funding,
6 for increase to the personal income tax, for certain
7 licenses, for hotel occupancy tax, for procedure and
8 administration of the tax, for expiration of authority to
9 issue certain debt and for reporting by local government
10 units of debt outstanding; establishing the Education
11 Stabilization Fund; providing for disbursements from this
12 fund; and repealing certain provisions of the Public School
13 Code of 1949 and sales and use tax provisions of the Tax
14 Reform Code of 1971.

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15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 CHAPTER 1

18 PRELIMINARY PROVISIONS

19 Section 101. Short title.

20 This act shall be known and may be cited as the Property Tax
21 Independence Act.

22 Section 102. Definitions.

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

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

27 "Education Stabilization Fund." The Education Stabilization
28 Fund established in section 1302.

29 "Fiscal year." The fiscal year of the Commonwealth beginning
30 on July 1 and ending on June 30 of the immediately following

1 calendar year.

2 "Governing body." The board of school directors of a school
3 district, except that the term shall mean the city council of a
4 city of the first class for purposes of the levy and collection
5 of any tax in a school district of the first class.

6 "Internal Revenue Code of 1986." The Internal Revenue Code
7 of 1986 (Public Law 99-514, 26 U.S.C. § 166).

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

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

12 "School district." A school district of the first class,
13 first class A, second class, third class or fourth class,
14 including any independent school district. For purposes of the
15 levy, assessment and collection of any tax in a school district
16 of the first class, the term shall include the City Council.

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

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

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

23 CHAPTER 3

24 Taxation by School Districts

25 Section 301. Scope.

26 This chapter authorizes school districts to levy, assess and
27 collect a tax on personal income or a tax on earned income and
28 net profits as a means of abolishing property taxation by the
29 school district.

30 Section 302. Definitions.

1 The words and phrases used in this chapter shall have the
2 same meanings given to them in the Tax Reform Code of 1971 or
3 The Local Tax Enabling Act unless the context clearly indicates
4 otherwise.

5 Section 303. Limitation.

6 Any tax imposed under this chapter shall be subject to the
7 limitations set forth in Chapter 11.

8 Section 304. Preemption.

9 No act of the General Assembly shall vacate or preempt any
10 resolution passed or adopted under the authority of this
11 chapter, or any other act, providing authority for the
12 imposition of a tax by a school district, unless the act of the
13 General Assembly expressly vacates or preempts the authority to
14 pass or adopt resolutions.

15 Section 305. General tax authorization.

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

20 (b) Personal income tax.--

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

24 (2) A school district which seeks to levy the tax
25 authorized under paragraph (1) must comply with section 306.

26 (3) If a board of school directors seeks to impose a
27 personal income tax under this subsection and the referendum
28 under section 306 is approved by the electorate, the board of
29 school directors shall have no authority to impose an earned
30 income and net profits tax under subsection (c) or any other

1 act.

2 (4) A personal income tax imposed under the authority of
3 this section shall be levied by the school district on each
4 of the classes of income specified in section 303 of the Tax
5 Reform Code of 1971 and regulations under that section,
6 provisions of which are incorporated by reference into this
7 chapter.

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

22 (ii) (A) Except for official purposes or as
23 provided by law, it shall be unlawful for any officer
24 or authorized agent of a school district to do any of
25 the following:

26 (I) Disclose to any other individual or
27 entity the amount or source of income, profits,
28 losses, expenditures or any particular
29 information concerning income, profits, losses or
30 expenditures contained in any return.

1 (II) Permit any other individual or entity
2 to view or examine any return or copy of a return
3 or any book containing any abstract or
4 particulars.

5 (III) Print, publish or publicize in any
6 manner any return; any particular information
7 contained in or concerning the return; any amount
8 or source of income, profits, losses or
9 expenditures in or concerning the return; or any
10 particular information concerning income,
11 profits, losses or expenditures contained in or
12 relating to any return.

13 (B) Any officer or authorized agent of a school
14 district that violates clause (A):

15 (I) May be fined not more than \$1,000 or
16 imprisoned for not more than one year, or both.

17 (II) May be removed from office or
18 discharged from employment.

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

20 (1) A board of school directors may levy, assess and
21 collect a tax on earned income and net profits of resident
22 individuals at a rate determined by the board of school
23 directors.

24 (2) A school district which seeks to levy the tax
25 authorized under paragraph (1) must comply with section 306.

26 (3) If a board of school directors seeks to impose a tax
27 on earned income and net profits under this subsection and
28 the referendum under section 306 is approved by the
29 electorate, the board of school directors shall have no
30 authority to impose a personal income tax under subsection

1 (b) or any other act.

2 Section 306. Referendum.

3 (a) General rule.--In order to levy a personal income tax or
4 an earned income and net profits tax under this chapter, a
5 governing body shall use the procedures set forth in subsections
6 (b), (c), (d), (e), (f) and (g).

7 (b) Approved by electorate.--

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

16 (2) The referendum question must state the initial rate
17 of the proposed personal income tax or earned income and net
18 profits tax, the purpose of the tax, the duration of the tax
19 and the amount of revenue to be generated by the
20 implementation of the tax.

21 (3) The question shall be in clear language that is
22 readily understandable by a layperson. For the purpose of
23 illustration, a referendum question may be framed as follows:

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

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

30 (4) A nonlegal interpretative statement must accompany

1 the question in accordance with section 201.1 of the act of
2 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
3 Election Code, that includes the following:

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

7 (ii) the estimated revenues to be derived from the
8 initial rate imposed under this chapter.

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

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

18 (e) Notification.--

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

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

30 (f) Certification of results.--Election officials from each

1 county involved shall independently certify the results from
2 their county to the governing body.

3 (g) Adoption of resolution.--

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

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

15 Section 307. Continuity of tax.

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

20 Section 308. Collections.

21 Any income tax imposed under this chapter shall be subject to
22 the provisions for collection and delinquency found in The Local
23 Tax Enabling Act.

24 Section 309. Credits.

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

29 (b) Limitation.--Payment of any tax on income to any state
30 other than Pennsylvania or to any political subdivision located

1 outside the boundaries of this Commonwealth by a resident of a
2 school district located in this Commonwealth shall not be
3 credited to and allowed as a deduction from the liability of
4 such person for any income tax imposed by the school district of
5 residence pursuant to this chapter.

6 Section 310. Exemption and special provisions.

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

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

14 Section 311. Regulations.

15 A school district that imposes:

16 (1) an earned income and net profits tax authorized
17 under section 305(c) shall be subject to the provisions of
18 The Local Tax Enabling Act and may adopt procedures for the
19 processing of claims for credits and exemptions under section
20 309 and 310; or

21 (2) a personal income tax under section 305(b) shall be
22 subject to all regulations adopted by the Department of
23 Revenue in administering the tax due to the Commonwealth
24 under Article III of the Tax Reform Code of 1971.

25 CHAPTER 4

26 EDUCATION TAX

27 Section 401. Education tax.

28 (a) General rule.--In addition to the tax collected under
29 section 302 of the Tax Reform Code of 1971, the Commonwealth
30 shall impose and administer the tax set forth in subsection (b)

1 in the same manner as the tax under Article III of the Tax
2 Reform Code of 1971.

3 (b) Imposition of tax.--

4 (1) Every resident individual, estate or trust shall be
5 subject to, and shall pay for the privilege of receiving each
6 of the classes of income enumerated in section 303 of the Tax
7 Reform Code of 1971, a tax upon each dollar of income
8 received by that resident during that resident's taxable year
9 at the rate of 1.27%.

10 (2) Every nonresident individual, estate or trust shall
11 be subject to, and shall pay for the privilege of receiving
12 each of the classes of income enumerated in section 303 of
13 the Tax Reform Code of 1971 from sources within this
14 Commonwealth, a tax upon each dollar of income received by
15 that nonresident during that nonresident's taxable year at
16 the rate of 1.27%.

17 (c) Deposit in Education Stabilization Fund.--

18 (1) All moneys collected under this section shall be
19 deposited in the Education Stabilization Fund.

20 (2) So much of the proceeds of the tax imposed by this
21 chapter as shall be necessary for the payment of refunds,
22 enforcement or administration under this chapter is hereby
23 appropriated to the department for such purposes.

24 (d) Combination of tax forms.--The department shall
25 incorporate the taxpayer reporting requirement for the
26 implementation of this section into the forms utilized by the
27 department under Article III of the Tax Reform Code of 1971.

28 (e) Definitions.--The words and phrases used in this section
29 shall have the same meaning given to them in Article III of the
30 Tax Reform Code of 1971.

1 CHAPTER 7

2 SALES AND USE TAX FOR THE

3 STABILIZATION OF EDUCATION FUNDING

4 SUBCHAPTER A

5 PRELIMINARY PROVISIONS

6 Section 701. Scope.

7 The tax provided for under this chapter shall be known as the
8 Sales and Use Tax for the Stabilization of Education Funding,
9 which shall be a replacement for the sales and use tax
10 authorized under Article II of the Tax Reform Code of 1971 and
11 that is repealed by this act.

12 Section 701.1. Definitions.

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

16 (a) "Soft drinks."

17 (1) All nonalcoholic beverages, whether carbonated or
18 not, such as soda water, ginger ale, Coca Cola, lime cola,
19 Pepsi Cola, Dr Pepper, fruit juice when plain or carbonated
20 water, flavoring or syrup is added, carbonated water,
21 orangeade, lemonade, root beer or any and all preparations,
22 commonly referred to as soft drinks, of whatsoever kind, and
23 are further described as including any and all beverages,
24 commonly referred to as soft drinks, which are made with or
25 without the use of any syrup.

26 (2) The term does not include natural fruit or vegetable
27 juices or their concentrates, or noncarbonated fruit juice
28 drinks containing not less than 25% by volume of natural
29 fruit juices or of fruit juice which has been reconstituted
30 to its original state, or natural concentrated fruit or

1 vegetable juices reconstituted to their original state,
2 whether any of the natural juices are frozen or unfrozen,
3 sweetened or unsweetened, seasoned with salt or spice or
4 unseasoned. The term also does not include coffee, coffee
5 substitutes, tea, cocoa, natural fluid milk or noncarbonated
6 drinks made from milk derivatives.

7 (b) "Maintaining a place of business in this Commonwealth."

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

19 (1.1) Providing taxable services.

20 (2) Engaging in any activity as a business within this
21 Commonwealth by any person, either directly or through a
22 subsidiary, representative or an agent, in connection with
23 the lease, sale or delivery of tangible personal property or
24 the performance of services thereon for use, storage or
25 consumption or in connection with the sale or delivery for
26 use of the services described in subclauses (11) through (18)
27 of clause (k) of this section, including, but not limited to,
28 having, maintaining or using any office, distribution house,
29 sales house, warehouse or other place of business, any stock
30 of goods or any solicitor, canvasser, salesman,

1 representative or agent under its authority, at its direction
2 or with its permission, regardless of whether the person or
3 subsidiary is authorized to do business in this Commonwealth.

4 (3) Regularly or substantially soliciting orders within
5 this Commonwealth in connection with the lease, sale or
6 delivery of tangible personal property to or the performance
7 thereon of services or in connection with the sale or
8 delivery of the services described in subclauses (11) through
9 (18) of clause (k) of this section for residents of this
10 Commonwealth by means of catalogs or other advertising,
11 whether the orders are accepted within or without this
12 Commonwealth.

13 (3.1) Entering this Commonwealth by any person to
14 provide assembly, service or repair of tangible personal
15 property, either directly or through a subsidiary,
16 representative or an agent.

17 (3.2) Delivering tangible personal property to locations
18 within this Commonwealth if the delivery includes the
19 unpacking, positioning, placing or assembling of the tangible
20 personal property.

21 (3.3) Having any contact within this Commonwealth which
22 would allow the Commonwealth to require a person to collect
23 and remit tax under the Constitution of the United States.

24 (3.4) Providing a customer's mobile telecommunications
25 service deemed to be provided by the customer's home service
26 provider under the Mobile Telecommunications Sourcing Act (4
27 U.S.C. § 116). For purposes of this clause, words and phrases
28 used in this clause shall have the meanings given to them in
29 the Mobile Telecommunications Sourcing Act.

30 (4) The term does not include:

1 (i) Owning or leasing of tangible or intangible
2 property by a person who has contracted with an
3 unaffiliated commercial printer for printing, provided
4 that:

5 (A) the property is for use by the commercial
6 printer; and

7 (B) the property is located at the Pennsylvania
8 premises of the commercial printer.

9 (ii) Visits by a person's employees or agents to the
10 premises in this Commonwealth of an unaffiliated
11 commercial printer with whom the person has contracted
12 for printing in connection with said contract.

13 (c) "Manufacture." The performance of manufacturing,
14 fabricating, compounding, processing or other operations,
15 engaged in as a business, which place any tangible personal
16 property in a form, composition or character different from that
17 in which it is acquired whether for sale or use by the
18 manufacturer, and shall include, but not be limited to:

19 (1) Every operation commencing with the first production
20 stage and ending with the completion of tangible personal
21 property having the physical qualities, including packaging,
22 if any, passing to the ultimate consumer, which it has when
23 transferred by the manufacturer to another. For purposes of
24 this definition, "operation" includes clean rooms and their
25 component systems, including: environmental control systems,
26 antistatic vertical walls and manufacturing platforms and
27 floors which are independent of the real estate; process
28 piping systems; specialized lighting systems; deionized water
29 systems; process vacuum and compressed air systems; process
30 and specialty gases; and alarm or warning devices

1 specifically designed to warn of threats to the integrity of
2 the product or people. For purposes of this definition, a
3 "clean room" is a location with a self-contained, sealed
4 environment with a controlled, closed air system independent
5 from the facility's general environmental control system.

6 (2) The publishing of books, newspapers, magazines and
7 other periodicals and printing.

8 (3) Refining, blasting, exploring, mining and quarrying
9 for, or otherwise extracting from the earth or from waste or
10 stock piles or from pits or banks any natural resources,
11 minerals and mineral aggregates including blast furnace slag.

12 (4) Building, rebuilding, repairing and making additions
13 to, or replacements in or upon vessels designed for
14 commercial use of registered tonnage of 50 tons or more when
15 produced on special order of the purchaser, or when rebuilt,
16 repaired or enlarged, or when replacements are made upon
17 order of or for the account of the owner.

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

20 (i) product or utility service; or

21 (ii) method of producing a product or utility
22 service,

23 but in either case not including market research or research
24 having as its objective the improvement of administrative
25 efficiency.

26 (6) Remanufacture for wholesale distribution by a
27 remanufacturer of motor vehicle parts from used parts
28 acquired in bulk by the remanufacturer using an assembly line
29 process which involves the complete disassembly of such parts
30 and integration of the components of such parts with other

1 used or new components of parts, including the salvaging,
2 recycling or reclaiming of used parts by the remanufacturer.

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

15 (i) "aircraft" means fixed-wing aircraft,
16 helicopters, powered aircraft, tilt-rotor or tilt-wing
17 aircraft, unmanned aircraft and gliders;

18 (ii) "armored vehicles" means tanks, armed personnel
19 carriers and all other armed track or semitrack vehicles;
20 and

21 (iii) "other defense-related vehicles" means trucks,
22 truck-tractors, trailers, jeeps and other utility
23 vehicles, including any unmanned vehicles.

24 (8) Remanufacture by a remanufacturer of locomotive
25 parts from used parts acquired in bulk by the remanufacturer
26 using an assembly line process which involves the complete
27 disassembly of such parts and integration of the components
28 of such parts with other used or new components of parts,
29 including the salvaging, recycling or reclaiming of used
30 parts by the remanufacturer.

1 The term does not include constructing, altering, servicing,
2 repairing or improving real estate or repairing, servicing or
3 installing tangible personal property, nor the producing of a
4 commercial motion picture, nor the cooking, freezing or baking
5 of fruits, vegetables, mushrooms, fish, seafood, meats, poultry
6 or bakery products.

7 (c.1) "Blasting." The use of any combustible or explosive
8 composition in the removal of material resources, minerals and
9 mineral aggregates from the earth including the separation of
10 the dirt, waste and refuse in which they are found.

11 (d) "Processing." The performance of the following
12 activities when engaged in as a business enterprise:

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

18 (1.1) The processing of fruits or vegetables by
19 cleaning, cutting, coring, peeling or chopping and treating
20 to preserve, sterilize or purify and substantially extend the
21 useful shelf life of the fruits or vegetables, when the
22 person engaged in the activity packages the property in
23 sealed containers for wholesale distribution.

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

29 (3) The electroplating, galvanizing, enameling,
30 anodizing, coloring, finishing, impregnating or heat treating

1 of metals or plastics for sale or in the process of
2 manufacturing.

3 (3.1) The blanking, shearing, leveling, slitting or
4 burning of metals for sale to or use by a manufacturer or
5 processor.

6 (4) The rolling, drawing or extruding of ferrous and
7 nonferrous metals.

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

12 (6) The preparation of animal feed or poultry feed for
13 sale.

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

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

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

23 (9.1) The aging, stripping, conditioning, crushing and
24 blending of tobacco leaves for use as cigar filler or as
25 components of smokeless tobacco products for sale to
26 manufacturers of tobacco products.

27 (10) The slaughtering and dressing of animals for meat
28 to be sold or to be used in preparing meat products for sale,
29 and the preparation of meat products including lard, tallow,
30 grease, cooking and inedible oils for wholesale distribution.

1 (11) The processing of used lubricating oils.

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

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

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

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

17 (16) The production, processing and packaging of ice for
18 wholesale distribution.

19 (17) The producing of mobile telecommunications
20 services.

21 (18) The collection, washing, sorting, inspecting and
22 packaging of eggs.

23 (e) "Person." Any natural person, association, fiduciary,
24 partnership, corporation or other entity, including the
25 Commonwealth of Pennsylvania, its political subdivisions and
26 instrumentalities and public authorities. Whenever used in
27 prescribing and imposing a penalty or imposing a fine or
28 imprisonment, or both, the term as applied to an association,
29 includes the members of the association and, as applied to a
30 corporation, the officers of the corporation.

1 (f) "Purchase at retail."

2 (1) The acquisition for a consideration of the
3 ownership, custody or possession of tangible personal
4 property other than for resale by the person acquiring the
5 same when the acquisition is made for the purpose of
6 consumption or use, whether the acquisition is absolute or
7 conditional, and by any means it is 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 of those services
13 described in subclauses (2), (3) and (4) of clause (k) of
14 this section 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 of those services
20 described in subclauses (11) through (18) of clause (k) of
21 this section.

22 The term, with respect to liquor and malt or brewed beverages,
23 includes the purchase of liquor from any Pennsylvania Liquor
24 Store by any person for any purpose, and the purchase of malt or
25 brewed beverages from a manufacturer of malt or brewed
26 beverages, distributor or importing distributor by any person
27 for any purpose, except purchases from a manufacturer of malt or
28 brewed beverages by a distributor or importing distributor or
29 purchases from an importing distributor by a distributor within
30 the meaning of the Liquor Code. The term does not include any

1 purchase of malt or brewed beverages from a retail dispenser or
2 any purchase of liquor or malt or brewed beverages from a person
3 holding a retail liquor license within the meaning of and
4 pursuant to the provisions of the Liquor Code, but includes any
5 purchase or acquisition of liquor or malt or brewed beverages
6 other than pursuant to the provisions of the Liquor Code.

