

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1231 Session of  
2019

---

INTRODUCED BY GILLESPIE, ZIMMERMAN, TOOHL, HERSHEY, MENTZER AND  
HAHN, APRIL 17, 2019

---

REFERRED TO COMMITTEE ON FINANCE, APRIL 17, 2019

---

AN ACT

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

17 TABLE OF CONTENTS

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

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

1 Section 711. Seasonal tax returns.

2 Subchapter F. Returns

3 Section 715. Persons required to make returns.

4 Section 716. Form of returns.

5 Section 717. Time for filing returns.

6 Section 718. Extension of time for filing returns.

7 Section 719. Place for filing returns.

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

10 Subchapter G. Payment

11 Section 721. Payment.

12 Section 722. Time of payment.

13 Section 723. Other times for payment.

14 Section 724. Place for payment.

15 Section 725. Tax held in trust for Commonwealth.

16 Section 726. Local receivers of use tax.

17 Section 727. Discount.

18 Subchapter H. Assessment and Reassessment

19 Section 730. Assessment.

20 Section 731. Mode and time of assessment.

21 Section 732. Reassessment.

22 Section 733. Assessment to recover erroneous refunds.

23 Section 734. (Reserved).

24 Section 735. (Reserved).

25 Section 736. Burden of proof.

26 Subchapter I. Collection

27 Section 737. Collection of tax.

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

30 Section 739. Precollection of tax.

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

4 Subchapter J. Nonpayment

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

9 Subchapter K. Miscellaneous Provisions

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

21 Subchapter L. Refunds and Credits

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

30 Subchapter M. Limitations

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

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

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

25 CHAPTER 1

26 PRELIMINARY PROVISIONS

27 Section 101. Short title.

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

30 Section 102. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

1 CHAPTER 3

2 TAXATION BY SCHOOL DISTRICTS

3 Section 301. Scope of chapter.

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

8 Section 302. Definitions.

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

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

15 "Earned income." As defined in section 501 of The Local Tax  
16 Enabling Act.

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

18 "Net profits." As defined in section 501 of The Local Tax  
19 Enabling Act.

20 "Personal income." Income enumerated in section 303 of the  
21 Tax Reform Code of 1971, as determined by the Department of  
22 Revenue, subject to any correction thereof for fraud, evasion or  
23 error as finally determined by the Commonwealth.

24 "Resident individual." An individual who is domiciled in a  
25 school district.

26 "School district." A school district of the first class A,  
27 second class, third class or fourth class.

28 "Taxpayer." An individual required to pay a tax under this  
29 chapter.

30 Section 303. Limitation.



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

3 Section 304. Preemption.

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

9 Section 305. General tax authorization.

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

14 (b) Personal income tax.--

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

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

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

25 (4) A personal income tax imposed under the authority of  
26 this section must be levied by the school district on each of  
27 the classes of income specified in section 303 of the Tax  
28 Reform Code of 1971 and regulations under that section,  
29 provisions of which are incorporated by reference into this  
30 chapter. The following apply:

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

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

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

24                   (II) Permit another individual or entity to  
25 view or examine a return or copy of a return or a  
26 book containing an abstract or particulars.

27                   (III) Print, publish or publicize in any  
28 manner a return, any particular information  
29 contained in or concerning the return, any amount  
30 or source of income, profits, losses or

1 expenditures in or concerning the return or any  
2 particular information concerning income,  
3 profits, losses or expenditures contained in or  
4 relating to a return.

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

7 (I) may be fined not more than \$1,000 or  
8 imprisoned for not more than one year, or both;  
9 and

10 (II) may be removed from office or  
11 discharged from employment.

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

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

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

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

25 Section 306. Referendum.

26 (a) Procedures.--In order to levy a personal income tax or  
27 an earned income and net profits tax under this chapter, a  
28 governing body shall use the procedures set forth in subsections  
29 (b), (c), (d), (e), (f) and (g).

30 (b) Requirements.--

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

9           (2) The referendum question must state:

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

12           (ii) the purpose of the tax;

13           (iii) the duration of the tax; and

14           (iv) the amount of revenue to be generated by the  
15 implementation of the tax.

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

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

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

25           (4) A nonlegal interpretative statement must accompany  
26 the question in accordance with section 201.1 of the act of  
27 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania  
28 Election Code, that includes the following:

29           (i) the initial rate of the personal income or  
30 earned income and net profits tax imposed under this

1 chapter; and

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

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

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

13 (e) Duties of election officials.--

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

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

25 (f) Certification of results.--Election officials from each  
26 county involved shall independently certify the results from  
27 their county to the governing body.

28 (g) Notice and public hearing.--

29 (1) In order to levy the tax under this section, the  
30 governing body shall adopt a resolution which must refer to

1 this chapter prior to placing a question on the ballot.

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

10 Section 307. Continuity of tax.

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

15 Section 308. Collections.

16 An income tax imposed under this chapter is subject to the  
17 provisions for collection and delinquency found in the Local Tax  
18 Enabling Act.

19 Section 309. Credits.

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

24 (b) Limitation.--Payment of a tax on income to a state other  
25 than this Commonwealth or to a political subdivision located  
26 outside the boundaries of this Commonwealth by a resident of a  
27 school district located in this Commonwealth may not be credited  
28 to and allowed as a deduction from the person's liability for an  
29 income tax imposed by the school district of residence under  
30 this chapter.

1 Section 310. Exemption and special provisions.

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

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

9 Section 311. Regulations.

10 A school district that imposes:

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

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

20 CHAPTER 5

21 EDUCATION TAX

22 Section 501. Definitions.

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

26 Section 502. Education tax.

27 In addition to the tax collected under section 302 of the Tax  
28 Reform Code of 1971, the Commonwealth shall impose the tax set  
29 forth in section 503 in the same manner as the tax under the Tax  
30 Reform Code of 1971.

