
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 85 Session of
2017

INTRODUCED BY GREENLEAF, VULAKOVICH, SCARNATI, COSTA,
MCGARRIGLE, SCHWANK, RAFFERTY AND BREWSTER, JANUARY 13, 2017

REFERRED TO FINANCE, JANUARY 13, 2017

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in sales and use tax, further providing for
11 definitions.

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

14 Section 1. Section 201(k)(8) of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
16 July 13, 2016 (P.L.526, No.84), is amended and the section is
17 amended by adding clauses to read:

18 Section 201. Definitions.--The following words, terms and
19 phrases when used in this Article II shall have the meaning
20 ascribed to them in this section, except where the context
21 clearly indicates a different meaning:

22 * * *

1 (k) "Sale at retail."

2 * * *

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

8 The term "sale at retail" shall not include (i) any such
9 transfer of tangible personal property or rendition of services
10 for the purpose of resale, including resale of items purchased
11 for resale by schools, school-related organizations and
12 nonprofit associations supporting or sponsoring sports programs,
13 or (ii) such rendition of services or the transfer of tangible
14 personal property including, but not limited to, machinery and
15 equipment and parts therefor and supplies to be used or consumed
16 by the purchaser directly in the operations of--

17 (A) The manufacture of tangible personal property.

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

26 (1) The business of producing or harvesting trees from
27 forests, woodlots or tree farms for the purpose of the
28 commercial production of wood, paper or energy products derived
29 from wood by a company primarily engaged in the business of
30 harvesting trees.

1 (2) All operations prior to the transport of the harvested
2 product necessary for the removal of timber or forest products
3 from the site, in-field processing of trees into logs or chips,
4 complying with environmental protection and safety requirements
5 applicable to the harvesting of forest products, loading of
6 forest products onto highway vehicles for transport to storage
7 or processing facilities and postharvesting site reclamation,
8 including those activities necessary to improve timber growth or
9 ensure natural or direct reforestation of the site. The term
10 shall not include the harvesting of trees for clearing land for
11 access roads.

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

16 (D) Processing as defined in clause (d) of this section.

17 The exclusions provided in paragraphs (A), (B), (C) and (D)
18 shall not apply to any vehicle required to be registered under
19 The Vehicle Code, except those vehicles used directly by a
20 public utility engaged in business as a common carrier; to
21 maintenance facilities; or to materials, supplies or equipment
22 to be used or consumed in the construction, reconstruction,
23 remodeling, repair or maintenance of real estate other than
24 directly used machinery, equipment, parts or foundations
25 therefor that may be affixed to such real estate.

26 The exclusions provided in paragraphs (A), (B), (C) and (D)
27 shall not apply to tangible personal property or services to be
28 used or consumed in managerial sales or other nonoperational
29 activities, nor to the purchase or use of tangible personal
30 property or services by any person other than the person

1 directly using the same in the operations described in
2 paragraphs (A), (B), (C) and (D) herein.

3 The exclusion provided in paragraph (C) shall not apply to
4 (i) construction materials, supplies or equipment used to
5 construct, reconstruct, remodel, repair or maintain facilities
6 not used directly by the purchaser in the production, delivering
7 or rendition of public utility service, (ii) construction
8 materials, supplies or equipment used to construct, reconstruct,
9 remodel, repair or maintain a building, road or similar
10 structure, or (iii) tools and equipment used but not installed
11 in the maintenance of facilities used directly in the
12 production, delivering or rendition of a public utility service.

13 The exclusions provided in paragraphs (A), (B), (C) and (D)
14 shall not apply to the services enumerated in clauses (k)(11)
15 through (18) and (w) through (kk), except that the exclusion
16 provided in this subclause for farming, dairying and agriculture
17 shall apply to the service enumerated in clause (z).

18 * * *

19 (eee) "Nonprofit association." An entity that is organized
20 as a nonprofit corporation or nonprofit unincorporated
21 association under the laws of this Commonwealth or the United
22 States or any entity which is authorized to do business in this
23 Commonwealth as a nonprofit corporation or unincorporated
24 association under the laws of this Commonwealth, including, but
25 not limited to, youth or athletic associations, volunteer fire,
26 ambulance, religious, charitable, fraternal, veterans, civic,
27 county fair or agricultural associations, or any separately
28 chartered auxiliary of the foregoing, if organized and operated
29 on a nonprofit basis.

30 (fff) "Sports program." Baseball, softball, football,

1 basketball, soccer and any other competitive sport formally
2 recognized as a sport by the United States Olympic Committee as
3 specified by and under the jurisdiction of the Amateur Sports
4 Act of 1978 (Public Law 95-606, 36 U.S.C. § 220501 et seq.), the
5 Amateur Athletic Union or the National Collegiate Athletic
6 Association. The term shall be limited to a program or that
7 portion of a program that is organized for recreational purposes
8 and whose activities are substantially for such purposes and
9 which is primarily for participants who are 18 years of age or
10 younger or whose 19th birthday occurs during the year of
11 participation or the competitive season, whichever is longer.
12 There shall be, however, no age limitation for programs operated
13 for persons with disabilities.

14 Section 2. This act shall take effect in 60 days.