7 (g) "Purchase price."

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

18 (2) The value of any tangible personal property actually
19 taken in trade or exchange in lieu of the whole or any part
20 of the purchase price shall be deducted from the purchase
21 price. For the purpose of this clause, the amount allowed by
22 reason of tangible personal property actually taken in trade
23 or exchange shall be considered the value of such property.

24 (3) (i) In determining the purchase price on the sale
25 or use of taxable tangible personal property or a service
26 where, because of affiliation of interests between the
27 vendor and purchaser, or irrespective of any such
28 affiliation, if for any other reason the purchase price
29 declared by the vendor or taxpayer on the taxable sale or
30 use of such tangible personal property or service is, in

1 the opinion of the department, not indicative of the true
2 value of the article or service or the fair price
3 thereof, the department shall, pursuant to uniform and
4 equitable rules, determine the amount of constructive
5 purchase price on the basis of which the tax shall be
6 computed and levied. The rules shall provide for a
7 constructive amount of purchase price for each sale or
8 use which would naturally and fairly be charged in an
9 arms-length transaction in which the element of common
10 interest between the vendor or purchaser is absent or, if
11 no common interest exists, any other element causing a
12 distortion of the price or value is likewise absent.

13 (ii) For the purpose of this clause where a taxable
14 sale or purchase at retail transaction occurs between a
15 parent and a subsidiary, affiliate or controlled
16 corporation of such parent corporation, there shall be a
17 rebuttable presumption, that because of the common
18 interest, the transaction was not at arms-length.

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

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

10 (5) (i) With respect to the tax imposed by section
11 702(a)(2), on any tangible personal property originally
12 purchased by the user of the property six months or
13 longer prior to the first taxable use of the property
14 within this Commonwealth, the user may elect to pay tax
15 on a substituted base determined by considering the
16 purchase price of the property for tax purposes to be
17 equal to the prevailing market price of similar tangible
18 personal property at the time and place of the first use
19 within this Commonwealth.

20 (ii) The election must be made at the time of filing
21 a tax return with the department and reporting the tax
22 liability and paying the proper tax due plus all accrued
23 penalties and interest, if any, within six months of the
24 due date of such report and payment, as provided for by
25 section 717(a) 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 subclause, means 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 that portion of
11 the billing which applies to premium cable service as defined
12 in clause (11), the total bill for the provision of all cable
13 services shall be the purchase price.

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

22 (9) Amounts representing on-the-spot cash discounts,
23 employee discounts, volume discounts, store discounts such as
24 "buy one, get one free," wholesaler's or trade discounts,
25 rebates and store or manufacturer's coupons shall establish a
26 new purchase price if both the item and the coupon are
27 described on the invoice or cash register tape. An amount
28 representing a discount allowed for prompt payment of bills
29 which is dependent upon an event occurring after the
30 completion of the sale may not be deducted in computing the

1 tax. A sale is completed when there is a transfer of
2 ownership of the property or services to the purchaser.

3 (h) "Purchaser." Any person who acquires, for a
4 consideration, the ownership, custody or possession by sale,
5 lease or otherwise of tangible personal property, or who obtains
6 services in exchange for a purchase price but not including an
7 employer who obtains services from his employees in exchange for
8 wages or salaries when such services are rendered in the
9 ordinary scope of their employment.

10 (i) "Resale."

11 (1) Any transfer of ownership, custody or possession of
12 tangible personal property for a consideration, including the
13 grant of a license to use or consume and transactions where
14 the possession of the property is transferred but where the
15 transferor retains title only as security for payment of the
16 selling price whether the transaction is designated as
17 bailment lease, conditional sale or otherwise.

18 (2) The physical incorporation of tangible personal
19 property as an ingredient or constituent into other tangible
20 personal property, which is to be sold in the regular course
21 of business or the performance of those services described in
22 subclauses (2), (3) and (4) of clause (k) upon tangible
23 personal property which is to be sold in the regular course
24 of business or where the person incorporating the property
25 has undertaken at the time of purchase to cause it to be
26 transported in interstate commerce to a destination outside
27 this Commonwealth. The term includes telecommunications
28 services purchased by a cable operator or video programmer
29 that are used to transport or deliver cable or video
30 programming services which are sold in the regular course of

1 business.

2 (3) The term also includes tangible personal property
3 purchased or having a situs within this Commonwealth solely
4 for the purpose of being processed, fabricated or
5 manufactured into, attached to or incorporated into tangible
6 personal property and thereafter transported outside this
7 Commonwealth for use exclusively outside this Commonwealth.

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

13 (5) The physical incorporation of tangible personal
14 property as an ingredient or constituent in the construction
15 of foundations for machinery or equipment the sale or use of
16 which is excluded from tax under the provisions of paragraphs
17 (A), (B), (C) and (D) of subclause (8) of clause (k) and
18 subparagraphs (i), (ii), (iii) and (iv) of paragraph (B) of
19 subclause (4) of clause (o), whether the foundations at the
20 time of construction or transfer constitute tangible personal
21 property or real estate.

22 (6) The sale at retail or use of services performed for
23 resale in the ordinary course of business of the purchaser or
24 user of such services.

25 (7) The sale at retail or use of services that are
26 otherwise taxable that are an integral, inseparable part of
27 the services that are to be sold or used that are taxable.

28 (j) "Resident."

29 (1) Any natural person:

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

1 (ii) who maintains a permanent place of abode within
2 this Commonwealth and spends in the aggregate more than
3 60 days of the year within this Commonwealth.

4 (2) Any corporation:

5 (i) incorporated under the laws of this
6 Commonwealth;

7 (ii) authorized to do business or doing business
8 within this Commonwealth; or

9 (iii) maintaining a place of business within this
10 Commonwealth.

11 (3) Any association, fiduciary, partnership or other
12 entity:

13 (i) domiciled in this Commonwealth;

14 (ii) authorized to do business or doing business
15 within this Commonwealth; or

16 (iii) maintaining a place of business within this
17 Commonwealth.

18 (k) "Sale at retail."

19 (1) Any transfer, for a consideration, of the ownership,
20 custody or possession of tangible personal property,
21 including the grant of a license to use or consume whether
22 the transfer is absolute or conditional and by any means the
23 transfer is effected.

24 (2) The rendition of the service of printing or
25 imprinting of tangible personal property for a consideration
26 for persons who furnish, either directly or indirectly, the
27 materials used in the printing or imprinting.

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

29 (i) washing, cleaning, waxing, polishing or
30 lubricating of motor vehicles of another, regardless of

1 whether any tangible personal property is transferred in
2 conjunction with the activity; and

3 (ii) inspecting motor vehicles pursuant to the
4 mandatory requirements of 75 Pa.C.S. (relating to
5 vehicles).

6 (4) The rendition for a consideration of the service of
7 repairing, altering, mending, pressing, fitting, dyeing,
8 laundering, drycleaning or cleaning tangible personal
9 property other than wearing apparel or shoes, or applying or
10 installing tangible personal property as a repair or
11 replacement part of other tangible personal property other
12 than wearing apparel or shoes for a consideration, regardless
13 of whether the services are performed directly or by any
14 means other than by coin-operated self-service laundry
15 equipment for wearing apparel or household goods and whether
16 or not any tangible personal property is transferred in
17 conjunction with the activity, except such services as are
18 rendered in the construction, reconstruction, remodeling,
19 repair or maintenance of real estate.

20 (5) (Reserved).

21 (6) (Reserved).

22 (7) (Reserved).

23 (8) Any retention of possession, custody or a license to
24 use or consume tangible personal property or any further
25 obtaining of services described in subclauses (2), (3) and
26 (4) of this clause pursuant to a rental or service contract
27 or other arrangement (other than as security). The term does
28 not include:

29 (i) any transfer of tangible personal property or
30 rendition of services for the purpose of resale; or

1 (ii) the rendition of services or the transfer of
2 tangible personal property, including, but not limited
3 to, machinery and equipment and their parts and supplies
4 to be used or consumed by the purchaser directly in the
5 operations of:

6 (A) The manufacture of tangible personal
7 property.

8 (B) Farming, dairying, agriculture, horticulture
9 or floriculture when engaged in as a business
10 enterprise. The term "farming" includes the
11 propagation and raising of ranch raised fur-bearing
12 animals and the propagation of game birds for
13 commercial purposes by holders of propagation permits
14 issued under 34 Pa.C.S. (relating to game) and the
15 propagation and raising of horses to be used
16 exclusively for commercial racing activities.

17 (C) The producing, delivering or rendering of a
18 public utility service, or in constructing,
19 reconstructing, remodeling, repairing or maintaining
20 the facilities which are directly used in producing,
21 delivering or rendering the service.

22 (D) Processing as defined in clause (d). The
23 exclusions provided in this paragraph or paragraph
24 (A), (B) or (C) do not apply to any vehicle required
25 registered under 75 Pa.C.S. (relating to vehicles),
26 except those vehicles used directly by a public
27 utility engaged in business as a common carrier; to
28 maintenance facilities; or to materials, supplies or
29 equipment to be used or consumed in the construction,
30 reconstruction, remodeling, repair or maintenance of

1 real estate other than directly used machinery,
2 equipment, parts or foundations that may be affixed
3 to such real estate. The exclusions provided in this
4 paragraph or paragraph (A), (B) or (C) do not apply
5 to tangible personal property or services to be used
6 or consumed in managerial sales or other
7 nonoperational activities, nor to the purchase or use
8 of tangible personal property or services by any
9 person other than the person directly using the same
10 in the operations described in this paragraph or
11 paragraph (A), (B) or (C).

12 The exclusion provided in paragraph (C) does not apply to:

13 (i) construction materials, supplies or equipment
14 used to construct, reconstruct, remodel, repair or
15 maintain facilities not used directly by the purchaser in
16 the production, delivering or rendition of public utility
17 service;

18 (ii) construction materials, supplies or equipment
19 used to construct, reconstruct, remodel, repair or
20 maintain a building, road or similar structure; or

21 (iii) tools and equipment used but not installed in
22 the maintenance of facilities used directly in the
23 production, delivering or rendition of a public utility
24 service.

25 The exclusions provided in paragraphs (A), (B), (C) and (D)
26 do not apply to the services enumerated in clauses (k) (11)
27 through (18) and (w) through (kk), except that the exclusion
28 provided in this subclause for farming, dairying and
29 agriculture shall apply to the service enumerated in clause
30 (z).

1 (9) Where tangible personal property or services are
2 utilized for purposes constituting a sale at retail and for
3 purposes excluded from the definition of "sale at retail," it
4 shall be presumed that the tangible personal property or
5 services are utilized for purposes constituting a sale at
6 retail and subject to tax unless the user proves to the
7 department that the predominant purposes for which such
8 tangible personal property or services are utilized do not
9 constitute a sale at retail.

10 (10) The term, with respect to liquor and malt or brewed
11 beverages, includes the sale of liquor by any Pennsylvania
12 liquor store to any person for any purpose, and the sale of
13 malt or brewed beverages by a manufacturer of malt or brewed
14 beverages, distributor or importing distributor to any person
15 for any purpose, except sales by a manufacturer of malt or
16 brewed beverages to a distributor or importing distributor or
17 sales by an importing distributor to a distributor within the
18 meaning of the act of April 12, 1951 (P.L.90, No.21), known
19 as the Liquor Code. The term does not include any sale of
20 malt or brewed beverages by a retail dispenser or any sale of
21 liquor or malt or brewed beverages by a person holding a
22 retail liquor license within the meaning of and pursuant to
23 the provisions of the Liquor Code, but shall include any sale
24 of liquor or malt or brewed beverages other than pursuant to
25 the provisions of the Liquor Code.

26 (11) The rendition for a consideration of lobbying
27 services.

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

30 (13) The rendition for a consideration of secretarial or

1 editing services.

2 (14) The rendition for a consideration of disinfecting
3 or pest control services, building maintenance or cleaning
4 services.

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

7 (16) (Reserved).

8 (17) The rendition for a consideration of lawn care
9 service.

10 (18) The rendition for a consideration of self-storage
11 service.

12 (19) The rendition for a consideration of a mobile
13 telecommunications service.

14 (20) Except as otherwise provided under section 704, the
15 rendition for a consideration of any service enumerated in
16 clause (dd) when the primary objective of the purchaser is
17 the receipt of any benefit of the service performed, as
18 distinguished from the receipt of property.

19 (l) "Storage." Any keeping or retention of tangible
20 personal property within this Commonwealth for any purpose
21 including the interim keeping, retaining or exercising any right
22 or power over such tangible personal property. This term is in
23 no way limited to the provision of self-storage service.

24 (m) "Tangible personal property." Corporeal personal
25 property including, but not limited to, goods, wares,
26 merchandise, steam and natural and manufactured and bottled gas
27 for non-residential use, electricity for non-residential use,
28 prepaid telecommunications, cable or video programming service,
29 spirituous or vinous liquor and malt or brewed beverages and
30 soft drinks, interstate telecommunications service originating

1 or terminating in this Commonwealth and charged to a service
2 address in this Commonwealth, intrastate telecommunications
3 service with the exception of:

4 (1) Subscriber line charges and basic local telephone
5 service for residential use.

6 (2) Charges for telephone calls paid for by inserting
7 money into a telephone accepting direct deposits of money to
8 operate, provided further, the service address of any
9 intrastate telecommunications service is deemed to be within
10 this Commonwealth or within a political subdivision,
11 regardless of how or where billed or paid.

12 In the case of any interstate or intrastate telecommunications
13 service, any charge paid through a credit or payment mechanism
14 which does not relate to a service address, such as a bank,
15 travel, credit or debit card, but not including prepaid
16 telecommunications, is deemed attributable to the address of
17 origination of the telecommunications service.

18 (n) "Taxpayer." Any person required to pay or collect the
19 tax imposed by this chapter.

20 (o) "Use."

21 (1) The exercise of any right or power incidental to the
22 ownership, custody or possession of tangible personal
23 property and includes, but is not limited to, transportation,
24 storage or consumption.

25 (2) The obtaining by a purchaser of the service of
26 printing or imprinting of tangible personal property when the
27 purchaser furnishes, either directly or indirectly, the
28 articles used in the printing or imprinting.

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

30 (i) washing, cleaning, waxing, polishing or

1 lubricating of motor vehicles regardless of whether any
2 tangible personal property is transferred to the
3 purchaser in conjunction with the services; and

4 (ii) inspecting motor vehicles pursuant to the
5 mandatory requirements of 75 Pa.C.S. (relating to
6 vehicles).

7 (4) The obtaining by a purchaser of the service of
8 repairing, altering, mending, pressing, fitting, dyeing,
9 laundering, drycleaning or cleaning tangible personal
10 property other than wearing apparel or shoes or applying or
11 installing tangible personal property as a repair or
12 replacement part of other tangible personal property,
13 including, but not limited to, wearing apparel or shoes,
14 regardless of whether the services are performed directly or
15 by any means other than by means of coin-operated self-
16 service laundry equipment for wearing apparel or household
17 goods, and regardless of whether any tangible personal
18 property is transferred to the purchaser in conjunction with
19 the activity, therewith, except such services are obtained in
20 the construction, reconstruction, remodeling, repair or
21 maintenance of real estate. The term "use" does not include:

22 (A) Any tangible personal property acquired and
23 kept, retained or over which power is exercised
24 within this Commonwealth on which the taxing of the
25 storage, use or other consumption thereof is
26 expressly prohibited by the Constitution of the
27 United States or which is excluded from tax under
28 other provisions of this chapter.

29 (B) The use or consumption of tangible personal
30 property, including, but not limited to, machinery

1 and equipment and parts therefor, and supplies or the
2 obtaining of the services described in subclauses
3 (2), (3) and (4) of this clause directly in the
4 operations of:

5 (i) The manufacture of tangible personal property.

6 (ii) Farming, dairying, agriculture, horticulture or
7 floriculture when engaged in as a business enterprise.
8 The term includes the propagation and raising of ranch-
9 raised furbearing animals and the propagation of game
10 birds for commercial purposes by holders of propagation
11 permits issued under 34 Pa.C.S. (relating to game) and
12 the propagation and raising of horses to be used
13 exclusively for commercial racing activities.

14 (iii) The producing, delivering or rendering of a
15 public utility service, or in constructing,
16 reconstructing, remodeling, repairing or maintaining the
17 facilities which are directly used in producing,
18 delivering or rendering such service.

19 (iv) Processing as defined in subclause (d).
20 The exclusions provided in subparagraphs (i), (ii), (iii)
21 and (iv) do not apply to any vehicle required to be
22 registered under 75 Pa.C.S. (relating to vehicles) except
23 those vehicles directly used by a public utility engaged
24 in the business as a common carrier; to maintenance
25 facilities; or to materials, supplies or equipment to be
26 used or consumed in the construction, reconstruction,
27 remodeling, repair or maintenance of real estate other
28 than directly used machinery, equipment, parts or
29 foundations therefor that may be affixed to such real
30 estate. The exclusions provided in subparagraphs (i),

1 (ii), (iii) and this subparagraph do not apply to
2 tangible personal property or services to be used or
3 consumed in managerial sales or other nonoperational
4 activities, nor to the purchase or use of tangible
5 personal property or services by any person other than
6 the person directly using the same in the operations
7 described in subparagraphs (i), (ii), (iii) and this
8 subparagraph. The exclusion provided in subparagraph
9 (iii) does not apply to:

10 (A) construction materials, supplies or
11 equipment used to construct, reconstruct, remodel,
12 repair or maintain facilities not used directly by
13 the purchaser in the production, delivering or
14 rendition of public utility service; or

15 (B) tools and equipment used but not installed
16 in the maintenance of facilities used directly in the
17 production, delivering or rendition of a public
18 utility service.

19 The exclusion provided in subparagraphs (i), (ii), (iii)
20 and this subparagraph does not apply to the services
21 enumerated in clauses (9) through (16) and (w) through
22 (kk), except that the exclusion provided in subparagraph
23 (ii) for farming, dairying and agriculture shall apply to
24 the service enumerated in clause (z).

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

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

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

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

26 (8) (Reserved).

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

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

30 (11) The obtaining by the purchaser of secretarial or

1 editing services.

2 (12) The obtaining by the purchaser of disinfecting or
3 pest control services, building maintenance or cleaning
4 services.

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

7 (14) (Reserved).

8 (15) The obtaining by the purchaser of lawn care
9 service.

10 (16) The obtaining by the purchaser of self-storage
11 service.

12 (17) The obtaining by a construction contractor of
13 tangible personal property or services provided to tangible
14 personal property which will be used pursuant to a
15 construction contract regardless of whether the tangible
16 personal property or services are transferred.

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

19 (19) Except as otherwise provided under section 704, the
20 obtaining by the purchaser of any service enumerated in
21 clause (dd) when the primary objective of the purchaser is
22 the receipt of any benefit of the service performed, as
23 distinguished from the receipt of property.

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

30 (q) "NAICS." The 2012 North American Industry

1 Classification System developed by the Federal Office of
2 Management and Budget and published at 76 Fed. Reg. 159 (Aug.
3 17, 2011) or its successor revision.