1 Section 503. Imposition of tax.

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

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

15 Section 504. Deposit in Residential Property Tax Elimination  
16 Fund.

17 All money collected under this chapter shall be deposited in  
18 the Residential Property Tax Elimination Fund.

19 Section 505. Combination of tax forms.

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

24 CHAPTER 7

25 SALES AND USE TAX FOR THE

26 ELIMINATION OF RESIDENTIAL PROPERTY TAXES

27 SUBCHAPTER A

28 GENERAL PROVISIONS

29 Section 701. Definitions.

30 The following words and phrases when used in this chapter



1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

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

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

19 "Building machinery and equipment." As follows:

20 (1) The term includes, but is not limited to, boilers,  
21 chillers, air cleaners, humidifiers, fans, switchgear, pumps,  
22 telephones, speakers, horns, motion detectors, dampers,  
23 actuators, grills, registers, traffic signals, sensors, card  
24 access devices, guardrails, medial devices, floor troughs and  
25 grates and laundry equipment, together with integral  
26 coverings and enclosures, whether or not the item constitutes  
27 a fixture or is otherwise affixed to the real estate, whether  
28 or not damage would be done to the item or its surroundings  
29 upon removal or whether or not the item is physically located  
30 within a real estate structure. The term also includes

1 generation equipment, storage equipment, conditioning  
2 equipment, distribution equipment and termination equipment,  
3 which shall be limited to the following:

4 (i) air conditioning, limited to heating, cooling,  
5 purification, humidification, dehumidification and  
6 ventilation;

7 (ii) electrical;

8 (iii) plumbing;

9 (iv) communications limited to voice, video, data,  
10 sound, master clock and noise abatement;

11 (v) alarms limited to fire, security and detection;

12 (vi) control systems limited to energy management,  
13 traffic and parking lot and building access;

14 (vii) medical systems limited to diagnosis and  
15 treatment equipment, medical gas, nurse call and doctor  
16 paging;

17 (viii) laboratory systems;

18 (ix) cathodic protection systems; or

19 (x) furniture, cabinetry and kitchen equipment.

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

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

1 telephone booths or cleaning and degreasing of service stations.

2 The term shall not include any of the following:

3 (1) Repairs on buildings and other structures.

4 (2) The maintenance or repair of boilers, furnaces and  
5 residential air conditioning equipment or parts thereof.

6 (3) The painting, wallpapering or applying other like  
7 coverings to interior walls, ceilings or floors.

8 (4) The exterior painting of buildings.

9 "Call center." As follows:

10 (1) The physical location in this Commonwealth:

11 (i) where at least 150 employees are employed to  
12 initiate or answer telephone calls;

13 (ii) where there are at least 200 telephone lines;

14 and

15 (iii) which utilizes an automated call distribution  
16 system for customer telephone calls in one or more of the  
17 following activities:

18 (A) customer service and support;

19 (B) technical assistance;

20 (C) help desk service;

21 (D) providing information;

22 (E) conducting surveys;

23 (F) revenue collections; or

24 (G) receiving orders or reservations.

25 (2) For purposes of this definition, a physical location  
26 may include multiple buildings utilized by a taxpayer located  
27 within this Commonwealth.

28 "Commercial aircraft operator." A person, excluding  
29 scheduled airlines, that engages in any or all of the following:

30 (1) charter of aircraft;

- 1 (2) leasing of aircraft;
- 2 (3) aircraft sales;
- 3 (4) aircraft rental;
- 4 (5) flight instruction;
- 5 (6) air freight; or
- 6 (7) any other flight activities for compensation.

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

8 (1) Thoroughbred and harness racing at which pari-mutuel  
9 wagering is conducted under 3 Pa.C.S. Ch.93 (relating to race  
10 horse industry reform).

11 (2) Fair racing sanctioned by the State Harness Racing  
12 Commission.

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

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

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

1 "Employment agency services." Providing employment services  
2 to a prospective employer or employee other than employment  
3 services provided by theatrical employment agencies and motion  
4 picture casting bureaus. These services shall include, but not  
5 be limited to, services of the type provided by employment  
6 agencies, executive placing services and labor contractor  
7 employment agencies other than farm labor.

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

10 "Gratuity." Any amount paid or remitted for services  
11 performed in conjunction with any sale of food or beverages or  
12 hotel or motel accommodations which amount is in excess of the  
13 charges and the tax thereon for the food, beverages or  
14 accommodations regardless of the method of billing or payment.

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

29 (1) dressing, bathing or feeding;

30 (2) supervising self-administered medication;

1           (3) transferring a person to or from a bed or  
2 wheelchair; or

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

6        "Internet." The international nonproprietary computer  
7 network of both Federal and non-Federal interoperable packet  
8 switched data networks.

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

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

15       "Maintaining a place of business in this Commonwealth." As  
16 follows:

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

28           (2) Engagement in any activity as a business within this  
29 Commonwealth by any person, either directly or through a  
30 subsidiary, representative or an agent, in connection with

1 the lease, sale or delivery of tangible personal property or  
2 the performance of services thereon for use, storage or  
3 consumption or in connection with the sale or delivery for  
4 use of the services described in paragraphs (11), (12), (13),  
5 (14), (15), (16), (17) and (18) of the definition of "sale at  
6 retail," including, but not limited to, having, maintaining  
7 or using any office, distribution house, sales house,  
8 warehouse or other place of business, any stock of goods or  
9 any solicitor, canvasser, salesman, representative or agent  
10 under its authority, at its direction or with its permission,  
11 regardless of whether the person or subsidiary is authorized  
12 to do business in this Commonwealth.

13 (3) Regularly or substantially soliciting orders within  
14 this Commonwealth in connection with the lease, sale or  
15 delivery of tangible personal property to or the performance  
16 thereon of services or in connection with the sale or  
17 delivery of the services described in paragraphs (11), (12),  
18 (13), (14), (15), (16), (17) and (18) of the definition of  
19 "sale at retail" for residents of this Commonwealth by means  
20 of catalogs or other advertising, whether the orders are  
21 accepted within or without this Commonwealth.

22 (3.1) The entering of this Commonwealth by any person to  
23 provide assembly, service or repair of tangible personal  
24 property, either directly or through a subsidiary,  
25 representative or agent.

26 (3.2) Delivering tangible personal property to locations  
27 within this Commonwealth if the delivery includes the  
28 unpacking, positioning, placing or assembling of the tangible  
29 personal property.

30 (3.3) Having any contact within this Commonwealth which

1 would allow the Commonwealth to require a person to collect  
2 and remit tax under the Constitution of the United States.

3 (3.4) Providing a customer's mobile telecommunications  
4 service deemed to be provided by the customer's home service  
5 provider under the Mobile Telecommunications Sourcing Act  
6 (Public Law 106-252, 4 U.S.C. §§ 116-126). For purposes of  
7 this paragraph, words and phrases used in this paragraph  
8 shall have the meanings given to them in the Mobile  
9 Telecommunications Sourcing Act.

10 (4) The term shall not include:

11 (i) Owning or leasing of tangible or intangible  
12 property by a person who has contracted with an  
13 unaffiliated commercial printer for printing, provided  
14 that:

15 (A) the property is for use by the commercial  
16 printer; and

17 (B) the property is located at the premises  
18 within this Commonwealth of the commercial printer.

19 (ii) Visits by a person's employees or agents to the  
20 premises within this Commonwealth of an unaffiliated  
21 commercial printer with whom the person has contracted  
22 for printing in connection with the contract.