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

9 (s) "Commercial aircraft operator." A person, excluding a
10 scheduled airline who engages in any or all of the following:
11 charter of aircraft, leasing of aircraft, aircraft sales,
12 aircraft rental, flight instruction, air freight or any other
13 flight activities for compensation.

14 (t) "Transient vendor."

15 (1) Any person who:

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

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

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

30 (2) The term does not include a person who delivers

1 tangible personal property within this Commonwealth pursuant
2 to orders for the property which were solicited or placed by
3 mail or other means.

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

8 (u) "Promoter." A person who either, directly or
9 indirectly, rents, leases or otherwise operates or grants
10 permission to any person to use space at a show for the display
11 for sale or for the sale of tangible personal property or
12 services subject to tax under section 702.

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

21 (w) "Lobbying services." Providing the services of a
22 lobbyist, as defined in the definition of "lobbyist" in 65
23 Pa.C.S. Ch. 13A (relating to lobbying disclosure).

24 (x) "Adjustment services, collection services or credit
25 reporting services." Providing collection or adjustments of
26 accounts receivable or mercantile or consumer credit reporting,
27 including, but not limited to, services of the type provided by
28 adjustment bureaus or collection agencies, consumer or
29 mercantile credit reporting bureaus, credit bureaus or agencies,
30 credit clearinghouses or credit investigation services. The term

1 does not include providing credit card service with collection
2 by a central agency, providing debt counseling or adjustment
3 services to individuals or billing or collection services
4 provided by local exchange telephone companies.

5 (y) "Secretarial or editing services." Providing services
6 which include, but are not limited to, editing, letter writing,
7 proofreading, resume writing, typing or word processing. The
8 term does not include court reporting and stenographic services.

9 (z) "Disinfecting or pest control services." Providing
10 disinfecting, termite control, insect control, rodent control or
11 other pest control services. The term includes, but is not
12 limited to, deodorant servicing of rest rooms, washroom
13 sanitation service, rest room cleaning service, extermination
14 service or fumigating service. As used in this clause, the term
15 "fumigating service" does not include the fumigation of
16 agricultural commodities or containers used for agricultural
17 commodities. As used in this clause, the term "insect control"
18 does not include the gypsy moth control spraying of trees which
19 are harvested for commercial purposes.

20 (aa) "Building maintenance or cleaning services." Providing
21 services which include, but are not limited to, janitorial, maid
22 or housekeeping service, office or interior building cleaning or
23 maintenance service, window cleaning service, floor waxing
24 service, lighting maintenance service such as bulb replacement,
25 cleaning, chimney cleaning service, acoustical tile cleaning
26 service, venetian blind cleaning, cleaning and maintenance of
27 telephone booths or cleaning and degreasing of service stations.
28 The term does not include: repairs on buildings and other
29 structures; the maintenance or repair of boilers, furnaces and
30 residential air conditioning equipment or their parts; the

1 painting, wallpapering or applying other like coverings to
2 interior walls, ceilings or floors; or the exterior painting of
3 buildings.

4 (bb) "Employment agency services." Providing employment
5 services to a prospective employer or employee other than
6 employment services provided by theatrical employment agencies
7 and motion picture casting bureaus. The term includes, but is
8 not limited to, services of the type provided by employment
9 agencies, executive placing services and labor contractor
10 employment agencies other than farm labor.

11 (cc) "Help supply services." Providing temporary or
12 continuing help where the help supplied is on the payroll of the
13 supplying person or entity, but is under the supervision of the
14 individual or business to which help is furnished. The term
15 includes, but is not limited to, service of a type provided by
16 labor and manpower pools, employee leasing services, office help
17 supply services, temporary help services, usher services,
18 modeling services or fashion show model supply services. The
19 term does not include: providing farm labor services or human
20 health-related services, including nursing, home health care and
21 personal care. As used in this clause, "personal care" shall
22 include providing at least one of the following types of
23 assistance to persons with 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 subclause (1), (2) or (3).

1 (dd) "NAICS taxable services." Any service performed in
2 this Commonwealth as defined in the following subsectors and
3 industries of the revised 2012 NAICS developed by the Federal
4 Office of Management and Budget and published at 76 Fed. Reg.
5 159 (Aug. 17, 2011) or its successor revision:

- 6 481, for intrastate transport of persons
- 7 482, for intrastate transport of persons
- 8 483, for intrastate transport of persons
- 9 4851, for intrastate transport of persons
- 10 4852, for intrastate transport of persons
- 11 4853, for intrastate transport of persons
- 12 4855, for intrastate transport of persons
- 13 4859, for intrastate transport of persons
- 14 487
- 15 48841
- 16 5111
- 17 5112
- 18 5121
- 19 512131
- 20 512132
- 21 523930
- 22 541
- 23 5611
- 24 5612
- 25 5613
- 26 5614
- 27 5615
- 28 5619
- 29 5621

30 Nontuition and non-housing-related charges imposed by the

1 following industries: 6112, 6113, 6114, 6115 and 6116
2 6216, 6219, 6231, 6232, 6233, 6239, 6241, 6242, 6243,
3 unless provided by a nonprofit organization

4 6244

5 7111, unless imposed by industry 611110 or a nonprofit
6 corporation or nonprofit unincorporated association under the
7 laws of this Commonwealth or the United States or any entity
8 that is authorized to do business in this Commonwealth as a
9 nonprofit corporation or unincorporated association under the
10 laws of this Commonwealth, including a youth or athletic,
11 volunteer fire, ambulance, religious, charitable, fraternal,
12 veterans or civic association or any separately chartered
13 auxiliary of the foregoing and operated on a nonprofit basis

14 7112, unless imposed by industry 611110 or a nonprofit
15 corporation or nonprofit unincorporated association under the
16 laws of this Commonwealth or the United States or any entity
17 that is authorized to do business in this Commonwealth as a
18 nonprofit corporation or unincorporated association under the
19 laws of this Commonwealth, including a youth or athletic,
20 volunteer fire, ambulance, religious, charitable, fraternal,
21 veterans or civic association or any separately chartered
22 auxiliary of the foregoing and operated on a nonprofit basis

23 7113

24 7114

25 712

26 7131

27 7139

28 7212

29 7224

30 8121

1 8122

2 8123

3 8129

4 (ee) (Reserved).

5 (ff) (Reserved).

6 (gg) (Reserved).

7 (hh) (Reserved).

8 (ii) (Reserved).

9 (jj) "Lawn care service." Providing services for lawn
10 upkeep, including, but not limited to, fertilizing, lawn mowing,
11 shrubbery trimming or other lawn treatment services.

12 (kk) "Self-storage service." Providing a building, a room
13 in a building or a secured area within a building with separate
14 access provided for each purchaser of self-storage service,
15 primarily for the purpose of storing personal property. The term
16 does not include service involving:

- 17 (1) safe deposit boxes by financial institutions;
18 (2) storage in refrigerator or freezer units;
19 (3) storage in commercial warehouses;
20 (4) facilities for goods distribution; and
21 (5) lockers in airports, bus stations, museums and other
22 public places.

23 (ll) "Cable or video programming service." Cable television
24 services, video programming services, community antenna
25 television services or any other distribution of television,
26 video, audio or radio services which is transmitted with or
27 without the use of wires to purchasers.

28 If a purchaser receives or agrees to receive cable or video
29 programming service, then the following charges are included in
30 the purchase price: charges for installation or repair of any

1 cable or video programming service, upgrade to include
2 additional premium cable or premium video programming service,
3 downgrade to exclude all or some premium cable or premium video
4 programming service, additional cable outlets in excess of ten
5 or any other charge or fee related to cable or video programming
6 services. The term does not apply to: transmissions by public
7 television, public radio services or official Federal, State or
8 local government cable services; local origination programming
9 which provides a variety of public service programs unique to
10 the community, programming which provides coverage of public
11 affairs issues which are presented without commentary or
12 analysis, including United States Congressional proceedings, or
13 programming which is substantially related to religious
14 subjects; or subscriber charges for access to a video dial tone
15 system or charges by a common carrier to a video programmer for
16 the transport of video programming.

17 (mm) (Reserved).

18 (nn) "Construction contract." A written or oral contract or
19 agreement for the construction, reconstruction, remodeling,
20 renovation or repair of real estate or a real estate structure.
21 The term shall not apply to services which are taxable under
22 clauses (k) (14) and (17) and (o) (12) and (15).

23 (oo) "Construction contractor." A person who performs an
24 activity pursuant to a construction contract, including a
25 subcontractor.

26 (pp) "Building machinery and equipment." Generation
27 equipment, storage equipment, conditioning equipment,
28 distribution equipment and termination equipment, limited to the
29 following:

30 (1) air conditioning limited to heating, cooling,

- 1 purification, humidification, dehumidification and
2 ventilation;
- 3 (2) electrical;
- 4 (3) plumbing;
- 5 (4) communications limited to voice, video, data, sound,
6 master clock and noise abatement;
- 7 (5) alarms limited to fire, security and detection;
- 8 (6) control system limited to energy management, traffic
9 and parking lot and building access;
- 10 (7) medical system limited to diagnosis and treatment
11 equipment, medical gas, nurse call and doctor paging;
- 12 (8) laboratory system;
- 13 (9) cathodic protection system; or
- 14 (10) furniture, cabinetry and kitchen equipment.

15 The term includes boilers, chillers, air cleaners, humidifiers,
16 fans, switchgear, pumps, telephones, speakers, horns, motion
17 detectors, dampers, actuators, grills, registers, traffic
18 signals, sensors, card access devices, guardrails, medial
19 devices, floor troughs and grates and laundry equipment,
20 together with integral coverings and enclosures, regardless of
21 whether: the item constitutes a fixture or is otherwise affixed
22 to the real estate; damage would be done to the item or its
23 surroundings on removal; or the item is physically located
24 within a real estate structure. The term does not include
25 guardrail posts, pipes, fittings, pipe supports and hangers,
26 valves, underground tanks, wire, conduit, receptacle and
27 junction boxes, insulation, ductwork and coverings.

28 (qq) "Real estate structure." A structure or item purchased
29 by a construction contractor pursuant to a construction contract
30 with:

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

7 (2) the United States; or

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

10 The term includes building machinery and equipment; developed or
11 undeveloped land; streets; roads; highways; parking lots;
12 stadiums and stadium seating; recreational courts; sidewalks;
13 foundations; structural supports; walls; floors; ceilings;
14 roofs; doors; canopies; millwork; elevators; windows and
15 external window coverings; outdoor advertising boards or signs;
16 airport runways; bridges; dams; dikes; traffic control devices,
17 including traffic signs; satellite dishes; antennas; guardrail
18 posts; pipes; fittings; pipe supports and hangers; valves;
19 underground tanks; wire; conduit; receptacle and junction boxes;
20 insulation; ductwork and coverings; and any structure or item
21 similar to any of the foregoing, regardless of whether the
22 structure or item constitutes a fixture or is affixed to the
23 real estate; or damage would be done to the structure or item or
24 its surroundings on removal.

25 (rr) "Telecommunications service." Any one-way transmission
26 or any two-way, interactive transmission of sounds, signals or
27 other intelligence converted to like form which effects or is
28 intended to effect meaningful communications by electronic or
29 electromagnetic means via wire, cable, satellite, light waves,
30 microwaves, radio waves or other transmission media. The term

1 includes all types of telecommunication transmissions, local,
2 toll, wide-area or any other type of telephone service; private
3 line service; telegraph service; radio repeater service;
4 wireless communication service; personal communications system
5 service; cellular telecommunication service; specialized mobile
6 radio service; stationary two-way radio service; and paging
7 service. The term does not include any of the following:

8 (1) Subscriber charges for access to a video dial tone
9 system.

10 (2) Charges to video programmers for the transport of
11 video programming.

12 (3) Charges for access to the Internet. Access to the
13 Internet does not include any of the following:

14 (i) The transport over the Internet or any
15 proprietary network using the Internet protocol of
16 telephone calls, facsimile transmissions or other
17 telecommunications traffic to or from end users on the
18 public switched telephone network if the signal sent from
19 or received by an end user is not in an Internet
20 protocol.

21 (ii) Telecommunication services purchased by an
22 Internet service provider to deliver access to the
23 Internet to its customers.

24 (4) Mobile telecommunications services.

25 (ss) "Internet." The international nonproprietary computer
26 network of both Federal and non-Federal interoperable packet
27 switched data networks.

28 (tt) "Commercial racing activities." Any of the following:

29 (1) Thoroughbred and harness racing at which pari-mutuel
30 wagering is conducted under the act of December 17, 1981

1 (P.L.435, No.135), known as the Race Horse Industry Reform
2 Act.

3 (2) Fair racing sanctioned by the State Harness Racing
4 Commission.

5 (uu) "Prepaid telecommunications." A tangible item
6 containing a prepaid authorization number that can be used
7 solely to obtain telecommunications service, including any
8 renewal or increases in the prepaid amount.

9 (vv) "Prebuilt housing." Either of the following:

10 (1) Manufactured housing, including mobile homes, which
11 bears a label as required by and referred to in the act of
12 November 17, 1982 (P.L.676, No.192), known as the
13 Manufactured Housing Construction and Safety Standards
14 Authorization Act.

15 (2) Industrialized housing as defined in the act of May
16 11, 1972 (P.L.286, No.70), known as the Industrialized
17 Housing Act.

18 (ww) "Used prebuilt housing." Prebuilt housing that was
19 previously subject to a sale to a prebuilt housing purchaser.

20 (xx) "Prebuilt housing builder." A person who makes a
21 prebuilt housing sale to a prebuilt housing purchaser.

22 (yy) "Prebuilt housing sale." A sale of prebuilt housing to
23 a prebuilt housing purchaser, including a sale to a landlord,
24 without regard to whether the person making the sale is
25 responsible for installing the prebuilt housing or whether the
26 prebuilt housing becomes a real estate structure upon
27 installation. Temporary installation by a prebuilt housing
28 builder for display purposes of a unit held for resale shall not
29 be considered occupancy for residential purposes.

30 (zz) "Prebuilt housing purchaser." A person who purchases

1 prebuilt housing in a transaction and who intends to occupy the
2 unit for residential purposes in this Commonwealth.

3 (aaa) "Mobile telecommunications service." Mobile
4 telecommunications service as that term is defined in the Mobile
5 Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. §
6 116 et seq.).

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

9 (ccc) "Prepaid mobile telecommunications service." Mobile
10 telecommunications service which is paid for in advance and
11 which enables the origination of calls using an access number,
12 authorization code or both, regardless of whether manually or
13 electronically dialed, if the remaining amount of units of the
14 prepaid mobile telecommunications service is known by the
15 service provider of the prepaid mobile telecommunications
16 service on a continuous basis. The term does not include the
17 advance purchase of mobile telecommunications service if the
18 purchase is pursuant to a service contract between the service
19 provider and customer and if the service contract requires the
20 customer to make periodic payments to maintain the mobile
21 telecommunications service.

22 (ddd) (Reserved).

23 (eee) "Dental services." The general and usual services
24 rendered and care administered by doctors of dental medicine or
25 doctors of dental surgery, as defined in the act of May 1, 1933
26 (P.L.216, No.76), known as The Dental Law.

27 (fff) "Physician services." The general and usual services
28 rendered and care administered by medical doctors, as defined in
29 the act of December 20, 1985 (P.L.457, No.112), known as the
30 Medical Practice Act of 1985, or doctors of osteopathy, as

1 defined in the act of October 5, 1978 (P.L.1109, No.261), known
2 as the Osteopathic Medical Practice Act.

3 (ggg) "Clothing." All vesture, wearing apparel, raiments,
4 garments, footwear and other articles of clothing, including
5 clothing patterns and items that are to be a component part of
6 clothing, worn or carried on or about the human body including,
7 but not limited to, all accessories, ornamental wear, formal day
8 or evening apparel and articles made of fur on the hide or pelt
9 or any material imitative of fur and articles of which such fur,
10 real, imitation or synthetic, is the component material of chief
11 value, but only if such value is more than three times the value
12 of the next most valuable component material, and sporting goods
13 and clothing not normally used or worn when not engaged in
14 sports.

15 (hhh) "Food and beverages." All food and beverages for
16 human consumption.

17 SUBCHAPTER B

18 SALES AND USE TAX

19 Section 702. Imposition of tax.

20 (a) Tax on certain sales at retail and uses of tangible
21 personal property and services.--

22 (1) There is hereby imposed on each separate sale at
23 retail of tangible personal property or services in this
24 Commonwealth a tax of 7% of the purchase price, which tax
25 shall be collected by the vendor from the purchaser, and
26 shall be paid over to the Commonwealth as provided in this
27 chapter.

28 (2) There is hereby imposed on the use in this
29 Commonwealth of tangible personal property purchased at
30 retail and on those services purchased at retail a tax of 7%

1 of the purchase price, which tax shall be paid to the
2 Commonwealth by the person who makes such use as provided
3 under this chapter, except that the tax shall not be paid to
4 the Commonwealth by the person where the person has paid the
5 tax imposed by paragraph (1) or has paid the tax imposed by
6 this subsection to the vendor with respect to the use.

7 (b) General sourcing rules.--

8 (1) All sales of products shall be sourced according to
9 this subsection by sellers obligated to collect sales and use
10 tax under this chapter. The sourcing rules described in this
11 subsection apply to sales of tangible personal property,
12 digital goods and all services other than telecommunications
13 services. This subsection only applies to determine a
14 seller's obligation to pay or collect and remit a sales or
15 use tax with respect to the seller's sale of a product. This
16 subsection does not affect the obligation of a purchaser or
17 lessee to remit tax on the use of the product to the taxing
18 jurisdictions in which the use occurs. A seller's obligation
19 to collect sales tax or use tax under this chapter only
20 occurs if the sale is sourced to this State. Whether sales
21 tax to a sale source to the Commonwealth shall be determined
22 based on the location at which the sale is consummated by
23 delivery or, in the case of a service, where the first use of
24 the service occurs.

25 (2) Sales, excluding leases or rental, of products shall
26 be sourced as follows:

27 (i) When the product is received by the purchaser at
28 a business location of the seller, the sale is sourced to
29 that business location.

30 (ii) When the product is not received by the

1 purchaser at a business location of the seller, the sale
2 is sourced to the location where receipt by the purchaser
3 or the purchaser's donee, designated such by the
4 purchaser, occurs, including the location indicated by
5 instructions for delivery to the purchaser or donee,
6 known to the seller.

7 (iii) When subparagraphs (i) and (ii) do not apply,
8 the sale is sourced to the location indicated by an
9 address for the purchaser that is available from the
10 business records of the seller that are maintained in the
11 ordinary course of the seller's business when use of this
12 address does not constitute bad faith.

13 (iv) When subparagraphs (i), (ii) and (iii) do not
14 apply, the sale is sourced to the location indicated by
15 an address for the purchaser obtained during the
16 consummation of the sale, including the address of a
17 purchaser's payment instrument, if no other address is
18 available, when use of this address does not constitute
19 bad faith.

20 (v) When subparagraphs (i), (ii), (iii) and (iv) do
21 not apply, including the circumstance where the seller is
22 without sufficient information to apply the previous
23 rules, when the location will be determined by the
24 address from which tangible personal property was
25 shipped, from which the digital good or the computer
26 software delivered electronically was first available for
27 transmission by the seller or from which the service was
28 provided disregarding for these purposes any location
29 that merely provided the digital transfer of the product
30 sold.

1 (c) Telecommunications service.--

2 (1) Notwithstanding any other provisions of this
3 chapter, the tax with respect to telecommunications service
4 within the meaning of "tangible personal property" in section
5 701 shall be computed at the rate of 7% on the total amount
6 charged to customers for the services, irrespective of
7 whether such charge is based on a flat rate or on a message
8 unit charge.

9 (2) A telecommunications service provider shall have no
10 responsibility or liability to the Commonwealth for billing,
11 collecting or remitting taxes that apply to services,
12 products or other commerce sold over telecommunications lines
13 by third-party vendors.

14 (3) To prevent actual multistate taxation of interstate
15 telecommunications service, any taxpayer, on proof that the
16 taxpayer has paid a similar tax to another state on the same
17 interstate telecommunications service, shall be allowed a
18 credit against the tax imposed by this section on the same
19 interstate telecommunications service to the extent of the
20 amount of the tax properly due and paid to the other state.

21 (4) With respect to interstate telecommunications
22 services, only services for interstate telecommunications
23 which originate or are terminated in this Commonwealth and
24 which are billed and charged to a service address in this
25 Commonwealth shall be presumed to have been performed
26 completely in this Commonwealth and shall be subject to tax
27 under this chapter.

28 (d) Coin-operated vending machines.--Notwithstanding any
29 other provisions of this chapter, the sale or use of food and
30 beverages dispensed by means of coin-operated vending machines

1 shall be taxed at the rate of 7% of the receipts collected from
2 any coin-operated vending machine which dispenses food and
3 beverages.

4 (e) Prepaid telecommunications.--

5 (1) Notwithstanding any provisions of this chapter, the
6 sale or use of prepaid telecommunications evidenced by the
7 transfer of tangible personal property shall be subject to
8 the tax imposed by subsection (a).

9 (2) The sale or use of prepaid telecommunications not
10 evidenced by the transfer of tangible personal property shall
11 be subject to the tax imposed by subsection (a) and shall be
12 deemed to occur at the purchaser's billing address.

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

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

23 (e.1) Prepaid mobile telecommunications service.--

24 (1) Notwithstanding any other provision of this chapter,
25 the sale or use of prepaid mobile telecommunications service
26 evidenced by the transfer of tangible personal property shall
27 be subject to the tax imposed by subsection (a).

28 (2) The sale or use of prepaid mobile telecommunications
29 service not evidenced by the transfer of tangible personal
30 property shall be subject to the tax imposed by subsection

1 (a) and shall be deemed to occur at the purchaser's billing
2 address or the location associated with the mobile telephone
3 number or the point of sale, whichever is applicable.

4 (3) (i) Notwithstanding paragraph (2), the sale or use
5 of prepaid mobile telecommunications service not
6 evidenced by the transfer of tangible personal property
7 shall be taxed at the rate of 7% of the receipts
8 collected on each sale if the service provider elects to
9 collect the tax imposed by this chapter on receipts of
10 each sale.

11 (ii) The service provider shall notify the
12 department of its election and shall collect the tax on
13 receipts of each sale until the service provider notifies
14 the department otherwise.

15 (f) Prebuilt housing.--

16 (1) Notwithstanding any other provision of this chapter,
17 tax with respect to sales of prebuilt housing shall be
18 imposed on the prebuilt housing builder at the time of the
19 prebuilt housing sale within this Commonwealth and shall be
20 paid and reported by the prebuilt housing builder to the
21 department in the time and manner provided in this chapter.

22 (2) A manufacturer of prebuilt housing may, at its
23 option, precollect the tax from the prebuilt housing builder
24 at the time of sale to the prebuilt housing builder.

25 (3) In any case where prebuilt housing is purchased and
26 the tax is not paid by the prebuilt housing builder or
27 precollected by the manufacturer, the prebuilt housing
28 purchaser shall remit tax directly to the department if the
29 prebuilt housing is used in this Commonwealth without regard
30 to whether the prebuilt housing becomes a real estate

1 structure.

2 (g) Home service providers.--

3 (1) Notwithstanding any other provisions of this chapter
4 and in accordance with the Mobile Telecommunications Sourcing
5 Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or
6 use of mobile telecommunications services which are deemed to
7 be provided to a customer by a home service provider under 4
8 U.S.C. § 117 (relating to sourcing rules) shall be subject to
9 the tax of 7% of the purchase price, which tax shall be
10 collected by the home service provider from the customer, and
11 shall be paid over to the Commonwealth as provided in this
12 chapter if the customer's place of primary use is located
13 within this Commonwealth, regardless of where the mobile
14 telecommunications services originate, terminate or pass
15 through.

16 (2) For purposes of this subsection, words and phrases
17 used in this subsection shall have the same meanings given to
18 them in the Mobile Telecommunications Sourcing Act.

19 Section 703. Computation of tax.

20 (a) General rule.--The amount of tax imposed by section 702
21 shall be computed as follows:

22 (1) If the purchase price is 7¢ or less, no tax shall be
23 collected.

24 (2) If the purchase price is 8¢ or more but less than
25 22¢, 1¢ shall be collected.

26 (3) If the purchase price is 22¢ or more but less than
27 36¢, 2¢ shall be collected.

28 (4) If the purchase price is 36¢ or more but less than
29 50¢, 3¢ shall be collected.

30 (5) If the purchase price is 50¢ or more but less than

1 65¢, 4¢ shall be collected.

2 (6) If the purchase price is 65¢ or more but less than
3 79¢, 5¢ shall be collected.

4 (7) If the purchase price is 79¢ or more but less than
5 93¢, 6¢ shall be collected.

6 (8) If the purchase price is 93¢ or more but less than
7 \$1.07, seven percent of each dollar of purchase price plus
8 the above tax bracket charges upon any fractional part of a
9 dollar in excess of even dollars shall be collected.

10 (b) Deposit into Education Stabilization Fund.--The tax
11 collected under section 702 shall be deposited into the
12 Education Stabilization Fund.

13 SUBCHAPTER C

14 EXCLUSIONS FROM SALES AND USE TAX

15 Section 704. Exclusions from tax.

16 The tax imposed by section 702 shall not be imposed upon any
17 of the following:

18 (1) The sale at retail or use of tangible personal
19 property (other than motor vehicles, trailers, semi-trailers,
20 motor boats, aircraft or other similar tangible personal
21 property required under either Federal law or laws of this
22 Commonwealth to be registered or licensed) or services sold
23 by or purchased from a person not a vendor in an isolated
24 transaction or sold by or purchased from a person who is a
25 vendor but is not a vendor with respect to the tangible
26 personal property or services sold or purchased in such
27 transaction, provided that inventory and stock in trade so
28 sold or purchased shall not be excluded from the tax by the
29 provisions of this subsection.

30 (2) The use of tangible personal property purchased by a

1 nonresident person outside of, and brought into this
2 Commonwealth for use therein for a period not to exceed seven
3 days, or for any period of time when such nonresident is a
4 tourist or vacationer and, in either case not consumed within
5 the Commonwealth.

6 (3) (i) The use of tangible personal property purchased
7 outside this Commonwealth for use outside this
8 Commonwealth by a then nonresident natural person or a
9 business entity not actually doing business within this
10 Commonwealth, who later brings the tangible personal
11 property into this Commonwealth in connection with the
12 person's or entity's establishment of a permanent
13 business or residence in this Commonwealth, provided that
14 the property was purchased more than six months prior to
15 the date it was first brought into this Commonwealth or
16 prior to the establishment of the business or residence,
17 whichever first occurs.

18 (ii) This paragraph shall not apply to tangible
19 personal property temporarily brought into this
20 Commonwealth for the performance of contracts for the
21 construction, reconstruction, remodeling, repairing and
22 maintenance of real estate.

23 (4) (Reserved).

24 (5) The sale at retail or use of steam, natural and
25 manufactured and bottled gas, fuel oil or electricity when
26 purchased directly by the user solely for the user's own
27 residential use.

28 (6) (Reserved).

29 (7) (Reserved).

30 (8) (Reserved).

1 (9) (Reserved).

2 (10) (i) The sale at retail to or use by any charitable
3 organization, volunteer firefighters' organization or
4 nonprofit educational institution or a religious
5 organization for religious purposes of tangible personal
6 property or services other than pursuant to a
7 construction contract.

8 (ii) This paragraph shall not apply with respect to
9 any tangible personal property or services used in any
10 unrelated trade or business carried on by the
11 organization or institution or with respect to any
12 materials, supplies and equipment used and transferred to
13 the organization or institution in the construction,
14 reconstruction, remodeling, renovation, repairs and
15 maintenance of any real estate structure, other than
16 building machinery and equipment, except materials and
17 supplies when purchased by the organization or
18 institution for routine maintenance and repairs.

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

23 (12) (i) The sale at retail to, or use by the United
24 States, this Commonwealth or its instrumentalities or
25 political subdivisions, nonpublic schools, charter
26 schools, cyber charter schools or vocational schools of
27 tangible personal property or services.

28 (ii) This paragraph includes the sale at retail to a
29 supervisor of a home education program of tangible
30 personal property or services used exclusively for the

1 home education program.

2 (iii) As used in this paragraph, the terms
3 "nonpublic school," "charter school," "cyber charter
4 school," "vocational school," "supervisor" and "home
5 education program" shall have the meanings given to them
6 in the Public School Code of 1949.

7 (13) The sale at retail, or use of wrapping paper,
8 wrapping twine, bags, cartons, tape, rope, labels,
9 nonreturnable containers and all other wrapping supplies,
10 when such use is incidental to the delivery of any personal
11 property, except that any charge for wrapping or packaging
12 shall be subject to tax at the rate imposed by section 702.

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

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

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

30 (17) The sale at retail or use of prescription

1 medicines, drugs or medical supplies, crutches and
2 wheelchairs for the use of persons with disabilities and
3 invalids, artificial limbs, artificial eyes and artificial
4 hearing devices when designed to be worn on the person of the
5 purchaser or user, false teeth and materials used by a
6 dentist in dental treatment, eyeglasses when especially
7 designed or prescribed by an ophthalmologist, oculist or
8 optometrist for the personal use of the owner or purchaser
9 and artificial braces and supports designed solely for the
10 use of persons with disabilities or any other therapeutic,
11 prosthetic or artificial device designed for the use of a
12 particular individual to correct or alleviate a physical
13 incapacity, including, but not limited to, hospital beds,
14 iron lungs and kidney machines.

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

16 (19) (Reserved).

17 (20) (Reserved).

18 (21) (Reserved).

19 (22) (Reserved).

20 (23) (Reserved).

21 (24) The sale at retail or use of motor vehicles,
22 trailers and semitrailers, or bodies attached to the chassis
23 thereof, sold to a nonresident of this Commonwealth to be
24 used outside this Commonwealth and which are registered in a
25 state other than this Commonwealth within 20 days after
26 delivery to the vendee.

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

28 (26) The sale at retail or use of clothing as defined in
29 section 701.1(ggg) with a purchase price of less than \$50.

30 (27) (Reserved).

1 (28) (Reserved).

2 (29) The sale at retail or use of food and beverages
3 authorized for the Women, Infants and Children Program under
4 section 17 of the Child Nutrition Act of 1966 (Public Law 89-
5 642, 42 U.S.C. § 1786) as administered by the Department of
6 Health.

7 (30) Meals and student fees imposed by educational
8 institutions as described in NAICS industry 611110.

9 (31) (Reserved).

10 (32) (Reserved).

11 (33) (Reserved).

12 (34) (Reserved).

13 (35) (Reserved).

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

16 (37) (Reserved).

17 (38) (Reserved).

18 (39) The sale at retail or use of fish feed purchased by
19 or on behalf of sportsmen's clubs, fish cooperatives or
20 nurseries approved by the Pennsylvania Fish Commission.

21 (40) The sale at retail of supplies and materials to
22 tourist promotion agencies, which receive grants from the
23 Commonwealth, for distribution to the public as promotional
24 material or the use of such supplies and materials by said
25 agencies for said purposes.

26 (41) (Reserved).

27 (42) The sale or use of brook trout (*salvelinus*
28 *fontinalis*), brown trout (*Salmo trutta*) or rainbow trout
29 (*Salmo gairdneri*).

30 (43) The sale at retail or use of buses to be used

1 exclusively for the transportation of children for school
2 purposes.

3 (44) The sale at retail or use of firewood. For the
4 purpose of this paragraph, firewood shall mean the product of
5 trees when severed from the land and cut into proper lengths
6 for burning and pellets made from pure wood sawdust if used
7 for fuel for cooking, hot water production or to heat
8 residential dwellings.

9 (45) (Reserved).

10 (46) The sale at retail or use of tangible personal
11 property purchased in accordance with the Food Stamp Act of
12 1977, as amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029).

13 (47) (Reserved).

14 (48) (Reserved).

15 (49) (i) The sale at retail or use of food and
16 beverages by nonprofit associations which support sports
17 programs.

18 (ii) The following words and phrases when used in
19 this paragraph shall have the meanings given to them in
20 this subparagraph unless the context clearly indicates
21 otherwise:

22 "Nonprofit association." An entity which is
23 organized as a nonprofit corporation or nonprofit
24 unincorporated association under the laws of this
25 Commonwealth or the United States or any entity which is
26 authorized to do business in this Commonwealth as a
27 nonprofit corporation or unincorporated association under
28 the laws of this Commonwealth, including, but not limited
29 to, youth or athletic associations, volunteer fire,
30 ambulance, religious, charitable, fraternal, veterans,

1 civic, or any separately chartered auxiliary of the
2 foregoing, if organized and operated on a nonprofit
3 basis.

4 "Sports program." Baseball, softball, football,
5 basketball, soccer and any other competitive sport
6 formally recognized as a sport by the United States
7 Olympic Committee as specified by and under the
8 jurisdiction of the Amateur Sports Act of 1978 (Public
9 Law 95-606, 36 U.S.C. Ch. 2205), the Amateur Athletic
10 Union or the National Collegiate Athletic Association.
11 The term shall be limited to a program or that portion of
12 a program that is organized for recreational purposes and
13 whose activities are substantially for such purposes and
14 which is primarily for participants who are 18 years of
15 age or younger or whose 19th birthday occurs during the
16 year of participation or the competitive season,
17 whichever is longer. There shall, however, be no age
18 limitation for programs operated for persons with
19 physical handicaps or persons with mental retardation.

20 "Support." The funds raised from sales are used to
21 pay the expenses of a sports program or the nonprofit
22 association sells the food and beverages at a location
23 where a sports program is being conducted under this
24 chapter or the Tax Reform Code of 1971.

25 (50) (Reserved).

26 (51) The sale at retail or use of interior office
27 building cleaning services but only as relates to the costs
28 of the supplied employee, which costs are wages, salaries,
29 bonuses and commissions, employment benefits, expense
30 reimbursements and payroll and withholding taxes, to the

1 extent that these costs are specifically itemized or that
2 these costs in aggregate are stated in billings from the
3 vendor or supplying entity.

4 (52) (Reserved).

5 (53) (Reserved).

6 (54) (Reserved).

7 (55) (Reserved).

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

12 (i) The equipment or devices are used by a person
13 who, by virtue of a physical disability, is unable to
14 ascend or descend stairs without the aid of such
15 equipment or device.

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

18 (iii) A physician has certified the physical
19 disability of the person in whose residence the equipment
20 or device is installed or used.

21 (57) The sale at retail to or use by a construction
22 contractor of building machinery and equipment and services
23 thereto that are:

24 (i) transferred pursuant to a construction contract
25 for any charitable organization, volunteer firemen's
26 organization, nonprofit educational institution or
27 religious organization for religious purposes, provided
28 that the building machinery and equipment and services
29 thereto are not used in any unrelated trade or business;
30 or

1 (ii) transferred to the United States or the
2 Commonwealth or its instrumentalities or political
3 subdivisions.

4 (58) (Reserved).

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

9 (60) (Reserved).

10 (61) (Reserved).

11 (62) The sale at retail or use of tangible personal
12 property or services which are directly used in farming,
13 dairying or agriculture when engaged in as a business
14 enterprise, regardless of whether the sale is made to the
15 person directly engaged in the business enterprise or to a
16 person contracting with the person directly engaged in the
17 business enterprise for the production of food.

18 (63) (Reserved).

19 (64) The sale at retail to or use by a construction
20 contractor, employed by a public school district pursuant to
21 a construction contract, of any materials and building
22 supplies which, during construction or reconstruction, are
23 made part of any public school building utilized for
24 instructional classroom education within this Commonwealth,
25 if the construction or reconstruction:

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

29 (ii) takes place during the period when there is a
30 declaration of disaster emergency under 35 Pa.C.S. §

1 7301(c) (relating to general authority of Governor).

2 (65) (Reserved).

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

7 (i) "court" includes:

8 (A) an appellate court as defined in 42 Pa.C.S.
9 § 102 (relating to definitions);

10 (B) A court of common pleas as defined in 42
11 Pa.C.S. § 102; or

12 (C) the minor judiciary as defined in 42 Pa.C.S.
13 § 102;

14 (ii) "government agency" means an agency as defined
15 in section 102 of the act of February 14, 2008 (P.L.6,
16 No.3), known as the Right-to-Know Law; and

17 (iii) "official document" means a record as defined
18 in section 102 of the Right-to-Know Law. The term shall
19 include notes of court testimony, deposition transcripts,
20 driving records, accident reports, birth and death
21 certificates, deeds, divorce decrees and other similar
22 documents.

23 (67) The sale at retail or use of repair or replacement
24 parts, including the installation of those parts, exclusively
25 for use in helicopters and similar rotorcraft or in
26 overhauling or rebuilding of helicopters and similar
27 rotorcraft or helicopters and similar rotorcraft components.

28 (68) The sale at retail or use of helicopters and
29 similar rotorcraft.

30 (69) The sale at retail or use of aircraft parts,

1 services to aircraft and aircraft components. For purposes of
2 this paragraph, the term "aircraft" shall include a fixed-
3 wing aircraft, powered aircraft, tilt-rotor or tilt-wing
4 aircraft, glider or unmanned aircraft.

5 (70) (Reserved).

6 (71) The sale at retail or use of tuition.

7 (72) But for the services as defined in section
8 701.1(w), (x), (y), (z), (aa), (bb), (cc), (jj) and (kk), the
9 sale at retail or use of any of the following business,
10 professional or technical services performed by a business
11 and rendered to another business:

12 (i) Legal services as defined by NAICS industry
13 5411.

14 (ii) Architectural, engineering and related services
15 as defined by NAICS industry 5413.

16 (iii) Accounting, auditing and bookkeeping services
17 as defined by NAICS industry 5412.

18 (iv) Specialized design services as defined by NAICS
19 industry 5414.

20 (v) Advertising, public relations and related
21 services as defined by NAICS industry 5418.

22 (vi) Services to buildings and dwellings as defined
23 by NAICS industry 5617.

24 (vii) Scientific, environmental and technical
25 consulting services as defined by NAICS industry 5416.