23 "Manufacture." As follows:

24 (1) The performance of manufacturing, fabricating,  
25 compounding, processing or other operations, engaged in as a  
26 business, which place any tangible personal property in a  
27 form, composition or character different from that in which  
28 it is acquired whether for sale or use by the manufacturer,  
29 and shall include, but not be limited to:

30 (i) Every operation commencing with the first



1 production stage and ending with the completion of  
2 tangible personal property having the physical qualities,  
3 including packaging, if any, passing to the ultimate  
4 consumer, which it has when transferred by the  
5 manufacturer to another. For purposes of this paragraph,  
6 "operation" shall include clean rooms and their component  
7 systems, including:

8 (A) environmental control systems, antistatic  
9 vertical walls and manufacturing platforms and  
10 floors, which are independent of the real estate;

11 (B) process piping systems;

12 (C) specialized lighting systems;

13 (D) deionized water systems;

14 (E) process vacuum and compressed air systems;

15 (F) process and specialty gases; and

16 (G) alarm or warning devices specifically  
17 designed to warn of threats to the integrity of the  
18 product or people. For purposes of this paragraph, a  
19 "clean room" is a location with a self-contained,  
20 sealed environment with a controlled, closed air  
21 system independent from the facility's general  
22 environmental control system.

23 (ii) The publishing of books, newspapers, magazines  
24 and other periodicals and printing.

25 (iii) Refining, blasting, exploring, mining and  
26 quarrying for or otherwise extracting from the earth,  
27 waste, stockpiles, pits or banks any natural resources,  
28 minerals and mineral aggregates, including blast furnace  
29 slag.

30 (iv) Building, rebuilding, repairing and making

1 additions to or replacements in or upon vessels designed  
2 for commercial use of registered tonnage of 50 tons or  
3 more when produced upon special order of the purchaser,  
4 or when rebuilt, repaired or enlarged, or when  
5 replacements are made upon order of, or for the account  
6 of the owner.

7 (v) As follows:

8 (A) Research having as its objective the  
9 production of a new or an improved:

10 (I) product or utility service; or

11 (II) method of producing a product or  
12 utility service.

13 (B) The term does not include market research or  
14 research having as its objective the improvement of  
15 administrative efficiency.

16 (vi) Remanufacture for wholesale distribution by a  
17 remanufacturer of motor vehicle parts from used parts  
18 acquired in bulk by the remanufacturer using an assembly  
19 line process which involves the complete disassembly of  
20 those parts and integration of the components of those  
21 parts with other used or new components of parts,  
22 including the salvaging, recycling or reclaiming of used  
23 parts by the remanufacturer.

24 (vii) Remanufacture or retrofit by a manufacturer or  
25 remanufacturer of aircraft, armored vehicles and other  
26 defense-related vehicles having a finished value of at  
27 least \$50,000. Remanufacture or retrofit involves the  
28 disassembly of those aircraft, vehicles, parts or  
29 components, including electronic components, the  
30 integration of those parts and components with other used

1 or new parts or components, including the salvaging,  
2 recycling or reclaiming of the used parts or components,  
3 and the assembly of the new or used aircraft, vehicles,  
4 parts or components. For purposes of this subparagraph,  
5 the following terms or phrases have the following  
6 meanings:

7 (A) "Aircraft" means fixed-wing aircraft,  
8 helicopters, powered aircraft, tilt-rotor or tilt-  
9 wing aircraft, unmanned aircraft and gliders.

10 (B) "Armored vehicles" means tanks, armed  
11 personnel carriers and all other armed track or  
12 semitrack vehicles.

13 (C) "Other defense-related vehicles" means  
14 trucks, truck-tractors, trailers, jeeps and other  
15 utility vehicles, including any unmanned vehicles.

16 (viii) Remanufacture by a remanufacturer of  
17 locomotive parts from used parts acquired in bulk by the  
18 remanufacturer using an assembly line process which  
19 involves the complete disassembly of the parts and  
20 integration of the components of the parts with other  
21 used or new components of parts, including the salvaging,  
22 recycling or reclaiming of used parts by the  
23 remanufacturer.

24 (2) The term does not include:

25 (i) Constructing, altering, servicing, repairing or  
26 improving real estate or repairing, servicing or  
27 installing tangible personal property.

28 (ii) Producing a commercial motion picture.

29 (iii) Cooking, freezing or baking fruits,  
30 vegetables, mushrooms, fish, seafood, meats, poultry or

1 bakery products.

2 "Mobile telecommunications service." Mobile  
3 telecommunications service as that term is defined in the Mobile  
4 Telecommunications Sourcing Act.

5 "Person." A natural person, association, fiduciary,  
6 partnership, corporation or other entity, including the  
7 Commonwealth of Pennsylvania, its political subdivisions and  
8 instrumentalities and public authorities. Whenever used in any  
9 provision prescribing and imposing a penalty or imposing a fine  
10 or imprisonment, or both, the term, as applied to an  
11 association, shall include the members of these listed classes  
12 and, as applied to a corporation, the officers of the  
13 corporation.

14 "Prebuilt housing." Either of the following:

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

20 (2) Industrialized housing as defined in the act of May  
21 11, 1972 (P.L.286, No.70), known as the Industrialized  
22 Housing Act.

23 "Prebuilt housing builder." A person who makes a prebuilt  
24 housing sale to a prebuilt housing purchaser.

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

28 "Prebuilt housing sale." A sale of prebuilt housing to a  
29 prebuilt housing purchaser, including a sale to a landlord,  
30 without regard to whether the person making the sale is

1 responsible for installing the prebuilt housing or whether the  
2 prebuilt housing becomes a real estate structure upon  
3 installation. Temporary installation by a prebuilt housing  
4 builder for display purposes of a unit held for resale shall not  
5 be considered occupancy for residential purposes.

6 "Premium cable or premium video programming service."

7 (1) That portion of cable television services, video  
8 programming services, community antenna television services  
9 or any other distribution of television, video, audio or  
10 radio services which meets all of the following criteria:

11 (i) Is transmitted with or without the use of wires  
12 to purchasers.

13 (ii) Consists substantially of programming  
14 uninterrupted by paid commercial advertising which  
15 includes programming primarily composed of uninterrupted  
16 full-length motion pictures or sporting events, pay-per-  
17 view, paid programming or like audio or radio  
18 broadcasting.

19 (iii) Does not constitute a component of a basic  
20 service tier provided by a cable television system or a  
21 cable programming service tier provided by a cable  
22 television system. The following shall apply:

23 (A) A basic service tier shall include:

24 (I) all signals of domestic television  
25 broadcast stations;

26 (II) any public, educational, governmental  
27 or religious programming; and

28 (III) any additional video programming  
29 signals or service added to the basic service  
30 tier by the cable operator.