26 (viii) Scientific research and development services
27 as defined by NAICS industries 5417 and 5419.

28 (ix) Information services as defined by NAICS
29 subsector 519.

30 (x) Administrative services as defined by NAICS

1 industries 5611, 5612, 5613, 5614, 5615 and 5619.

2 (xi) Custom programming, design and data processing
3 services as defined by NAICS industry 5415.

4 (xii) Parking lot and garage services as defined by
5 NAICS industry 8129.

6 (73) The sale at retail or use of legal services
7 relating to family law or criminal law.

8 (74) The sale at retail, or the use of motion picture
9 film rented or licensed from a distributor for the purpose of
10 commercial exhibition.

11 (75) The sale at retail or use of services performed by
12 minors under 18 years of age and not on behalf of another
13 person.

14 (76) The sale at retail or use of services provided by
15 employees to their employers in exchange for wages and
16 salaries when such services are rendered in the ordinary
17 course of employment.

18 (77) The sale at retail or use of goods or services that
19 are part of a Medicare Part B transaction.

20 Section 705. Alternate imposition of tax.

21 (a) General rule.--If any person actively and principally
22 engaged in the business of selling new or used motor vehicles,
23 trailers or semitrailers, and registered with the department in
24 the "dealer's class," acquires a motor vehicle, trailer or
25 semitrailer for the purpose of resale, and prior to such resale,
26 uses the motor vehicle, trailer or semitrailer for a taxable use
27 under this chapter or the Tax Reform Code of 1971, the person
28 may pay a tax equal to 7% of the fair rental value of the motor
29 vehicle, trailer or semitrailer during use.

30 (b) Aircraft.--A commercial aircraft operator who acquires

1 an aircraft for the purpose of resale, or lease, or is entitled
2 to claim another valid exemption at the time of purchase, and
3 subsequent to the purchase, periodically uses the same aircraft
4 for a taxable use under this chapter or the Tax Reform Code of
5 1971, may elect to pay a tax equal to 7% of the fair rental
6 value of the aircraft during such use.

7 (c) Applicability.--This section shall not apply to the use
8 of a vehicle as a wrecker, parts truck, delivery truck or
9 courtesy car.

10 Section 706. Credit against tax.

11 (a) Tax paid to another state.--

12 (1) A credit against the tax imposed by section 702
13 shall be granted with respect to tangible personal property
14 or services purchased for use outside the Commonwealth equal
15 to the tax paid to another state by reason of the imposition
16 by such other state of a tax similar to the tax imposed by
17 this chapter.

18 (2) No credit under paragraph (1) shall be granted
19 unless the other state grants substantially similar tax
20 relief by reason of the payment of tax under this chapter or
21 under the Tax Reform Code of 1971.

22 (b) (Reserved).

23 SUBCHAPTER D

24 LICENSES

25 Section 708. Licenses.

26 (a) Duty to obtain license.--Every person maintaining a
27 place of business in this Commonwealth, selling or leasing
28 services or tangible personal property, the sale or use of which
29 is subject to tax and who has not obtained a license from the
30 department, shall, prior to the beginning of business, make

1 application to the department, on a form prescribed by the
2 department, for a license. If such person maintains more than
3 one place of business in this Commonwealth, the license shall be
4 issued for the principal place of business in this Commonwealth.

5 (b) Criteria for issuance of license.--

6 (1) The department shall, after the receipt of an
7 application, issue the license applied for under subsection

8 (a) if the applicant filed all required State tax reports and
9 paid any State taxes not subject to a timely perfected
10 administrative or judicial appeal or subject to a duly
11 authorized deferred payment plan. The license shall be
12 nonassignable.

13 (2) All licenses in effect on the effective date of this
14 section under former Article III of the Tax Reform Code of
15 1971 and all licenses issued or renewed on or after the
16 effective date of this section shall be valid for a period of
17 five years.

18 (b.1) Refusal of license.--

19 (1) If an applicant for a license or any person holding
20 a license has not filed all required State tax reports and
21 paid any State taxes not subject to a timely perfected
22 administrative or judicial appeal or subject to a duly
23 authorized deferred payment plan, the department may refuse
24 to issue, may suspend or may revoke said license.

25 (2) The department shall notify the applicant or
26 licensee of any refusal, suspension or revocation. The notice
27 shall contain a statement that the refusal, suspension or
28 revocation may be made public. The notice shall be made by
29 first class mail.

30 (3) An applicant or licensee aggrieved by the

1 determination of the department may file an appeal pursuant
2 to the provisions for administrative appeals in this chapter,
3 except that the appeal must be filed within 30 days of the
4 date of the notice. In the case of a suspension or revocation
5 which is appealed, the license shall remain valid pending a
6 final outcome of the appeals process.

7 (4) Notwithstanding section 774 or sections 353(f),
8 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform Code of
9 1971, or any other provision of law to the contrary, if no
10 appeal is taken or if an appeal is taken and denied at the
11 conclusion of the appeal process, the department may
12 disclose, by publication or otherwise, the identity of a
13 person and the fact that the person's license has been
14 refused, suspended or revoked under this subsection.
15 Disclosure may include the basis for refusal, suspension or
16 revocation.

17 (c) Penalties.--

18 (1) A person that maintains a place of business in this
19 Commonwealth for the purpose of selling or leasing services
20 or tangible personal property, the sale or use of which is
21 subject to tax, without having a valid license at the time of
22 the sale or lease shall be guilty of a summary offense and,
23 upon conviction thereof, be sentenced to pay a fine of not
24 less than \$300 nor more than \$1,500 and, in default thereof,
25 a term of imprisonment of not less than five days nor more
26 than 30 days.

27 (2) The penalties imposed by this subsection shall be in
28 addition to any other penalties imposed by this chapter.

29 (3) For purposes of this subsection, the offering for
30 sale or lease of any service or tangible personal property,

1 the sale or use of which is subject to tax, during any
2 calendar day shall constitute a separate violation.

3 (4) The secretary may designate employees of the
4 department to enforce the provisions of this subsection. The
5 employees shall exhibit proof of and be within the scope of
6 the designation when instituting proceedings as provided by
7 the Pennsylvania Rules of Criminal Procedure.

8 (d) Effect of failure to obtain license.--Failure of any
9 person to obtain a license shall not relieve that person of
10 liability to pay the tax imposed by this chapter.

11 SUBCHAPTER E

12 HOTEL OCCUPANCY TAX

13 Section 709. Definitions.

14 (a) General rule.--The following words and phrases when used
15 in this subchapter shall have the meanings given to them in this
16 section unless the context clearly indicates otherwise:

17 "Hotel." A building or buildings in which the public may,
18 for a consideration, obtain sleeping accommodations. The term
19 does not include any charitable, educational or religious
20 institution summer camp for children, hospital or nursing home.

21 "Occupancy." The use or possession or the right to the use or
22 possession by any person, other than a permanent resident, of
23 any room or rooms in a hotel for any purpose or the right to the
24 use or possession of the furnishings or to the services and
25 accommodations accompanying the use and possession of the room
26 or rooms.

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

1 "Operator." Any person who operates a hotel.

2 "Permanent resident." Any occupant who has occupied or has
3 the right to occupancy of any room or rooms in a hotel for at
4 least 30 consecutive days.

5 "Rent." The consideration received for occupancy valued in
6 money, whether received in money or otherwise, including all
7 receipts, cash, credits and property or services of any kind or
8 nature, and also any amount for which the occupant is liable for
9 the occupancy without any deduction. The term "rent" shall not
10 include a gratuity.

11 (b) Other definitions.--The following words and phrases,
12 when used in Subchapters D and F, shall, in addition to the
13 meaning ascribed to them by section 701, have the meaning
14 ascribed to them in this subsection, except where the context
15 clearly indicates a different meaning:

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

17 Being the operator of a hotel in this Commonwealth.

18 "Purchase at retail." Occupancy.

19 "Purchase price." Rent.

20 "Purchaser." Occupant.

21 "Sale at retail." The providing of occupancy to an occupant
22 by an operator.

23 "Services." Occupancy.

24 "Tangible personal property." Occupancy.

25 "Use." Occupancy.

26 "Vendor." Operator.

27 Section 710. Imposition of tax.

28 There is hereby imposed an excise tax of 7% of the rent on
29 every occupancy of a room or rooms in a hotel in this
30 Commonwealth, which tax shall be collected by the operator from

1 the occupant and paid over to the Commonwealth as provided in
2 this act.

3 Section 711. Seasonal tax returns.

4 Notwithstanding any other provisions in this chapter or the
5 Tax Reform Code of 1971, the department may, by regulation,
6 waive the requirement for the filing of quarterly returns in the
7 case of any operator whose hotel is operated only during certain
8 seasons of the year, and may provide for the filing of returns
9 by such persons at times other than those provided by section
10 721.

11 SUBCHAPTER F

12 PROCEDURE AND ADMINISTRATION

13 Section 715. Persons required to make returns.

14 Every person required to pay tax to the department or collect
15 and remit tax to the department shall file returns with respect
16 to the tax.

17 Section 716. Form of returns.

18 The returns required by section 715 shall be on forms
19 prescribed by the department and shall show such information
20 with respect to the taxes imposed by this chapter as the
21 department may reasonably require.

22 Section 717. Time for filing returns.

23 (a) Quarterly and monthly returns.--

24 (1) For the year in which this chapter becomes
25 effective, and in each year thereafter, a return shall be
26 filed quarterly by every licensee on or before the 20th day
27 of April, July, October and January for the three months
28 ending the last day of March, June, September and December.

29 (2) For the year in which this chapter becomes
30 effective, and in each year thereafter, a return shall be

1 filed monthly with respect to each month by every licensee
2 whose actual tax liability for the third calendar quarter of
3 the preceding year equals or exceeds \$600 and is less than
4 \$25,000. Such returns shall be filed on or before the 20th
5 day of the next succeeding month with respect to which the
6 return is made. Any licensee required to file monthly returns
7 under this act shall be relieved from filing quarterly
8 returns.

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

14 (i) Either of the following:

15 (A) An amount equal to 50% of the licensee's
16 actual tax liability for the same month in the
17 preceding calendar year if the licensee was a monthly
18 filer or, if the licensee was a quarterly or
19 semiannual filer, 50% of the licensee's average
20 actual tax liability for that tax period in the
21 preceding calendar year. The average actual tax
22 liability shall be the actual tax liability for the
23 tax period divided by the number of months in that
24 tax period. For licensees that were not in business
25 during the same month in the preceding calendar year
26 or were in business for only a portion of that month,
27 the amount shall be 50% of the average actual tax
28 liability for each tax period the licensee has been
29 in business. If the licensee is filing a tax
30 liability for the first time with no preceding tax

1 periods, the amount shall be zero.

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

5 (ii) An amount equal to the taxes due for the
6 preceding month, less any amounts paid in the preceding
7 month as required by subparagraph (i).

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

14 (5) The amount due under paragraph (3)(i) or (4) shall
15 be due the same day as the remainder of the preceding month's
16 tax.

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

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

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

25 (9) If a licensee required to remit payments under
26 paragraph (3) or (4) fails to make a timely payment or makes
27 a payment which is less than the required amount, the
28 department may, in addition to any applicable penalties,
29 impose an additional penalty equal to 5% of the amount due
30 under paragraph (3) or (4) which was not timely paid. The

1 penalty under this paragraph shall be determined when the tax
2 return is filed for the tax period.

3 (b) Annual returns.--No annual return shall be filed, except
4 as may be required by rules and regulations of the department
5 promulgated and published at least 60 days prior to the end of
6 the year with respect to which the returns are made. Where such
7 annual returns are required, licensees shall not be required to
8 file such returns prior to the 20th day of the year succeeding
9 the year with respect to which the returns are made.

10 (c) Other returns.--Any person, other than a licensee,
11 liable to pay to the department any tax under this chapter,
12 shall file a return on or before the 20th day of the month
13 succeeding the month in which the person becomes liable for the
14 tax.

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

20 Section 718. Extension of time for filing returns.

21 The department may, on written application and for good cause
22 shown, grant a reasonable extension of time for filing any
23 return required under this subchapter. However, the time for
24 making a return shall not be extended for more than three
25 months.

26 Section 719. Place for filing returns.

27 Returns shall be filed with the department at its main office
28 or at any branch office which it may designate for filing
29 returns.

30 Section 720. Timely mailing treated as timely filing and

1 payment.

2 (a) General rule.--Notwithstanding the provisions of any
3 State tax law to the contrary, whenever a report or payment of
4 all or any portion of a State tax is required by law to be
5 received by the department or other agency of the Commonwealth
6 on or before a day certain, the taxpayer shall be deemed to have
7 complied with the law if the letter transmitting the report or
8 payment of the tax which has been received by the department is
9 postmarked by the United States Postal Service on or prior to
10 the final day on which the payment is to be received.

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

15 Section 721. Payment of tax.

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

19 Section 722. Time of payment.

20 (a) General rule.--The tax imposed by this chapter and
21 incurred or collected by a licensee shall be due and payable by
22 the licensee on the day the return is required to be filed under
23 the provisions of section 717 and the payment must accompany the
24 return for the preceding period.

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

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

4 Section 723. Other times for payment.

5 In the event that the department authorizes a taxpayer to
6 file a return at other times than those specified in section
7 717, the tax due shall be paid at the time the return is filed.

8 Section 724. Place for payment.

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

11 Section 725. Tax held in trust for Commonwealth.

12 (a) General rule.--All taxes collected by any person from
13 purchasers in accordance with this chapter and all taxes
14 collected by any person from purchasers under color of this
15 chapter which have not been properly refunded by the person to
16 the purchaser shall constitute a trust fund for the
17 Commonwealth, and such trust shall be enforceable against such
18 person, the person's representatives and any person, other than
19 a purchaser to whom a refund has been made properly, receiving
20 any part of the fund without consideration, or knowing that the
21 taxpayer is committing a breach of trust.

22 (b) Presumption.--Any person receiving payment of a lawful
23 obligation of the taxpayer from the fund identified under
24 subsection (a) shall be presumed to have received the same in
25 good faith and without any knowledge of the breach of trust.

26 (c) Right to petition and appeal.--Any person, other than a
27 taxpayer, against whom the department makes any claim under this
28 section shall have the same right to petition and appeal as is
29 given taxpayers by any provisions of this subchapter.

30 Section 726. (Reserved).

1 Section 727. Discount.

2 (a) General rule.--Subject to the provisions of subsection
3 (b), 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 tax due by the
9 licensee and as consideration of the prompt payment.

10 (b) Types of periodic filers.--For returns filed on or after
11 the effective date of this section, the discount under
12 subsection (a) shall be limited to the following:

- 13 (1) For a monthly filer, \$25 per return.
- 14 (2) For a quarterly filer, \$75 per return.
- 15 (3) For a semiannual filer, \$150 per return.

16 Section 728. (Reserved).

17 Section 729. (Reserved).

18 Section 730. Assessment.

19 The department shall make the inquiries, determinations and
20 assessments of the tax, including interest, additions and
21 penalties, imposed by this chapter. A notice of assessment and
22 demand for payment shall be mailed to the taxpayer. The notice
23 shall set forth the basis of the assessment.

24 Section 731. Mode and time of assessment.

25 (a) Duty to examine.--

26 (1) Within a reasonable time after any return is filed,
27 the department shall examine it and, if the return shows a
28 greater tax due or collected than the amount of tax remitted
29 with the return, the department shall issue an assessment for
30 the difference, together with an addition of 3% of the

1 difference, which shall be paid to the department within ten
2 days after a notice of the assessment has been mailed to the
3 taxpayer.

4 (2) If such assessment is not paid within ten days,
5 there shall be added and paid to the department an additional
6 3% of the difference for each month during which the
7 assessment remains unpaid. The total of all additions shall
8 not exceed 18% of the difference shown on the assessment.

9 (b) Understated tax on returns.--

10 (1) If the department determines that any return or
11 returns of any taxpayer understates the amount of tax due, it
12 shall determine the proper amount and shall ascertain the
13 difference between the amount of tax shown in the return and
14 the amount determined. The difference may be referred to as
15 the deficiency.

16 (2) The department shall send a notice of assessment for
17 the deficiency and the reasons to the taxpayer.

18 (3) The taxpayer shall pay the deficiency to the
19 department within 30 days after a notice of the assessment
20 has been mailed to the taxpayer.

21 (c) Estimated assessments.--

22 (1) In the event that any taxpayer fails to file a
23 return required by this chapter, the department may make an
24 estimated assessment, based on information available, of the
25 proper amount of tax owed by the taxpayer and shall send a
26 notice of assessment in the estimated amount to the taxpayer.

27 (2) The taxpayer shall pay the tax within 30 days after
28 a notice of the estimated assessment has been mailed to the
29 taxpayer.

30 (d) Studies.--

1 (1) The department may conduct the studies necessary to
2 compute effective rates by business classification, based
3 upon the ratio between the tax required to be collected and
4 taxable sales and to use such rates in arriving at the
5 apparent tax liability of a taxpayer.

6 (2) Any assessment based on such rates shall be prima
7 facie correct, except that the rate shall not be considered
8 where a taxpayer establishes the rate is based on a sample
9 inapplicable to the taxpayer.

10 Section 732. Reassessment.

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

14 Section 733. Assessment to recover erroneous refunds.

15 The department may, within two years of the granting of any
16 refund or credit, or within the period in which an assessment
17 could have been filed by the department with respect to the
18 transaction pertaining to which the refund was granted,
19 whichever period shall last occur, file an assessment to recover
20 any refund or part thereof or credit or part thereof which was
21 erroneously made or allowed.

22 Section 734. (Reserved).

23 Section 735. (Reserved).

24 Section 736. Burden of proof.

25 In all cases of petitions for reassessment, review or appeal,
26 the burden of proof shall be on the petitioner or appellant, as
27 applicable.

28 Section 737. Collection of tax.

29 (a) General rule.--The department shall collect the tax in
30 the manner provided by law for the collection of taxes imposed

1 by the laws of this Commonwealth.

2 (b) Collection by persons maintaining a place of business in
3 the Commonwealth.--

4 (1) Every person maintaining a place of business in this
5 Commonwealth and selling or leasing tangible personal
6 property or services, the sale or use of which is subject to
7 tax shall collect the tax from the purchaser or lessee at the
8 time of making the sale or lease, and shall remit the tax to
9 the department, unless the collection and remittance is
10 otherwise provided for in this chapter.

11 (2) (i) Every person not otherwise required to collect
12 tax that delivers tangible personal property to a
13 location within this Commonwealth and that unpacks,
14 positions, places or assembles the tangible personal
15 property shall collect the tax from the purchaser at the
16 time of delivery and shall remit the tax to the
17 department if the person delivering the tangible personal
18 property is responsible for collecting any portion of the
19 purchase price of the tangible personal property
20 delivered and the purchaser has not provided the person
21 with proof that the tax imposed by this chapter has been
22 or will be collected by the seller or that the purchaser
23 provided the seller with a valid exemption certificate.

24 (ii) Every person required to collect tax under this
25 paragraph shall be deemed to be selling or leasing
26 tangible personal property or services, the sale or use
27 of which is subject to the tax imposed under section 702.