1 (B) The basic service tier shall include a  
2 single additional lower-priced package of broadcast  
3 channels and access information channels which is a  
4 subset of the basic service tier as set forth in this  
5 paragraph.

6 (C) A cable programming service tier includes  
7 any video programming other than:

8 (I) the basic service tier;

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

11 (III) a combination of multiple channels of  
12 pay-per-channel or pay-per-view programming  
13 offered as a package.

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

17 (i) Charges for installation or repair of any  
18 premium cable or premium video programming service.

19 (ii) Upgrade to include additional premium cable or  
20 premium video programming service.

21 (iii) Downgrade to exclude all or some premium cable  
22 or premium video programming service.

23 (iv) Additional premium cable outlets in excess of  
24 10.

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

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

28 (i) Transmissions by public television.

29 (ii) Public radio services.

30 (iii) Official Federal, State or local government

1 cable services.

2 (iv) Local origination programming which provides a  
3 variety of public service programs unique to the  
4 community.

5 (v) Programming which provides coverage of public  
6 affairs issues which are presented without commentary or  
7 analysis. This subparagraph includes United States  
8 Congressional proceedings.

9 (vi) Programming which is substantially related to  
10 religious subjects.

11 (vii) Subscriber charges for access to a video dial  
12 tone system or charges by a common carrier to a video  
13 programmer for the transport of video programming.

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

26 "Prepaid telecommunications." A tangible item containing a  
27 prepaid authorization number that can be used solely to obtain  
28 telecommunications service, including any renewal or increases  
29 in the prepaid amount.

30 "Processing." The performance of the following activities

1 when engaged in as a business enterprise:

2 (1) The filtering or heating of honey or the cooking,  
3 baking or freezing of fruits, vegetables, mushrooms, fish,  
4 seafood, meats, poultry or bakery products when the person  
5 engaged in the business packages the property in sealed  
6 containers for wholesale distribution.

7 (1.1) The processing of fruits or vegetables by  
8 cleaning, cutting, coring, peeling or chopping and treating  
9 to preserve, sterilize or purify and substantially extend the  
10 useful shelf life of the fruits or vegetables when the person  
11 engaged in the activity packages the property in sealed  
12 containers for wholesale distribution.

13 (2) The scouring, carbonizing, cording, combing,  
14 throwing, twisting or winding of natural or synthetic fibers,  
15 or the spinning, bleaching, dyeing, printing or finishing of  
16 yarns or fabrics, when the activities are performed prior to  
17 sale to the ultimate consumer.

18 (3) The electroplating, galvanizing, enameling,  
19 anodizing, coloring, finishing, impregnating or heat treating  
20 of metals or plastics for sale or in the process of  
21 manufacturing.

22 (3.1) The blanking, shearing, leveling, slitting or  
23 burning of metals for sale to or use by a manufacturer or  
24 processor.

25 (4) The rolling, drawing or extruding of ferrous and  
26 nonferrous metals.

27 (5) The fabrication for sale of ornamental or structural  
28 metal or of metal stairs, staircases, gratings, fire escapes  
29 or railings, not including fabrication work done at the  
30 construction site.



1           (6) The preparation of animal feed or poultry feed for  
2 sale.

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

5           (8) The operation of a saw mill or planing mill for the  
6 production of lumber or lumber products for sale. The  
7 operation of a saw mill or planing mill begins with the  
8 unloading by the operator of the saw mill or planing mill of  
9 logs, timber, pulpwood or other forms of wood material to be  
10 used in the saw mill or planing mill.

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

12          (9.1) The aging, stripping, conditioning, crushing and  
13 blending of tobacco leaves for use as cigar filler or as  
14 components of smokeless tobacco products for sale to  
15 manufacturers of tobacco products.

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

20          (11) The processing of used lubricating oils.

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

23          (13) The cooking or baking of bread, pastries, cakes,  
24 cookies, muffins and donuts when the person engaged in the  
25 activity sells the items at retail at locations that do not  
26 constitute an establishment from which ready-to-eat food and  
27 beverages are sold. For purposes of this paragraph, a bakery,  
28 a pastry shop and a donut shop shall not be considered an  
29 establishment from which ready-to-eat food and beverages are  
30 sold.

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

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

6           (16) The production, processing and packaging of ice for  
7 wholesale distribution.

8           (17) The producing of mobile telecommunications  
9 services.

10          (18) The collection, washing, sorting, inspecting and  
11 packaging of eggs.

12 "Promoter." A person who either, directly or indirectly,  
13 rents, leases or otherwise operates or grants permission to any  
14 person to use space at a show for the display for sale or for  
15 the sale of tangible personal property or services subject to  
16 tax under section 702.

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

18          (1) The acquisition for a consideration of the  
19 ownership, custody or possession of tangible personal  
20 property other than for resale by the person acquiring the  
21 same when the acquisition is made for the purpose of  
22 consumption or use, whether the acquisition shall be absolute  
23 or conditional, and by whatsoever means the same shall have  
24 been effected.

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

29          (3) The obtaining for a consideration any of those  
30 services set forth under paragraphs (2), (3) and (4) of the

1 definition of "sale at retail" other than for resale.

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

6 (5) The obtaining for a consideration any of those  
7 services set forth under paragraphs (11), (12), (13), (14),  
8 (15), (16), (17) and (18) of the definition of "sale at  
9 retail."

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

27 "Purchase price." As follows:

28 (1) The total value of anything paid or delivered, or  
29 promised to be paid or delivered, whether it be money or  
30 otherwise, in complete performance of a sale at retail or

1 purchase at retail, without any deduction on account of the  
2 cost or value of the property sold, cost or value of  
3 transportation, cost or value of labor or service, interest  
4 or discount paid or allowed after the sale is consummated,  
5 any other taxes imposed by the Commonwealth or any other  
6 expense except that there shall be excluded any gratuity or  
7 separately stated deposit charge for returnable containers.

8 (2) There shall be deducted from the purchase price the  
9 value of tangible personal property actually taken in trade  
10 or exchange in lieu of the whole or part of the purchase  
11 price. For the purpose of this paragraph, the amount allowed  
12 by reason of tangible personal property actually taken in  
13 trade or exchange shall be considered the value of the  
14 property.

15 (3) In determining the purchase price on the sale or use  
16 of taxable tangible personal property or a service where,  
17 because of affiliation of interests between the vendor and  
18 purchaser, or irrespective of any the affiliation, if for any  
19 other reason the purchase price declared by the vendor or  
20 taxpayer on the taxable sale or use of the tangible personal  
21 property or service is, in the opinion of the department, not  
22 indicative of the true value of the article or service or the  
23 fair price thereof, the department shall, pursuant to uniform  
24 and equitable rules, determine the amount of constructive  
25 purchase price upon the basis of which the tax shall be  
26 computed and levied. The rules shall provide for a  
27 constructive amount of purchase price for each sale or use  
28 which would naturally and fairly be charged in an arms-length  
29 transaction in which the element of common interest between  
30 the vendor or purchaser is absent or, if no common interest

1 exists, any other element causing a distortion of the price  
2 or value is likewise absent. For the purpose of this  
3 paragraph where a taxable sale or purchase at retail  
4 transaction occurs between a parent and a subsidiary,  
5 affiliate or controlled corporation of the parent  
6 corporation, there shall be a rebuttable presumption that  
7 because of the common interest the transaction was not at  
8 arms-length.

9 (4) Where there is a transfer or retention of possession  
10 or custody, whether it be termed a rental, lease, service or  
11 otherwise, of tangible personal property, including, but not  
12 limited to, linens, aprons, motor vehicles, trailers, tires,  
13 industrial office and construction equipment and business  
14 machines, the full consideration paid or delivered to the  
15 vendor or lessor shall be considered the purchase price, even  
16 if the consideration be separately stated and is designated  
17 as payment for processing, laundering, service, maintenance,  
18 insurance, repairs, depreciation or otherwise. Where the  
19 vendor or lessor supplies or provides an employee to operate  
20 the tangible personal property, the value of the labor that  
21 is supplied may be excluded and shall not be considered as  
22 part of the purchase price if separately stated. There shall  
23 also be included as part of the purchase price the value of  
24 anything paid or delivered, or promised to be paid or  
25 delivered, by a lessee, whether it be money or otherwise, to  
26 any person other than the vendor or lessor by reason of the  
27 maintenance, insurance or repair of the tangible personal  
28 property which a lessee has the possession or custody of  
29 under a rental contract or lease arrangement.

30 (5) With respect to the tax imposed by section 702(b)

1 upon any tangible personal property originally purchased by  
2 the user of the property six months or longer prior to the  
3 first taxable use of the property within this Commonwealth.  
4 The user may elect to pay tax on a substituted base  
5 determined by considering the purchase price of the property  
6 for tax purposes to be equal to the prevailing market price  
7 of similar tangible personal property at the time and place  
8 of the first use within this Commonwealth. The election must  
9 be made at the time of filing a tax return with the  
10 department and reporting the tax liability and paying the tax  
11 due plus accrued penalties and interest within six months of  
12 the due date of the report and payment under section 717(a)  
13 and (c).

14 (6) The purchase price of employment agency services and  
15 help supply services shall be the service fee paid by the  
16 purchaser to the vendor or supplying entity. The term  
17 "service fee," as used in this paragraph, shall be the total  
18 charge or fee of the vendor or supplying entity minus the  
19 costs of the supplied employee which costs are wages,  
20 salaries, bonuses and commissions, employment benefits,  
21 expense reimbursements and payroll and withholding taxes, to  
22 the extent that these costs are specifically itemized or that  
23 these costs in aggregate are stated in billings from the  
24 vendor or supplying entity. To the extent that these costs  
25 are not itemized or stated on the billings, the service fee  
26 shall be the total charge or fee of the vendor or supplying  
27 entity.

28 (7) Unless the vendor separately states which portion of  
29 the billing applies to premium cable services, the total bill  
30 for the provision of all cable services shall be the purchase

1 price.

2 (8) The purchase price of prebuilt housing shall be 60%  
3 of the manufacturer's selling price, but a manufacturer of  
4 prebuilt housing who precollects tax from a prebuilt housing  
5 builder at the time of the sale to the prebuilt housing  
6 builder shall have the option to collect tax on 60% of the  
7 selling price or on 100% of the actual cost of the supplies  
8 and materials used in the manufacture of the prebuilt  
9 housing.

10 "Purchaser." A person who acquires, for a consideration, the  
11 ownership, custody or possession by sale, lease or otherwise, of  
12 tangible personal property, or who obtains services in exchange  
13 for a purchase price, but not including an employer who obtains  
14 services from employees of the employer in exchange for wages or  
15 salaries when the services are rendered in the ordinary scope of  
16 their employment.

17 "Real estate structure." As follows:

18 (1) A structure or item purchased by a construction  
19 contractor pursuant to a construction contract with:

20 (i) a charitable organization, a volunteer firemen's  
21 organization, a nonprofit educational institution or a  
22 religious organization for religious purposes and which  
23 qualifies as an institution of purely public charity  
24 under the act of November 26, 1997 (P.L.508, No.55),  
25 known as the Institutions of Purely Public Charity Act;

26 (ii) the United States; or

27 (iii) the Commonwealth, its instrumentalities or  
28 political subdivisions.

29 (2) The term includes building machinery and equipment,  
30 developed or undeveloped land, streets, roads, highways,

1 parking lots, stadiums and stadium seating, recreational  
2 courts, sidewalks, foundations, structural supports, walls,  
3 floors, ceilings, roofs, doors, canopies, millwork,  
4 elevators, windows and external window coverings, outdoor  
5 advertising boards or signs, airport runways, bridges, dams,  
6 dikes, traffic control devices including traffic signs,  
7 satellite dishes, antennas, guardrail posts, pipes, fittings,  
8 pipe supports and hangers, valves, underground tanks, wire,  
9 conduit, receptacle and junction boxes, insulation, ductwork  
10 and coverings thereof and any structure or item similar to  
11 any of the foregoing, whether or not the structure or item  
12 constitutes a fixture or is affixed to the real estate or  
13 whether or not damage would be done to the structure or item  
14 or its surroundings upon removal.

15 "Resale." As follows:

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

23 (2) The physical incorporation of tangible personal  
24 property as an ingredient or constituent into other tangible  
25 personal property, which is to be sold in the regular course  
26 of business or the performance of those services described in  
27 paragraphs (2), (3) and (4) of the definition of "sale at  
28 retail" upon tangible personal property which is to be sold  
29 in the regular course of business or where the person  
30 incorporating the property has undertaken at the time of



1 purchase to cause it to be transported in interstate commerce  
2 to a destination outside this Commonwealth. The term shall  
3 include telecommunications services purchased by a cable  
4 operator or video programmer that are used to transport or  
5 deliver cable or video programming services which are sold in  
6 the regular course of business.

7 (3) The term shall also include tangible personal  
8 property purchased or having a situs within this Commonwealth  
9 solely for the purpose of being processed, fabricated or  
10 manufactured into, attached to or incorporated into tangible  
11 personal property and thereafter transported outside this  
12 Commonwealth for use exclusively outside this Commonwealth.

13 (4) The term does not include a sale of malt or brewed  
14 beverages by a retail dispenser or a sale of liquor or malt  
15 or brewed beverages by a person holding a retail liquor  
16 license within the meaning of the Liquor Code.