28 (3) Any person required under this chapter to collect
29 tax from another person, who shall fail to collect the proper
30 amount of the tax, shall be liable for the full amount of the

1 tax which the person should have collected.

2 (c) Certificate for tax-exempt sales or leases.--

3 (1) If the tax does not apply to the sale or lease of
4 tangible personal property or services, the purchaser or
5 lessee shall furnish to the vendor a certificate indicating
6 that the sale is not legally subject to the tax. The
7 certificate shall be in substantially such form as the
8 department may, by regulation, prescribe.

9 (2) Where the tangible personal property or service is
10 of a type which is never subject to the tax imposed or where
11 the sale or lease of tangible personal property is in
12 interstate commerce, the certificate need not be furnished.

13 (3) Where a series of transactions are not subject to
14 tax, a purchaser or user may furnish the vendor with a single
15 exemption certificate in substantially such form and valid
16 for such period of time as the department may, by regulation,
17 prescribe.

18 (4) The department shall provide all school districts
19 and intermediate units with a permanent tax exemption number.

20 (5) An exemption certificate, which is complete and
21 regular and on its face discloses a valid basis of exemption
22 if taken in good faith, shall relieve the vendor from the
23 liability imposed by this section.

24 (6) An exemption certificate:

25 (i) accepted by a vendor from a natural person
26 domiciled within this Commonwealth or any association,
27 fiduciary, partnership, corporation or other entity,
28 either authorized to do business within this Commonwealth
29 or having an established place of business within this
30 Commonwealth, in the ordinary course of the vendor's

1 business;

2 (ii) which on its face discloses a valid basis of
3 exemption consistent with the activity of the purchaser
4 and character of the property or service being purchased
5 or which is provided to the vendor by a charitable,
6 religious, educational or volunteer firefighters'
7 organization;

8 (iii) contains the organization's charitable
9 exemption number; and

10 (iv) which, in the case of any purchase costing \$200
11 or more, is accompanied by a sworn declaration on a form
12 to be provided by the department of an intended usage of
13 the property or service which would render it nontaxable,
14 shall be presumed to be taken in good faith and the burden of
15 proving otherwise shall be on the department.

16 (d) Direct payment permits.--

17 (1) The department may authorize a purchaser or lessee
18 who acquires tangible personal property or services under
19 circumstances which make it impossible at the time of
20 acquisition to determine the manner in which the tangible
21 personal property or service will be used, to pay the tax
22 directly to the department, and waive the collection of the
23 tax by the vendor.

24 (2) No such authority shall be granted or exercised,
25 except on application to the department, and the issuance by
26 the department, in its discretion, of a direct payment
27 permit.

28 (3) If a direct payment permit is granted, its use shall
29 be subject to conditions specified by the department, and the
30 payment of tax on all acquisitions pursuant to the permit

1 shall be made directly to the department by the permit
2 holder.

3 Section 738. Collection of tax on motor vehicles, trailers and
4 semitrailers.

5 (a) General rule.--Notwithstanding the provisions of section
6 737(b)(1), tax due on the sale at retail or use of a motor
7 vehicle, trailer or semitrailer, except mobile homes as defined
8 in 75 Pa.C.S. (relating to vehicles), required by law to be
9 registered with the department under the provisions of 75
10 Pa.C.S. shall be paid by the purchaser or user directly to the
11 department on application to the department for an issuance of a
12 certificate of title on the motor vehicle, trailer or
13 semitrailer.

14 (b) No issuance of certificate of title without payment of
15 tax.--

16 (1) The department shall not issue a certificate of
17 title until the tax has been paid, or evidence satisfactory
18 to the department has been given to establish that tax is not
19 due.

20 (2) The department may cancel or suspend any record of
21 certificate of title or registration of a motor vehicle,
22 trailer or semitrailer when the check received in payment of
23 the tax on the vehicle is not paid on demand.

24 (c) First encumbrance.--The tax shall be considered as a
25 first encumbrance against the vehicle and the vehicle may not be
26 transferred without first payment in full of the tax and any
27 interest additions or penalties which shall accrue in accordance
28 with this chapter.

29 Section 739. Precollection of tax.

30 (a) Authorization.--

1 (1) Except as otherwise provided under paragraph (2),
2 the department may, by regulation, authorize or require
3 particular categories of vendors selling tangible personal
4 property for resale to precollect from the purchaser the tax
5 which the purchaser will collect on making a sale at retail
6 of the tangible personal property.

7 (2) The department, pursuant to this section, may not
8 require a vendor to precollect tax from a purchaser who
9 purchases for resale more than \$1,000 worth of tangible
10 personal property from the vendor per year.

11 (b) No license required.--In any case in which a vendor has
12 been authorized to prepay the tax to the person from whom the
13 vendor purchased the tangible personal property for resale, the
14 vendor authorized to prepay the tax may, under the regulations
15 of the department, be relieved from the duty to secure a license
16 if the duty arises only by reason of the vendor's sale of the
17 tangible personal property with respect to which the vendor is,
18 under authorization of the department, to prepay the tax.

19 (c) Reimbursement.--

20 (1) The vendor, on making a sale at retail of tangible
21 personal property with respect to which the vendor has
22 prepaid the tax, must separately state at the time of resale
23 the proper amount of tax on the transaction, and reimburse
24 itself on account of the taxes which the vendor has
25 previously prepaid.

26 (2) If the vendor collects a greater amount of tax in
27 any reporting period than the vendor previously prepaid on
28 purchase of the goods with respect to which the vendor
29 prepaid the tax, the vendor must file a return and remit the
30 balance to the Commonwealth at the time at which a return

1 would otherwise be due with respect to the sales.

2 Section 740. Bulk and auction sales.

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

11 Section 741. (Reserved).

12 Section 742. Lien for taxes.

13 (a) Nature and effect of lien.--

14 (1) If any person liable to pay any tax neglects or
15 refuses to pay the same after demand, the amount, including
16 any interest, addition or penalty, together with any costs
17 that may accrue in addition, shall be a lien in favor of the
18 Commonwealth on the property, both real and personal, of the
19 person but only after same has been entered and docketed of
20 record by the prothonotary of the county where the property
21 is situated.

22 (2) The department may, at any time, transmit to the
23 prothonotaries of the respective counties certified copies of
24 all liens for taxes imposed by this chapter or the Tax Reform
25 Code of 1971 and penalties and interest.

26 (3) Each prothonotary receiving the lien shall enter and
27 docket the lien of record in the prothonotary's office, which
28 lien shall be indexed as judgments are now indexed.

29 (4) No prothonotary shall require, as a condition
30 precedent to the entry of the liens, the payment of the costs

1 incident thereto.

2 (b) Priority status.--

3 (1) The lien imposed under this section shall have
4 priority from the date of its recording, and shall be fully
5 paid and satisfied out of the proceeds of any judicial sale
6 of property before any other obligation, judgment, claim,
7 lien or estate to which the property may subsequently become
8 subject, except costs of the sale and of the writ on which
9 the sale was made, and real estate taxes and municipal claims
10 against such property, but shall be subordinate to mortgages
11 and other liens existing and duly recorded or entered of
12 record prior to the recording of the tax lien.

13 (2) In the case of a judicial sale of property, subject
14 to a lien imposed under this section, on a lien or claim over
15 which the lien imposed under this section has priority, the
16 sale shall discharge the lien imposed under this section to
17 the extent only that the proceeds are applied to its payment,
18 and the lien shall continue in full force and effect as to
19 the balance remaining unpaid.

20 (3) There shall be no inquisition or condemnation upon
21 any judicial sale of real estate made by the Commonwealth
22 pursuant to the provisions of this section.

23 (4) (i) The lien of the taxes, interest and penalties,
24 shall continue for five years from the date of entry, and
25 may be revived and continued in the manner now or
26 hereafter provided for renewal of judgments, or as may be
27 provided in The Fiscal Code, and a writ of execution may
28 directly issue upon the lien without the issuance and
29 prosecution to judgment of a writ of scire facias.

30 (ii) Not less than ten days before issuance of any

1 execution on the lien, notice of the filing and the
2 effect of the lien shall be sent by registered mail to
3 the taxpayer at the taxpayer's last known post office
4 address.

5 (iii) The lien shall have no effect on any stock of
6 goods, wares or merchandise regularly sold or leased in
7 the ordinary course of business by the person against
8 whom the lien has been entered, unless and until a writ
9 of execution has been issued and a levy made on the stock
10 of goods, wares and merchandise.

11 (c) Penalty.--Any willful failure of any prothonotary to
12 carry out any duty imposed on the prothonotary under this
13 section shall be a misdemeanor, and, upon conviction, the
14 prothonotary shall be sentenced to pay a fine not more than
15 \$1,000 and costs of prosecution or to a term of imprisonment not
16 exceeding one year, or both.

17 (d) Priority payment from distribution.--

18 (1) Except as otherwise provided under the law, in the
19 distribution, voluntary or compulsory, in receivership,
20 bankruptcy or otherwise, of the property or estate of any
21 person, all taxes imposed by this chapter which are due and
22 unpaid and are not collectible under section 725 shall be
23 paid from the first money available for distribution in
24 priority to all other claims and liens, except insofar as the
25 laws of the United States may give a prior claim to the
26 Federal Government.

27 (2) Any person charged with the administration or
28 distribution of the property or estate, who violates the
29 provisions of this section, shall be personally liable for
30 any taxes imposed by this chapter, which are accrued and

1 unpaid and are chargeable against the person whose property
2 or estate is being administered or distributed.

3 (e) Construction.--Subject to the limitations contained in
4 this chapter as to the assessment of taxes, nothing contained in
5 this section shall be construed to restrict, prohibit or limit
6 the use by the department in collecting taxes finally due and
7 payable of any other remedy or procedure available at law or
8 equity for the collection of debts.

9 Section 743. Suit for taxes.

10 (a) General rule.--At any time within three years after any
11 tax or any amount of tax shall be finally due and payable, the
12 department may commence an action in the courts of this
13 Commonwealth, of any state or of the United States, in the name
14 of the Commonwealth, to collect the amount of tax due together
15 with additions, interest, penalties and costs in the manner
16 provided at law or in equity for the collection of ordinary
17 debts.

18 (b) Prosecution by Attorney General.--The Attorney General
19 shall prosecute the action and, except as provided in this
20 chapter, the provisions of the Rules of Civil Procedure and the
21 provisions of the laws of this Commonwealth relating to civil
22 procedures and remedies shall, to the extent that they are
23 applicable, be available in such proceedings.

24 (c) Construction.--The provisions of this section are in
25 addition to any process, remedy or procedure for the collection
26 of taxes provided by this chapter or by the laws of this
27 Commonwealth, and this section is neither limited by nor
28 intended to limit any such process, remedy or procedure.

29 Section 744. Tax suit comity.

30 The courts of this Commonwealth shall recognize and enforce

1 liabilities for sales and use taxes, lawfully imposed by any
2 other state if the other state extends a like comity to this
3 Commonwealth.

4 Section 745. Service.

5 (a) General rule.--Any person who maintains a place of
6 business in this Commonwealth is deemed to have appointed the
7 Secretary of the Commonwealth as the person's agent for the
8 acceptance of service of process or notice in any proceedings
9 for the enforcement of the civil provisions of this chapter, and
10 any service made upon the Secretary of the Commonwealth as agent
11 shall be of the same legal force and validity as if the service
12 had been personally made on the person.

13 (b) Substitute service.--Where service cannot be made on the
14 person in the manner provided by other laws of this Commonwealth
15 relating to service of process, service may be made on the
16 Secretary of the Commonwealth and, in such case, a copy of the
17 process or notice shall also be personally served on any agent
18 or representative of the person who may be found within this
19 Commonwealth, or where no such agent or representative may be
20 found a copy of the process or notice shall be sent by
21 registered mail to the person at the last known address of the
22 person's principal place of business, home office or residence.

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

24 If any sale subject to tax under this chapter is wholly or
25 partly on credit, the vendor shall require the purchaser to pay
26 in cash at the time the sale is made, or within 30 days
27 thereafter, the total amount of tax due upon the entire purchase
28 price. The vendor shall remit the tax to the department,
29 regardless of whether payment was made by the purchaser to the
30 vendor, with the next return required to be filed under section

1 717.

2 Section 747. Prepayment of tax.

3 (a) General rule.--Whenever a vendor is prohibited by law or
4 governmental regulation to charge and collect the purchase price
5 in advance of or at the time of delivery, the vendor shall
6 prepay the tax as required by section 722, but in that case, if
7 the purchaser fails to pay to the vendor the total amount of the
8 purchase price and the tax and the amount is written off as
9 uncollectible by the vendor, the vendor shall not be liable for
10 the tax and shall be entitled to a credit or refund of the tax
11 paid.

12 (b) Subsequent collection of tax.--If the purchase price is
13 thereafter collected, in whole or in part, the amount collected
14 shall be first applied to the payment of the entire tax portion
15 of the bill, and shall be remitted to the department by the
16 vendor with the first return filed after such collection.

17 (c) Time period for refund.--Tax prepaid shall be subject to
18 refund on petition to the department under the provisions of
19 section 752, filed within 105 days of the close of the fiscal
20 year in which the accounts are written off.

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

22 (a) General rule.--A vendor may file a petition for refund
23 of sales tax paid to the department that is attributed to a bad
24 debt if all of the following apply:

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

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

29 (3) The bad debt has been deducted for Federal income
30 tax purposes under section 166 of the Internal Revenue Code

1 of 1986.

2 (a.1) Time for filing petition.--A petition for refund,
3 which is authorized by this section, must be filed with the
4 department within the time limitations under section 3003.1(a).

5 (a.2) Private-label credit cards.--In the case of private-
6 label credit card accounts not qualifying under subsection (a),
7 a vendor or lender that makes an election pursuant to subsection
8 (a.3) shall be entitled to file a petition for refund of sales
9 tax that the vendor has previously reported and paid to the
10 department, if all of the following conditions are met:

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

13 (2) The account has been found worthless and written
14 off, either in whole or in part, as bad debt on the books and
15 records of the lender or an affiliate of the lender.

16 (3) The account has been deducted for Federal income tax
17 purposes under section 166 of the Internal Revenue Code of
18 1986 (Public Law 99-514, 26 U.S.C. § 166) by the lender or an
19 affiliate of the lender.

20 (a.3) Joint election.--In order to be eligible for a refund
21 under subsection (a.2), the lender and the vendor must execute
22 and file with the department a joint election, signed by both
23 parties, designating which party is entitled to claim the
24 refund. This election may not be revoked unless a written notice
25 is signed by the party that signed the election being revoked
26 and is filed with the department.

27 (b) Limitation.--

28 (1) The refund authorized by this section shall be
29 limited to the sales tax paid to the department that is
30 attributed to the bad debt, less any discount under section

1 727.

2 (2) Partial payments by the purchaser shall be prorated
3 between the original purchase price and the sales tax due on
4 the sale.

5 (3) Payments made on any transaction which includes both
6 taxable and nontaxable components shall be allocated
7 proportionally between the taxable and nontaxable components.

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

11 (d) Items not refundable.--No refund shall be granted under
12 this section for interest, finance charges or expenses incurred
13 in attempting to collect any amount receivable.

14 (e) Documentation.--Documentation requirements are as
15 follows:

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

19 (i) Date of original sale, name and Pennsylvania
20 sales tax license number of the retailer.

21 (ii) Name and address of purchaser.

22 (iii) Amount that the purchaser paid or agreed to
23 pay.

24 (iv) Taxable and nontaxable charges.

25 (v) Amount on which the retailer reported and paid
26 sales tax.

27 (vi) All payments or other credits applied to the
28 account of the purchaser.

29 (vii) Evidence that the uncollected amount has been
30 designated as a bad debt in the books and records of the

1 vendor or lender, as appropriate, and that the amount has
2 been claimed as a bad debt deduction for Federal income
3 tax purposes.

4 (viii) The county in which any local sales tax was
5 incurred.

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

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

10 (xi) Any other information required by the
11 department.

12 (2) A person claiming a refund under this section may
13 provide alternative forms of documentation acceptable to the
14 department if appropriate in light of the volume and
15 character of uncollectible accounts. This includes the
16 following:

17 (i) If a vendor remits sales or use tax to the
18 Commonwealth and to another state, the entity claiming a
19 refund under this section may use an apportionment method
20 to substantiate the amount of Pennsylvania tax included
21 in the bad debts to which the refund applies.

22 (ii) The apportionment method must use the vendor's
23 Pennsylvania and non-Pennsylvania sales, the vendor's
24 taxable and nontaxable sales and the amount of tax the
25 vendor remitted to Pennsylvania.

26 (f) Subsequent collection.--

27 (1) If the purchase price that is attributed to a prior
28 bad debt refund is collected in whole or in part by the
29 vendor or lender, or an affiliate of the vendor or lender,
30 the entity claiming the refund shall remit the proportional

1 tax to the department with the first return filed after the
2 collection. If the entity is not required to file periodic
3 returns, the entity shall remit the proportional tax to the
4 department with another return pursuant to section 717(c).

5 (2) Any consideration received for the assignment, sale
6 or other transfer of a bad debt with respect to which a
7 refund has been granted shall be deemed to be a collection of
8 a prior bad debt. This paragraph shall not apply to a
9 transfer to an entity that is part of the same affiliated
10 group, as defined by section 1504 of the Internal Revenue
11 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1504).

12 (3) A person that collects, in whole or in part, the
13 purchase price attributed to a prior bad debt refund is
14 required to maintain adequate books, records or other
15 documentation to allow the department to determine whether
16 the purchase price attributed to a prior bad debt refund has
17 been collected. Information under this paragraph includes the
18 pertinent facts required by subsection (e).

19 (4) If it is determined by the department that a prior
20 bad debt has been collected, in whole or in part, and the
21 proportional tax has not been properly reported and paid to
22 the department, the person that claimed the refund on the
23 transaction shall report and pay the proportional tax to the
24 department plus applicable interest and penalty under this
25 chapter.

26 (g) Interest prohibited.--Notwithstanding the provisions of
27 section 806.1 of The Fiscal Code, no interest shall be paid by
28 the Commonwealth on refunds of sales tax attributed to bad debt
29 under this section.

30 (h) Administration.--

1 (1) No refund or credit of sales tax shall be made for
2 any uncollected purchase price or bad debt except as
3 authorized by this section.

4 (2) No deduction or credit for bad debt may be taken on
5 any return filed with the department.

6 (3) This section shall provide the exclusive procedure
7 for claiming a refund or credit of sales tax attributed to
8 uncollected purchase price or bad debt.

9 (i) Definitions.--As used in this section, the following
10 words and phrases shall have the meanings given to them in this
11 subsection unless the context clearly indicates otherwise:

12 "Affiliate." A person that is:

13 (1) An affiliated entity under section 1504(a)(1) of the
14 Internal Revenue Code of 1986.

15 (2) A person described in paragraph (1) or (2) of the
16 definition of "lender" that would be an affiliated entity,
17 under section 1504 of the Internal Revenue Code of 1986, of a
18 vendor but for the fact the person is not a corporation, an
19 assignee or another transferee of a person described in
20 paragraph (1) or (2) of the definition of "lender".

21 "Lender." Any of the following:

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

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

28 (3) A person that is:

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

30 (1) or (2); or

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

3 "Private-label credit card." Any charge card, credit card or
4 other instrument serving similar purpose which carries, refers
5 to or is branded with the name or logo of a vendor and which can
6 be used for purchases from the vendor. The term does not include
7 a card or instrument which may also be used to make purchases
8 from persons other than the vendor whose name or logo appears on
9 the card or instrument or that vendor's affiliates. Nothing in
10 this definition shall be construed to authorize a refund with
11 respect to bad debts attributable to sales by unrelated persons
12 referred to in this definition.

13 Section 748. Registration of transient vendors.

14 (a) General rule.--Prior to conducting business or otherwise
15 commencing operations in this Commonwealth, a transient vendor
16 shall register with the department. The application for
17 registration shall be in such form and contain such information
18 as the department, by regulation, shall prescribe and shall set
19 forth truthfully and accurately the information desired by the
20 department. This registration shall be renewed and updated
21 annually.

22 (b) Certificate to be issued.--After registration and the
23 posting of the bond required by section 748.1, the department
24 shall issue to the transient vendor a certificate valid for one
25 year. On renewal of registration, the department shall issue a
26 new certificate valid for one year, if the department is
27 satisfied that the transient vendor has complied with the
28 provisions of this chapter.

29 (c) Possession and exhibition of certificate.--The transient
30 vendor shall possess the certificate at all times when

1 conducting business within this Commonwealth and shall exhibit
2 the certificate upon demand by authorized employees of the
3 department or any law enforcement officer.

4 (d) Contents of certificate.--The certificate issued by the
5 department shall state that the transient vendor named in the
6 certificate has registered with the department and shall provide
7 notice to the transient vendor that:

8 (1) The transient vendor must notify the department in
9 writing before it enters this Commonwealth to conduct
10 business, of the location or locations where it intends to
11 conduct business and the date or dates on which it intends to
12 conduct business.

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

16 (3) Conducting business in this Commonwealth after a
17 certificate has been suspended or revoked may result in
18 criminal conviction and the imposition of fines or other
19 penalties.

20 Section 748.1. Bond.

21 (a) General rule.--Upon registration with the department, a
22 transient vendor shall also post a bond with the department in
23 the amount of \$500 as surety for compliance with the provisions
24 of this chapter. After a period of demonstrated compliance with
25 these provisions or, if the transient vendor provides the
26 license number of a promoter who has notified the department of
27 a show, in accordance with the provisions of section 748.6(a),
28 the department may reduce the amount of bond required of a
29 transient vendor or may eliminate the bond entirely.

30 (b) Voluntary suspension of certificate.--A transient vendor

1 may file a request for voluntary suspension of certificate with
2 the department. If the department is satisfied that the
3 provisions of this chapter have been complied with and has
4 possession of the transient vendor's certificate, it shall
5 return the bond posted to the transient vendor.

6 Section 748.2. Notification to department.

7 (a) General rule.--Prior to entering this Commonwealth to
8 conduct business, a transient vendor shall notify the department
9 in writing of the location or locations where it intends to
10 conduct business and the date or dates on which it intends to
11 conduct business.

12 (b) Inspection of records.--While conducting business in
13 this Commonwealth, the transient vendor shall permit authorized
14 employees of the department to inspect its sales records,
15 including, but not limited to, sales receipts and inventory or
16 price lists and to permit inspection of the tangible personal
17 property offered for sale at retail.

18 (c) Conditions for suspension or revocation of
19 certificate.--The department may suspend or revoke a certificate
20 issued to a transient vendor if the transient vendor:

21 (1) fails to notify the department as required by
22 subsection (a);

23 (2) provides the department with false information
24 regarding the conduct of business in this Commonwealth;

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

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

29 (d) Regulations.--The department shall promulgate the rules
30 and regulations necessary to implement this section.

1 Section 748.3. Seizure of property.

2 (a) General rule.--If a transient vendor conducting business
3 in this Commonwealth fails to exhibit a valid certificate on
4 demand by authorized employees of the department, those
5 authorized employees shall seize, without warrant, the tangible
6 personal property and the automobile, truck or other means of
7 transportation used to transport or carry that property. All
8 property seized shall be deemed contraband and shall be subject
9 to immediate forfeiture proceedings instituted by the department
10 pursuant to procedures adopted by regulation, except as
11 otherwise provided by this section.

12 (b) Release of seized property.--Property seized pursuant to
13 subsection (a) shall be released on:

14 (1) presentation of a valid certificate to authorized
15 employees of the department; or

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

20 Section 748.4. Fines.

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

26 Section 748.5. Transient vendors subject to chapter.

27 Except as otherwise provided, a transient vendor shall be
28 subject to the provisions of this chapter in the same manner as
29 a vendor who maintains a place of business in this Commonwealth.

30 Section 748.6. Promoters.

1 (a) General rule.--A promoter of a show or shows in this
2 Commonwealth may annually file with the department an
3 application for a promoter's license stating the location and
4 dates of such show or shows. The application shall be filed at
5 least 30 days prior to the opening of the first show and shall
6 be in such form as the department may prescribe.

7 (b) License.--

8 (1) Except as otherwise provided in this chapter, the
9 department shall, within 15 days after receipt of an
10 application for a license, issue to the promoter without
11 charge a license to operate such shows.

12 (2) If application for a license under this section has
13 been timely filed and if the license has not been received by
14 the promoter prior to the opening of the show, the
15 authorization contained in this section with respect to the
16 obtaining of a promoter's license shall be deemed to have
17 been complied with, unless or until the promoter receives
18 notice from the department denying the application for a
19 promoter's license.

20 (c) Compliance.--Any promoter who is a vendor under the
21 provisions of section 701 shall comply with all the provisions
22 of this chapter applicable to vendors and with the provisions of
23 this section applicable to promoters.

24 (d) Prohibited conduct.--No licensed promoter shall permit
25 any person to display for sale or to sell tangible personal
26 property or services subject to tax under section 702 at a show
27 unless the person is licensed under section 708 and provides to
28 the promoter the information required under law.

29 (e) Penalties.--

30 (1) Any licensed promoter who:

1 (i) permits any person to display for sale or to
2 sell tangible personal property or service without first
3 having been licensed under section 708;

4 (ii) fails to maintain records of a show as required
5 by law; or

6 (iii) knowingly maintains false records or fails to
7 comply with any provision contained in this section or
8 any regulation promulgated by the department pertaining
9 to shows,

10 shall be subject to denial of a license or the revocation of
11 any existing license issued pursuant to this section.

12 (2) The department may deny the promoter a license
13 certificate to operate a show for a period of not more than
14 six months from the date of such denial. The penalty shall be
15 in addition to any other penalty imposed by this chapter.

16 (3) Within 20 days of notice of denial or revocation of
17 a license by the department, the promoter may petition the
18 department for a hearing pursuant to 2 Pa.C.S. (relating to
19 administrative law and procedure).

20 Section 749. (Reserved).

21 Section 750. (Reserved).

22 Section 751. (Reserved).

23 Section 752. Refunds.

24 (a) General rule.--Subject to the provisions of subsection
25 (b), the department shall, pursuant to the provisions of Article
26 XXVII of the Tax Reform Code of 1971, refund all taxes, interest
27 and penalties paid to the Commonwealth under the provisions of
28 this chapter and to which the Commonwealth is not rightfully
29 entitled. The refunds shall be made to the person, the person's
30 heirs, successors, assigns or other personal representatives,

1 who actually paid the tax.

2 (b) Exception.--No refund shall be made under this section
3 with respect to any payment made by reason of an assessment with
4 respect to which a taxpayer has filed a petition for
5 reassessment pursuant to section 2702 of the Tax Reform Code of
6 1971 to the extent that the petition has been determined
7 adversely to the taxpayer by a decision which is no longer
8 subject to further review or appeal.

9 (c) Construction.--Nothing contained in this section shall
10 be deemed to prohibit a taxpayer who has filed a timely petition
11 for reassessment from amending it to a petition for refund where
12 the petitioner has paid the tax assessed.

13 Section 753. Refund petition.

14 (a) General rule.--Except as provided for in subsection (b)
15 and section 756, the refund or credit of tax, interest or
16 penalty provided for by section 752 shall be made only where the
17 person who has actually paid the tax files a petition for refund
18 with the department under Article XXVII of the Tax Reform Code
19 of 1971, within the limits of section 3003.1 of the Tax Reform
20 Code of 1971.

21 (b) Assessments.--A refund or credit of tax, interest or
22 penalty paid as a result of an assessment made by the department
23 under section 731 shall be made only where the person who has
24 actually paid the tax files with the department a petition for a
25 refund with the department under Article XXVII of the Tax Reform
26 Code of 1971 within the time limits of section 3003.1 of the Tax
27 Reform Code of 1971. The filing of a petition for refund under
28 the provisions of this subsection shall not affect the abatement
29 of interest, additions or penalties to which the person may be
30 entitled by reason of the person's payment of the assessment.

1 Section 754. (Reserved).

2 Section 755. (Reserved).

3 Section 756. Extended time for filing special petition for
4 refund.

5 (a) General rule.--Any party to a transaction who has paid
6 tax by reason of a transaction with respect to which the
7 department is assessing tax against another person may, within
8 six months after the filing by the department of the assessment
9 against the other person, file a special petition for refund,
10 notwithstanding the person's failure to timely file a petition
11 pursuant to section 3003.1 of the Tax Reform Code of 1971. The
12 provisions of Article XXVII of the Tax Reform Code of 1971 shall
13 be applicable to the special petition for refund, except that
14 the department need not act on the petition until there is a
15 final determination as to the propriety of the assessment filed
16 against the other party to the transaction. Where a petition is
17 filed under this provision in order to take advantage of the
18 extended period of limitations, overpayments by the petitioner
19 shall be refunded but only to the extent of the actual tax,
20 without consideration of interest and penalties, paid by the
21 other party to the transaction.

22 (b) Purpose.--The purpose of this section is to avoid
23 duplicate payment of tax where a determination is made by the
24 department that one party to a transaction is subject to tax,
25 and another party to the transaction has previously paid tax
26 with respect to the transaction and, as such, this section shall
27 be construed as extending right beyond that provided for by
28 section 753, and not to limit the other section.

29 Section 757. (Reserved).

30 Section 758. Limitation on assessment and collection.

1 The amount of the tax imposed by this chapter shall be
2 assessed within three years after the date when the return
3 provided for by section 717(a) or (c) is filed or the end of the
4 year in which the tax liability arises, whichever occurs later.
5 Any assessment may be made at any time during the period
6 notwithstanding that the department may have made one or more
7 previous assessments against the taxpayer for the year in
8 question, or for any part of the year. In any case, no credit
9 shall be given for any penalty previously assessed or paid.

10 Section 759. Failure to file return.

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

14 Section 760. False or fraudulent return.

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

18 Section 761. Extension of limitation period.

19 Notwithstanding any other provisions of this subchapter
20 where, before the expiration of the period prescribed in that
21 other provision for the assessment of a tax, a taxpayer has
22 consented in writing that the period be extended, the amount of
23 tax due may be assessed at any time within the extended period.
24 The period so extended may be extended further by subsequent
25 consents in writing made before the expiration of the extended
26 period.

27 Section 762. (Reserved).

28 Section 763. (Reserved).

29 Section 764. (Reserved).

30 Section 765. (Reserved).

1 Section 766. Additions to tax.

2 (a) Failure to file return.--In the case of failure to file
3 any return required by section 715 on the date prescribed for
4 the return, determined with regard to any extension of time for
5 filing, and, in the case in which a return filed understates the
6 true amount due by more than 50%, there shall be added to the
7 amount of tax actually due 5% of the amount of the tax if the
8 failure to file a proper return is for not more than one month,
9 with an additional 5% for each additional month, or fraction
10 thereof, during which such failure continues, not exceeding 25%
11 in the aggregate. In every case at least \$2 shall be added.

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

16 Section 767. Penalties.

17 (a) General rule.--The penalties, additions, interest and
18 liabilities provided by this chapter shall be paid on notice and
19 demand by the department, and shall be assessed and collected in
20 the same manner as taxes. Except as otherwise provided, any
21 reference in this chapter to tax imposed by this chapter shall
22 be deemed also to refer to the penalties, additions, interest
23 and liabilities provided by this chapter.

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

1 (c) Burden of proof.--In any direct proceeding arising out
2 of a petition for reassessment or refund as provided in this
3 chapter, in which an issue of fact is raised with respect to
4 whether a return is fraudulent or with respect to the propriety
5 of the imposition by the department of the penalty prescribed in
6 subsection (b), the burden of proof with respect to the issue
7 shall be on the department.

8 Section 768. Criminal offenses.

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

15 (b) Other offenses.--Except as otherwise provided by
16 subsection (a) and subject to the provisions of subsection (c),
17 any person who:

18 (1) advertises or holds out or states to the public or
19 to any purchaser or user, directly or indirectly, that the
20 tax or any part imposed by this chapter will be absorbed by
21 the person, or that it will not be added to the purchase
22 price of the tangible personal property or services described
23 in section 701(k)(2), (3), (4), (11), (12), (13), (14), (15),
24 (16), (17), (18) and (20) sold or, if added, that the tax or
25 any part will be refunded, other than when the person refunds
26 the purchase price because of the property being returned to
27 the vendor;

28 (2) sells or leases tangible personal property or the
29 services, the sale or use of which by the purchaser is
30 subject to tax under this chapter, and willfully fails to

1 collect the tax from the purchaser and timely remit the same
2 to the department;

3 (3) willfully fails or neglects to timely file any
4 return or report required by this chapter or, as a taxpayer,
5 refuses to timely pay any tax, penalty or interest imposed or
6 provided for by this chapter, or willfully fails to preserve
7 the person's books, papers and records as directed by the
8 department;

9 (4) refuses to permit the department or any of its
10 authorized agents to examine the person's books, records or
11 papers, or who knowingly makes any incomplete, false or
12 fraudulent return or report;

13 (5) does or attempts to do anything to prevent the full
14 disclosure of the amount or character of taxable sales
15 purchases or use made by himself or any other person;

16 (6) provides any person with a false statement as to the
17 payment of tax with respect to particular tangible personal
18 property or services; or

19 (7) makes, utters or issues a false or fraudulent
20 exemption certificate;

21 commits a misdemeanor and, upon conviction shall be sentenced to
22 pay a fine of not more than \$1,000 and costs of prosecution or
23 to imprisonment for not more than one year, or both.

24 (c) Exceptions.--

25 (1) Any person who maintains a place of business outside
26 this Commonwealth may absorb the tax with respect to taxable
27 sales made in the normal course of business to customers
28 present at that place of business without being subject to
29 the penalty and fines.

30 (2) Advertising tax-included prices shall be

1 permissible, if the prepaid services are sold by the service
2 provider, for prepaid telecommunications services not
3 evidenced by the transfer of tangible personal property or
4 for prepaid mobile telecommunications services.

5 (d) Penalties are cumulative.--The penalties imposed by this
6 section shall be in addition to any other penalties imposed by
7 any provision of this chapter.

8 Section 769. Abatement of additions or penalties.

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

15 Section 770. Rules and regulations.

16 (a) General rule.--The department shall enforce the
17 provisions of this chapter and shall prescribe, adopt,
18 promulgate and enforce rules and regulations not inconsistent
19 with the provisions of this chapter, relating to any matter or
20 thing pertaining to the administration and enforcement of the
21 provisions 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 any of the rules and
24 regulations shall be applied without retroactive effect.

25 (b) Determination of purchase price.--

26 (1) In determining the purchase price of taxable sales
27 where, because of affiliation of interests between the vendor
28 and the purchaser or irrespective of any such affiliation, if
29 for any other reason, the purchase price of the sale is in
30 the opinion of the department not indicative of the true

1 value of the article or the fair price of the article, the
2 department shall, pursuant to uniform and equitable rules,
3 determine the amount of constructive purchase price on the
4 basis of which the tax shall be computed and levied.

5 (2) The rules shall provide for a constructive amount of
6 a purchase price for each sale, which price shall equal a
7 price for the article which would naturally and fairly be
8 charged in an arm's-length transaction in which the element
9 of common interests between vendor and purchaser or, if no
10 common interest exists, any other element causing a
11 distortion of the price or value is absent.

12 (3) For the purpose of this chapter where a taxable sale
13 occurs between a parent corporation and a subsidiary
14 affiliate or controlled corporation of such parent, there
15 shall be a rebuttable presumption that because of such common
16 interest the transaction was not at arm's-length.

17 Section 771. Keeping of records.

18 (a) Persons liable for taxes.--Every person liable for any
19 tax imposed by this chapter, or for the collection of the tax,
20 shall keep the records, render such statements, make the returns
21 and comply with the rules and regulations as the department may,
22 from time to time, prescribe regarding matters pertinent to the
23 person's business. Whenever in the judgment of the department it
24 is necessary, it may require any person, by notice served on the
25 person, or by regulations, to make the returns, render the
26 statements or keep the records as the department deems
27 sufficient to show whether the person is liable to pay or
28 collect tax under this chapter.

29 (b) Persons collecting taxes.--Any person liable to collect
30 tax from another person under the provisions of this chapter

1 shall file reports, keep records, make payments and be subject
2 to interest and penalties as provided for under this chapter, in
3 the same manner as if the person were directly subject to the
4 tax.

5 (c) Nonresidents.--

6 (1) A nonresident who does business in this Commonwealth
7 as a retail dealer shall keep adequate records of the
8 business and of the tax due with respect to the business,
9 which records shall at all times be retained within this
10 Commonwealth unless retention outside this Commonwealth is
11 authorized by the department.

12 (2) No taxes collected from purchasers shall be sent
13 outside this Commonwealth without the written consent of and
14 in accordance with conditions prescribed by the department.

15 (3) The department may require a taxpayer who desires to
16 retain records or tax collections outside this Commonwealth
17 to assume reasonable out-of-State audit expenses.

18 (d) Retail dealers.--

19 (1) Any person doing business as a retail dealer who at
20 the same time is engaged in another business which does not
21 involve the making of sales taxable under this chapter shall
22 keep separate books and records of the person's businesses so
23 as to show the sales taxable under this chapter separately
24 from the sales not taxable under this chapter.

25 (2) If the person fails to keep such separate books and
26 records, the person shall be liable for tax at the rate
27 designated in section 702 on the entire purchase price of
28 sales from both or all of the person's businesses.

29 (e) Segregation of taxes required.--

30 (1) In those instances where a vendor gives no sales

1 memoranda or uses registers showing only total sales, the
2 vendor shall adopt some method of segregating tax from sales
3 receipts and keep records showing the segregation, all in
4 accordance with proper accounting and business practices.

5 (2) A vendor may apply to the department for permission
6 to use a collection and recording procedure which will show
7 the information as the law requires with reasonable accuracy
8 and simplicity. The application must contain a detailed
9 description of the procedure to be adopted.

10 (3) Permission to use the proposed procedure is not to
11 be construed as relieving the vendor from remitting the full
12 amount of tax collected.

13 (4) The department may revoke the permission on 30 days'
14 notice to the vendor.