17 (5) The physical incorporation of tangible personal  
18 property as an ingredient or constituent in the construction  
19 of foundations for machinery or equipment the sale or use of  
20 which is excluded from tax under the provisions of paragraph  
21 (8) (ii) of the definition of "sale at retail" and paragraph  
22 (4) (ii) (B) of the definition of "use," whether the  
23 foundations at the time of construction or transfer  
24 constitute tangible personal property or real estate.

25 "Resident." As follows:

26 (1) Any natural person:

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

28 (ii) who maintains a permanent place of abode within  
29 this Commonwealth and spends in the aggregate more than  
30 60 days of the year within this Commonwealth.

1 (2) Any corporation:  
2 (i) incorporated under the laws of this  
3 Commonwealth;  
4 (ii) authorized to do business or doing business  
5 within this Commonwealth; or  
6 (iii) maintaining a place of business within this  
7 Commonwealth.

8 (3) Any association, fiduciary, partnership or other  
9 entity:

10 (i) domiciled in this Commonwealth;  
11 (ii) authorized to do business or doing business  
12 within this Commonwealth; or  
13 (iii) maintaining a place of business within this  
14 Commonwealth.

15 "Sale at retail." As follows:

16 (1) Any transfer, for a consideration, of the ownership,  
17 custody or possession of tangible personal property,  
18 including the grant of a license to use or consume whether  
19 the transfer be absolute or conditional and by whatsoever  
20 means the same shall have been effected.

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

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

26 (i) Washing, cleaning, waxing, polishing or  
27 lubricating of motor vehicles of another, whether or not  
28 any tangible personal property is transferred in  
29 conjunction therewith.

30 (ii) Inspecting motor vehicles pursuant to the

1 mandatory requirements of 75 Pa.C.S. (relating to  
2 vehicles).

3 (4) The rendition for a consideration of the service of  
4 repairing, altering, mending, pressing, fitting, dyeing,  
5 laundering, drycleaning or cleaning tangible personal  
6 property, including wearing apparel or shoes, or applying or  
7 installing tangible personal property as a repair or  
8 replacement part of other tangible personal property except  
9 wearing apparel or shoes for a consideration, whether or not  
10 the services are performed directly or by any means other  
11 than by coin-operated self-service laundry equipment for  
12 wearing apparel or household goods and whether or not any  
13 tangible personal property is transferred in conjunction  
14 therewith, except services as are rendered in the  
15 construction, reconstruction, remodeling, repair or  
16 maintenance of real estate, except that this paragraph shall  
17 not be deemed to impose a tax on diaper service.

18 (5) (Reserved).

19 (6) (Reserved).

20 (7) (Reserved).

21 (8) (i) Any retention of possession, custody or a  
22 license to use or consume tangible personal property or  
23 any further obtaining of services described in paragraphs  
24 (2), (3) and (4) pursuant to a rental or service contract  
25 or other arrangement, other than as security.

26 (ii) The term does not include any transfer of  
27 tangible personal property or rendition of services for  
28 the purpose of resale or rendition of services or the  
29 transfer of tangible personal property, including, but  
30 not limited to, machinery and equipment and parts

1           therefor and supplies to be used or consumed by the  
2           purchaser directly in the operations of:

3                   (A)   The manufacture of tangible personal  
4           property.

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

15                   (I)   The business of producing or harvesting  
16          trees from forests, woodlots or tree farms for  
17          the purpose of the commercial production of wood,  
18          paper or energy products derived from wood by a  
19          company primarily engaged in the business of  
20          harvesting trees.

21                   (II)  All operations prior to the transport  
22          of the harvested product necessary for the  
23          removal of timber or forest products from the  
24          site, in-field processing of trees into logs or  
25          chips, complying with environmental protection  
26          and safety requirements applicable to the  
27          harvesting of forest products, loading of forest  
28          products onto highway vehicles for transport to  
29          storage or processing facilities and  
30          postharvesting site reclamation, including those

1 activities necessary to improve timber growth or  
2 ensure natural or direct reforestation of the  
3 site. The term shall not include the harvesting  
4 of trees for clearing land for access roads.

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

10 (D) Processing as defined in this section.

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

21 (iv) The exclusions provided in subparagraph (ii)  
22 shall not apply to tangible personal property or services  
23 to be used or consumed in managerial sales or other  
24 nonoperational activities nor to the purchase or use of  
25 tangible personal property or services by any person  
26 other than the person directly using the same in the  
27 operations described in subparagraph (ii).

28 (v) The exclusion provided in subparagraph (ii)(C)  
29 shall not apply to:

30 (A) construction materials, supplies or

1 equipment used to construct, reconstruct, remodel,  
2 repair or maintain facilities not used directly by  
3 the purchaser in the production, delivering or  
4 rendition of public utility service;

5 (B) construction materials, supplies or  
6 equipment used to construct, reconstruct, remodel,  
7 repair or maintain a building, road or similar  
8 structure; or

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

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

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

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

3 (10) With respect to liquor and malt or brewed  
4 beverages, the term includes sale of liquor by a Pennsylvania  
5 Liquor Store to a person for any purpose, and sale of malt or  
6 brewed beverages by a manufacturer of malt or brewed  
7 beverages, distributor or importing distributor to a person  
8 for any purpose, except sales by a manufacturer of malt or  
9 brewed beverages to a distributor or importing distributor or  
10 sales by an importing distributor to a distributor within the  
11 meaning of the Liquor Code. The term does not include sale of  
12 malt or brewed beverages by a retail dispenser or sale of  
13 liquor or malt or brewed beverages by a person holding a  
14 retail liquor license within the meaning of and pursuant to  
15 the provisions of the Liquor Code but shall include sale of  
16 liquor or malt or brewed beverages other than pursuant to the  
17 provisions of the Liquor Code.

18 (11) The rendition for a consideration of lobbying  
19 services.

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

22 (13) The rendition for a consideration of secretarial or  
23 editing services.

24 (14) The rendition for a consideration of disinfecting  
25 or pest control services, building maintenance or cleaning  
26 services.

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

29 (16) (Reserved).

30 (17) The rendition for a consideration of lawn care

1 service.

2 (18) The rendition for a consideration of self-storage  
3 service.

4 (19) The rendition for a consideration of a mobile  
5 telecommunications service.

6 "Secretarial or editing services." Providing services which  
7 include, but are not limited to, editing, letter writing,  
8 proofreading, resume writing, typing or word processing. The  
9 term shall not include court reporting and stenographic  
10 services.

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

- 16 (1) Safe deposit boxes by financial institutions.
- 17 (2) Storage in refrigerator or freezer units.
- 18 (3) Storage in commercial warehouses.
- 19 (4) Facilities for goods distribution.
- 20 (5) Lockers in airports, bus stations, museums and other  
21 public places.

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

30 "Soft drinks." All nonalcoholic beverages, whether



1 carbonated or not, such as soda water, ginger ale, Coca-Cola,  
2 lime cola, Pepsi-Cola, Dr Pepper, fruit juice when plain or  
3 carbonated water, flavoring or syrup is added, carbonated water,  
4 orangeade, lemonade, root beer or any and all preparations,  
5 commonly referred to as soft drinks, of whatsoever kind, and are  
6 further described as including any and all beverages, commonly  
7 referred to as soft drinks, which are made with or without the  
8 use of any syrup. The term shall not include natural fruit or  
9 vegetable juices or their concentrates, or noncarbonated fruit  
10 juice drinks containing not less than 25% by volume of natural  
11 fruit juices or of fruit juice which has been reconstituted to  
12 its original state, or natural concentrated fruit or vegetable  
13 juices reconstituted to their original state, whether any of the  
14 foregoing natural juices are frozen or unfrozen, sweetened or  
15 unsweetened, seasoned with salt or spice or unseasoned, nor  
16 shall the term include coffee, coffee substitutes, tea, cocoa,  
17 natural fluid milk or noncarbonated drinks made from milk  
18 derivatives.

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

24 "Tangible personal property."

25 (1) Corporeal personal property, including, but not  
26 limited to, goods, wares, merchandise, steam and natural and  
27 manufactured and bottled gas for nonresidential use,  
28 electricity for nonresidential use, prepaid  
29 telecommunications, premium cable or premium video  
30 programming service, spirituous or vinous liquor and malt or

1 brewed beverages and soft drinks, interstate  
2 telecommunications service originating or terminating in this  
3 Commonwealth and charged to a service address in this  
4 Commonwealth, intrastate telecommunications service with the  
5 exception of subscriber line charges and basic local  
6 telephone service for residential use and charges for  
7 telephone calls paid for by inserting money into a telephone  
8 accepting direct deposits of money to operate. The service  
9 address of any intrastate telecommunications service is  
10 deemed to be within this Commonwealth or within a political  
11 subdivision, regardless of how or where billed or paid. In  
12 the case of any interstate or intrastate telecommunications  
13 service, any charge paid through a credit or payment  
14 mechanism which does not relate to a service address, such as  
15 a bank, travel, credit or debit card, but not including  
16 prepaid telecommunications, is deemed attributable to the  
17 address of origination of the telecommunications service.

18 (2) The term shall include the following, whether  
19 electronically or digitally delivered, streamed or accessed  
20 and whether purchased singly, by subscription or in any other  
21 manner, including maintenance, updates and support:

- 22 (i) video;
- 23 (ii) photographs;
- 24 (iii) books;
- 25 (iv) any other otherwise taxable printed matter;
- 26 (v) applications, commonly known as apps;
- 27 (vi) games;
- 28 (vii) music;
- 29 (viii) any other audio, including satellite radio  
30 service;

1           (ix) canned software, notwithstanding the function  
2 performed; or

3           (x) any other otherwise taxable tangible personal  
4 property electronically or digitally delivered, streamed  
5 or accessed.

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

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

21           (1) Subscriber charges for access to a video dial tone  
22 system.

23           (2) Charges to video programmers for the transport of  
24 video programming.

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

27           (i) The transport over the Internet or any  
28 proprietary network using the Internet protocol of  
29 telephone calls, facsimile transmissions or other  
30 telecommunications traffic to or from end users on the

1 public switched telephone network if the signal sent from  
2 or received by an end user is not in an Internet  
3 protocol.

4 (ii) Telecommunications services purchased by an  
5 Internet service provider to deliver access to the  
6 Internet to its customers.

7 (4) Mobile telecommunications services.

8 "Transient vendor." As follows:

9 (1) Any person who:

10 (i) brings into this Commonwealth, by automobile,  
11 truck or other means of transportation, or purchases in  
12 this Commonwealth tangible personal property the sale or  
13 use of which is subject to the tax imposed by this  
14 chapter or comes into this Commonwealth to perform  
15 services the sale or use of which is subject to the tax  
16 imposed by this chapter;

17 (ii) offers or intends to offer the tangible  
18 personal property or services for sale at retail within  
19 this Commonwealth; and

20 (iii) does not maintain an established office,  
21 distribution house, sales house, warehouse, service  
22 enterprise, residence from which business is conducted or  
23 other place of business within this Commonwealth.

24 (2) The term shall not include a person who delivers  
25 tangible personal property within this Commonwealth pursuant  
26 to orders for the property which were solicited or placed by  
27 mail or other means.

28 (3) The term shall not include a person who handcrafts  
29 items for sale at special events, including, but not limited  
30 to, fairs, carnivals, art and craft shows and other festivals

1 and celebrations within this Commonwealth.

2 "Use." As follows:

3 (1) The exercise of any right or power incidental to the  
4 ownership, custody or possession of tangible personal  
5 property and shall include, but not be limited to,  
6 transportation, storage or consumption.

7 (2) The obtaining by a purchaser of the service of  
8 printing or imprinting of tangible personal property when the  
9 purchaser furnishes, either directly or indirectly, the  
10 articles used in the printing or imprinting.

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

12 (i) Washing, cleaning, waxing, polishing or  
13 lubricating of motor vehicles whether or not any tangible  
14 personal property is transferred to the purchaser in  
15 conjunction with the services.

16 (ii) Inspecting motor vehicles pursuant to the  
17 mandatory requirements of 75 Pa.C.S. (relating to  
18 vehicles).

19 (4) (i) The obtaining by a purchaser of the service of  
20 repairing, altering, mending, pressing, fitting, dyeing,  
21 laundering, drycleaning or cleaning tangible personal  
22 property other than wearing apparel or shoes or applying  
23 or installing tangible personal property as a repair or  
24 replacement part of other tangible personal property  
25 other than wearing apparel or shoes, whether or not the  
26 services are performed directly or by any means other  
27 than by coin-operated self-service laundry equipment for  
28 wearing apparel or household goods, and whether or not  
29 any tangible personal property is transferred to the  
30 purchaser in conjunction therewith, except the services

1 as are obtained in the construction, reconstruction,  
2 remodeling, repair or maintenance of real estate, except  
3 that this paragraph shall not be deemed to impose a tax  
4 on diaper service.

5 (ii) The term shall not include:

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

13 (B) The use or consumption of tangible personal  
14 property, including, but not limited to, machinery  
15 and equipment and parts therefor, and supplies or the  
16 obtaining of the services described in this paragraph  
17 and paragraphs (2) and (3) directly in the operations  
18 of:

19 (I) The manufacture of tangible personal  
20 property.