15 (5) Refusal of the department to grant permission in
16 advance to use the procedure shall not be construed to
17 invalidate a procedure which on examination shows the
18 information as the law requires.

19 Section 771.1. Reports and records of promoters.

20 Every licensed promoter shall keep a record of the date and
21 place of each show and the name, address, sales, use and hotel
22 occupancy license number of every person whom the licensed
23 promoter permits to display for sale or to sell tangible
24 personal property or services subject to tax under section 702
25 at the show. The records shall be open for inspection and
26 examination at any reasonable time by the department or a duly
27 authorized representative, and the records shall, unless the
28 department consents in writing to an earlier destruction, be
29 preserved for three years after the date the report was filed or
30 the date it was due, whichever occurs later, except that the

1 department may by regulation require that they be kept for a
2 longer period of time.

3 Section 772. Examinations.

4 (a) Power of department.--The department or any of its
5 authorized agents may examine the books, papers and records of
6 any taxpayer in order to verify the accuracy and completeness of
7 any return made or if no return was made, to ascertain and
8 assess the tax imposed by this chapter. The department may
9 require the preservation of all such books, papers and records
10 for any period deemed proper by it but not to exceed three years
11 from the end of the calendar year to which the records relate.

12 (b) Duty of taxpayers.--Every taxpayer shall give to the
13 department, or its agent, the means, facilities and opportunity
14 for the examinations and investigation.

15 (c) Other powers of department.--

16 (1) The department is further authorized to examine any
17 person, under oath, concerning taxable sales or use by any
18 taxpayer or concerning any other matter relating to the
19 enforcement or administration of this chapter, and to this
20 end may compel the production of books, papers and records
21 and the attendance of all persons whether as parties or
22 witnesses whom it believes to have knowledge of such matters.

23 (2) The procedure for such hearings or examinations
24 shall be the same as that provided by The Fiscal Code
25 relating to inquisitorial powers of fiscal officers.

26 Section 773. Records and examinations of delivery agents.

27 Every agent for the purpose of delivery of goods shipped into
28 this Commonwealth by a nonresident, including, but not limited
29 to, a common carrier, shall maintain adequate records of such
30 deliveries pursuant to rules and regulations adopted by the

1 department and shall make the records available to the
2 department upon request after due notice.

3 Section 774. Unauthorized disclosure.

4 Any information gained by the department as a result of any
5 return, examination, investigation, hearing or verification
6 required or authorized by this chapter shall be confidential,
7 except for official purposes and except in accordance with
8 proper judicial order or as otherwise provided by law, and any
9 person unlawfully divulging such information commits a
10 misdemeanor and, upon conviction, shall be sentenced to pay a
11 fine of not more than \$1,000 and costs of prosecution or to
12 imprisonment for not more than one year, or both.

13 Section 775. Cooperation with other governments.

14 Notwithstanding the provisions of section 774, the department
15 may permit the Commissioner of Internal Revenue of the United
16 States, or the proper officer of any state, or the authorized
17 representative of either such officer, to inspect the tax
18 returns of any taxpayer, or may furnish to the officer or to the
19 officer's authorized representative an abstract of the return of
20 any taxpayer, or supply the officer or the authorized
21 representative with information concerning any item contained in
22 any return or disclosed by the report of any examination or
23 investigation of the return of any taxpayer. This permission
24 shall be granted only if the statutes of the United States or of
25 such other state, as the case may be, grant substantially
26 similar privileges to the proper officer of the Commonwealth
27 charged with the administration of this chapter.

28 Section 776. Interstate compacts.

29 (a) General rule.--The Governor, or the Governor's
30 authorized representative, may confer with the Governor and the

1 authorized representatives of other states with respect to
2 reciprocal use tax collection between the Commonwealth and such
3 other states.

4 (b) Other powers.--The Governor, or the Governor's
5 authorized representative, may join with the authorities of
6 other states to conduct joint investigations, to exchange
7 information, hold joint hearings and enter into compacts or
8 interstate agreements with such other states to accomplish
9 uniform reciprocal use tax collections between those states who
10 are parties to any compact or interstate agreement and the
11 Commonwealth.

12 Section 777. Bonds.

13 (a) Procedure.--

14 (1) Whenever the department, in its discretion, deems it
15 necessary to protect the revenues to be obtained under the
16 provisions of this chapter, it may require any nonresident
17 natural person or any foreign corporation, association,
18 fiduciary, partnership or other entity, not authorized to do
19 in this Commonwealth or not having an established place of
20 business in this Commonwealth and subject to the tax imposed
21 by section 702, to file a bond issued by a surety company
22 authorized to do business in this Commonwealth and approved
23 by the Insurance Commissioner as to solvency and
24 responsibility, in such amounts as it may fix, to secure the
25 payment of any tax or penalties due, or which may become due,
26 from a natural person or corporation.

27 (2) In order to protect the revenues to be obtained
28 under the provisions of this chapter, the department shall
29 require any nonresident natural person or any foreign
30 corporation, association, fiduciary, partnership or entity,

1 who or which is a building contractor, or who or which is a
2 supplier delivering building materials for work in this
3 Commonwealth and is not authorized to do business in this
4 Commonwealth or does not have an established place of
5 business in this Commonwealth and is subject to the tax
6 imposed by section 702, to file a bond issued by a surety
7 company authorized to do business in this Commonwealth and
8 approved by the Insurance Commissioner as to solvency and
9 responsibility, in the amounts as it may fix, to secure the
10 payments of any tax or penalties due, or which may become
11 due, from a natural person, corporation or other entity.

12 (3) The department may also require a bond of any person
13 petitioning the department for reassessment, in the case of
14 any assessment over \$500 or where it is of the opinion that
15 the ultimate collection is in jeopardy.

16 (4) (i) The department may, for a period of three
17 years, require a bond of any person who has on three or
18 more occasions within a 12-month period either filed a
19 return or made payment to the department more than 30
20 days late.

21 (ii) If the department determines that a taxpayer is
22 to file a bond, the department shall give notice to the
23 taxpayer to that effect, specifying the amount of the
24 bond required.

25 (iii) The taxpayer shall file a bond within five
26 days after the giving of the notice by the department
27 unless, within the five-day period, the taxpayer requests
28 in writing a hearing before the secretary or the
29 secretary's representative at which hearing the
30 necessity, propriety and amount of the bond shall be

1 determined by the secretary or a representative. The
2 determination shall be final and shall be complied within
3 15 days after notice is mailed to the taxpayer.

4 (b) Alternative security.--

5 (1) In lieu of the bond required by this section,
6 securities approved by the department, or cash in the amount
7 as it may prescribe, may be deposited.

8 (2) Such securities or cash shall be kept in the custody
9 of the department, who may, at any time, without notice to
10 the depositor, apply them to any tax and/or interest or
11 penalties due, and for that purpose the securities may be
12 sold by the department, at public or private sale, on five
13 days' written notice to the depositor.

14 (c) Lien may be filed.--

15 (1) The department may file a lien pursuant to section
16 742 against any taxpayer who fails to file a bond when
17 required to do so under this section.

18 (2) All funds received on execution of the judgment on
19 the lien shall be refunded to the taxpayer with 3% interest
20 should a final determination be made that the taxpayer does
21 not owe any payment to the department.

22 Section 778. Remote sales reports.

23 (a) Duty to submit.--Within 90 days of the publication of
24 the notice under subsection (b), the Independent Fiscal Office,
25 in conjunction with the department, shall submit a detailed
26 report to the chairman and minority chairman of the
27 Appropriations Committee of the Senate, the chairman and
28 minority chairman of the Finance Committee of the Senate, the
29 chairman and minority chairman of the Appropriations Committee
30 of the House of Representatives and the chairman and minority

1 chairman of the Finance Committee of the House of
2 Representatives outlining the plans concerning the
3 implementation of the legislation referenced in subsection (b)
4 or other substantially similar Federal legislation, which would
5 grant the Commonwealth the authority to impose and collect the
6 tax under this chapter due on sales from remote sellers. The
7 report shall include all of the following:

8 (1) The amount of State funds necessary to implement the
9 legislation referenced in subsection (b) or other
10 substantially similar legislation. The amount needed shall be
11 itemized and all costs, including personnel, office expenses
12 and other related costs, shall be included.

13 (2) The amount of State tax revenue expected to result
14 from the implementation of the legislation referenced in
15 subsection (b) or other substantially similar legislation for
16 the fiscal year and for five fiscal years thereafter.

17 (3) The source of funds which will be utilized to pay
18 for the legislation referenced in subsection (b) or other
19 substantially similar legislation implementation program.

20 (4) The legal and practical issues concerning the
21 propriety of collecting and enforcing the tax imposed under
22 this chapter from remote sellers.

23 (5) The number of other states which have a similar law
24 in effect and the success or deficiencies of the law.

25 (6) Proposed draft legislation concerning the
26 implementation of the legislation referenced in subsection
27 (b) or other substantially similar legislation.

28 (7) A detailed timetable on when separate tasks must be
29 completed for full implementation on an estimated start date.

30 (b) Notice in the Pennsylvania Bulletin.--The secretary

1 shall publish notice in the Pennsylvania Bulletin that Federal
2 legislation relating to remote sellers has been enacted.

3 SUBCHAPTER G

4 FUNDING PROVISIONS

5 Section 780. (Reserved).

6 Section 781. Appropriation for refunds.

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

11 Section 781.1. Construction.

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

18 Section 782. Transfers to Education Stabilization Fund.

19 (a) Deposit of sales and use tax and hotel occupancy tax
20 collected.--The secretary shall deposit into the Education
21 Stabilization Fund revenues received on or after January 1,
22 2016, regardless of the transaction date, that equal the portion
23 of the tax imposed by this chapter as follows:

24 (1) Except as otherwise provided in section 2301 of the
25 Tax Reform Code of 1971 providing for the establishment of
26 the Public Transportation Assistance Fund, 39.6% of the tax
27 collected on the sales at retail and use of tangible personal
28 property and services as provided in Subchapter B.

29 (2) One-seventh of the hotel occupancy tax collected
30 under Subchapter E.

1 CHAPTER 9

2 (RESERVED)

3 CHAPTER 11

4 LIMITATIONS ON

5 SCHOOL DISTRICT TAXATION

6 Section 1101. Authority to levy taxes and effect of future
7 Constitutional amendment.

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

9 (1) The authority of any school district to levy, assess
10 and collect any real property tax under the Public School
11 Code of 1949, or any other act shall expire, subject to the
12 provisions of section 1102, January 1, 2016.

13 (2) The authority of a city of the first class to impose
14 or continue to provide for the imposition or continuation of
15 the real property tax, for the use of a school district of
16 the first class shall expire in accordance with section
17 1102(b).

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

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

30 Section 1102. Transitional taxes.

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

5 (1) Any school district, other than a school district of
6 the first class, may continue to levy, assess and collect a
7 real property tax in existence on June 30, 2016, at the rates
8 in effect on that date for the use of a school district for
9 fiscal year 2016-2017.

10 (2) Except as provided in section 1101(b), for all
11 fiscal years beginning after June 30, 2016, no school
12 district shall have any power or authority to levy, assess
13 and collect any real property tax, except as necessary to
14 fund the annual debt service payments for its outstanding
15 debt in existence on June 30, 2015.

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

19 (1) Any school district of the first class and city of
20 the first class may continue to levy, assess and collect a
21 real property tax in existence on July 31, 2015, at the rates
22 in effect on that date for the use of a coterminous school
23 district of the first class for fiscal year 2015-2016.

24 (2) Except as provided in section 1101(b), for all
25 fiscal years beginning after June 30, 2016, no city of the
26 first class shall have any power or authority to levy, assess
27 and collect a real property tax for school purposes, except
28 as necessary to fund the annual debt service payments for its
29 outstanding debt in existence on June 30, 2015.

30 Section 1103. Consideration of State appropriations or

1 reimbursement.

2 The personal income or earned income tax levied shall not be
3 invalidated by reason of the fact that in determining the amount
4 to be raised by such tax no deduction was made for
5 appropriations or reimbursements paid or payable by the
6 Commonwealth to the school district.

7 Section 1104. Taxes for cities and school districts of the
8 first class.

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

16 CHAPTER 12

17 INDEBTEDNESS

18 Section 1201. (Reserved).

19 Section 1202. Notices and reporting by school districts of debt
20 outstanding.

21 (a) Duties.--

22 (1) Each school district, including a school district of
23 the first class, shall identify the outstanding amount of all
24 electoral debt, lease rental debt or nonelectoral debt
25 incurred as of June 30, 2015.

26 (2) On or before June 30, 2015, each school district,
27 including a school district of the first class, shall certify
28 and report to the Department of Revenue the outstanding
29 amount of all electoral debt, lease rental debt or
30 nonelectoral debt incurred as of June 30, 2015, together with

1 any information requested by the department in order for the
2 Commonwealth to comply with requirements of this section.

3 (b) Audit by Department of Revenue.--

4 (1) The Department of Revenue shall audit each report
5 submitted under subsection (a) and shall certify the amount
6 of each report and the total aggregate amount of all reports
7 to the State Treasurer on or before March 31, 2016.

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

13 CHAPTER 13

14 FUNDING PROVISIONS

15 Section 1301. Definitions.

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

19 "Base revenue." The money a school district receives from
20 school property taxes during fiscal year 2015-2016 less the
21 amount necessary to fund the annual debt service payments for
22 its outstanding debt in existence on June 30, 2015.

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

24 (1) the percentage increase in the Statewide average
25 weekly wage, as defined in 53 Pa.C.S. § 8401 (relating to
26 definitions), from the previous calendar year; or

27 (2) the average of the percentage increase in sales and
28 use tax collected under section 702 and the tax upon each
29 dollar income collected under section 401(b)(1) and the
30 percentage increase of the hotel occupancy tax collected

1 under section 710 from the previous calendar year.

2 "Department." The Department of Education of the
3 Commonwealth.

4 "Fund." The Education Stabilization Fund established in
5 section 1302.

6 Section 1302. Education Stabilization Fund.

7 (a) Establishment.--The Education Stabilization Fund is
8 established as a separate fund in the State Treasury.

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

10 (1) Money collected by the department under:

11 (i) section 401; or

12 (ii) Chapter 7.

13 (2) All revenue transferred to or received by the
14 Property Tax Relief Fund, except for amounts needed to
15 provide tax relief in cities of the first class and property
16 tax and rent rebate assistance to senior citizens as provided
17 in Chapters 5, 7 and 13 of the act of June 27, 2006 (1st
18 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act:

19 (i) 4 Pa.C.S. § 1408(e) (relating to transfers from
20 State Gaming Fund); and

21 (ii) 4 Pa.C.S. § 1409 (relating to Property Tax
22 Relief Fund).

23 (3) Appropriations.

24 (4) Return on money in the fund.

25 (c) Use.--The department shall use the fund to make
26 disbursements under section 1303.

27 (d) Continuing appropriation.--The money of the fund is
28 hereby continuously appropriated to the department as provided
29 in this act. This appropriation shall not lapse at the end of
30 any fiscal year.

1 Section 1303. Standard disbursements to school districts from
2 Education Stabilization Fund.

3 (a) General rule.--In fiscal year 2016-2017, the department
4 shall disburse to each school district an amount equal to the
5 school district's base revenue multiplied by the cost-of-living
6 factor.

7 (b) Annual adjustment.--In fiscal year 2017-2018 and each
8 fiscal year thereafter, the department shall disburse to a
9 school district an amount equal to the sum of the following:

10 (1) The amount received by the school district in the
11 prior fiscal year under this section.

12 (2) The amount received by the school district in the
13 prior fiscal year under this section multiplied by the cost-
14 of-living factor.

15 CHAPTER 15

16 MISCELLANEOUS PROVISIONS

17 Section 1501. Transitional provision.

18 (a) Sales and use tax.--Notwithstanding the repeal of
19 Article II of the Tax Reform Code of 1971, under section 1505,
20 the department shall have the authority to enforce the
21 collection of taxes imposed for transactions that occur prior to
22 the effective date of this section under former Article II of
23 the Tax Reform Code of 1971. The taxes collected on or after
24 January 1, 2016, regardless of the transaction date, shall be
25 deposited as provided in section 782.

26 (b) Other taxes.--Notwithstanding the repeal of any
27 provision of the Public School Code of 1949 or of any other law
28 authorizing school districts to impose taxes, a governing body
29 shall have the authority to enforce, after the effective date of
30 the repeal, the collection of taxes levied and assessed under

1 those former provisions prior to the effective date of the
2 repeal under section 1505.

3 Section 1502. Regulations.

4 The department shall have jurisdiction over and shall
5 promulgate regulations as necessary for the proper
6 administration of this act.

7 Section 1503. Construction.

8 Any and all references in any other act to Article II or any
9 provision in Article II of the Tax Reform Code of 1971 shall be
10 deemed a reference to Chapter 7 of this act or the corresponding
11 provisions in Chapter 7 of this act.

12 Section 1504. Severability.

13 The provisions of this act are severable as follows:

14 (1) If any provision of this act is held invalid, the
15 invalidity shall not affect other provisions or applications
16 of this act which can be given effect without the invalid
17 provision or application.

18 (2) Under no circumstances shall the invalidity of any
19 provision or application of this act affect the validity of
20 any provision in this act that abolishes the power of the
21 governing body and any school district and city of the first
22 class or any other political subdivision to levy, assess or
23 collect a tax on any interest in real property for school
24 purposes.

25 Section 1505. Repeals.

26 (a) Intent.--The General Assembly declares that the repeals
27 under subsection (b) are necessary to effectuate this act.

28 (b) Provisions.--The following acts and parts of acts are
29 repealed:

30 (1) Section 631 of the act of March 10, 1949 (P.L.30,

1 No.14), known as the Public School Code of 1949, is repealed.

2 (2) Any provision of the Public School Code of 1949 and
3 of any other law relating to the authority of any school
4 district to levy, assess and collect any tax on real property
5 and the power of any city of the first class to levy, assess
6 and collect any tax real property for school purposes is
7 repealed upon the expiration of the respective schedule
8 prescribed in sections 1101 and 1102.

9 (3) Any provision of the act of the Public School Code
10 of 1949 and any other law relating to debt is repealed to the
11 extent that it is inconsistent with this act.

12 (4) Any provision of the Public School Code of 1949 and
13 any home rule charter adopted pursuant thereto is repealed
14 insofar as it is inconsistent with this act.

15 (5) Any provision of the act of August 9, 1963 (P.L.643,
16 No.341), known as the First Class City Public Education Home
17 Rule Act, and any home rule school district charter adopted
18 pursuant thereto is repealed insofar as it is inconsistent
19 with this act.

20 (6) Article II of the act of March 4, 1971 (P.L.6,
21 No.2), known as the Tax Reform Code of 1971, is repealed.

22 (7) All acts and parts of acts that are inconsistent
23 with this act are repealed to the extent of such
24 inconsistency.

25 Section 1506. Applicability.

26 Chapter 7 and section 1505(b)(6) shall apply January 1, 2016.

27 Section 1507. Effective date.

28 This act shall take effect as follows:

29 (1) Chapters 3 and 4 and section 1505(b)(2) shall take
30 effect June 30, 2016.

1 (2) The remainder of this act shall take effect
2 immediately.