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

1 term "timbering" shall include:

2 (a) The business of producing or  
3 harvesting trees from forests, woodlots or  
4 tree farms for the purpose of the commercial  
5 production of wood, paper or energy products  
6 derived from wood by a company primarily  
7 engaged in the business of harvesting trees.

8 (b) All operations prior to the  
9 transport of the harvested product necessary  
10 for the removal of timber or forest products  
11 from the site, in-field processing of trees  
12 into logs or chips, complying with  
13 environmental protection and safety  
14 requirements applicable to the harvesting of  
15 forest products, loading of forest products  
16 onto highway vehicles for transport to  
17 storage or processing facilities and  
18 postharvesting site reclamation, including  
19 those activities necessary to improve timber  
20 growth or ensure natural or direct  
21 reforestation of the site. The term shall not  
22 include the harvesting of trees for clearing  
23 land for access roads.

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

30 (IV) Processing as defined in this section.

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

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

18          (v) The exclusion provided in subparagraph (iii)  
19          shall not apply to:

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

25               (B) tools and equipment used but not installed  
26               in the maintenance of facilities used directly in the  
27               production, delivering or rendition of a public  
28               utility service.

29          (vi) The exclusion provided in subparagraph (ii)(B)  
30          shall not apply to the services enumerated in paragraphs



1 (9), (10), (11), (12), (13), (14), (15) and (16) nor to  
2 lobbying services, adjustment services, collection  
3 services or credit reporting services, secretarial or  
4 editing services, disinfecting or pest control services,  
5 building maintenance or cleaning services, employment  
6 agency services, help supply services, lawn care service  
7 or self-storage service, except that the exclusion  
8 provided in subparagraph (ii)(B)(II) for farming,  
9 dairying and agriculture shall apply to the service  
10 enumerated in the definition of "disinfecting or pest  
11 control services."

12 (5) Where tangible personal property or services are  
13 utilized for purposes constituting a use, and for purposes  
14 excluded from this definition, it shall be presumed that the  
15 property or services are utilized for purposes constituting a  
16 sale at retail and subject to tax unless the user thereof  
17 proves to the department that the predominant purposes for  
18 which the property or services are utilized do not constitute  
19 a sale at retail.

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

1 purchase of liquor or malt or brewed beverages from a person  
2 holding a retail liquor license within the meaning of and  
3 pursuant to the provisions of the Liquor Code, but shall  
4 include the exercise of any right or power incidental to the  
5 ownership, custody or possession of liquor or malt or brewed  
6 beverages obtained by the person exercising the right or  
7 power in any manner other than pursuant to the provisions of  
8 the Liquor Code.

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

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

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

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

19 (11) The obtaining by the purchaser of secretarial or  
20 editing services.

21 (12) The obtaining by the purchaser of disinfecting or  
22 pest control services, building maintenance or cleaning  
23 services.

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

26 (14) (Reserved).

27 (15) The obtaining by the purchaser of lawn care  
28 service.

29 (16) The obtaining by the purchaser of self-storage  
30 service.



1 this subsection to the vendor with respect to the use.

2 (c) Telecommunications services.--

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

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

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

24 (d) (Reserved).

25 (e) Prepaid telecommunications.--

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

30 (2) The sale or use of prepaid telecommunications not

1 evidenced by the transfer of tangible personal property shall  
2 be subject to the tax imposed by subsections (a) and (b) and  
3 shall be deemed to occur at the purchaser's billing address.

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

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

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

15 (1) Notwithstanding any other provision of this chapter,  
16 the sale or use of prepaid mobile telecommunications service  
17 evidenced by the transfer of tangible personal property shall  
18 be subject to the tax imposed by subsections (a) and (b).

19 (2) The sale or use of prepaid mobile telecommunications  
20 service not evidenced by the transfer of tangible personal  
21 property shall be subject to the tax imposed by subsections  
22 (a) and (b) and shall be deemed to occur at the purchaser's  
23 billing address or the location associated with the mobile  
24 telephone number or the point of sale, whichever is  
25 applicable.

26 (3) (i) Notwithstanding paragraph (2), the sale or use  
27 of prepaid mobile telecommunications service not  
28 evidenced by the transfer of tangible personal property  
29 shall be taxed at the rate of 7% of the receipts  
30 collected on each sale if the service provider elects to

1 collect the tax imposed by this chapter on receipts of  
2 each sale.

3 (ii) The service provider shall notify the  
4 department of its election and shall collect the tax on  
5 receipts of each sale until the service provider notifies  
6 the department otherwise.

7 (f) Prebuilt housing.--

8 (1) Notwithstanding any other provision of this chapter,  
9 tax with respect to sales of prebuilt housing shall be  
10 imposed, subject to the provisions of paragraph (2), on the  
11 prebuilt housing builder at the time of the prebuilt housing  
12 sale within this Commonwealth and shall be paid and reported  
13 by the prebuilt housing builder to the department in the time  
14 and manner provided in this chapter.

15 (2) A manufacturer of prebuilt housing may, at its  
16 option, precollect the tax from the prebuilt housing builder  
17 at the time of sale to the prebuilt housing builder.

18 (3) In any case where prebuilt housing is purchased and  
19 the tax is not paid by the prebuilt housing builder or  
20 precollected by the manufacturer, the prebuilt housing  
21 purchaser shall remit tax directly to the department if the  
22 prebuilt housing is used in this Commonwealth without regard  
23 to whether the prebuilt housing becomes a real estate  
24 structure.

25 (g) Mobile telecommunications services provided by home  
26 service provider.--Notwithstanding any other provisions of this  
27 chapter and in accordance with the Mobile Telecommunications  
28 Sourcing Act (Public Law 106-252, 4 U.S.C. §§ 116-126), the sale  
29 or use of mobile telecommunications services which are deemed to  
30 be provided to a customer by a home service provider under 4

1 U.S.C. § 117(a) and (b) (relating to sourcing rules) shall be  
2 subject to the tax of 7% of the purchase price. The tax shall be  
3 collected by the home service provider from the customer and  
4 shall be paid over to the Commonwealth as provided in this  
5 chapter if the customer's place of primary use is located within  
6 this Commonwealth, regardless of where the mobile  
7 telecommunications services originate, terminate or pass  
8 through. The words and phrases used in this subsection shall  
9 have the same meanings given to them in the Mobile  
10 Telecommunications Sourcing Act.

11 Section 703. Computation of tax.

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

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

16 (2) If the purchase price is 11¢ or more, but less than  
17 18¢, 1¢ shall be collected.

18 (3) If the purchase price is 18¢ or more, but less than  
19 35¢, 2¢ shall be collected.

20 (4) If the purchase price is 35¢ or more, but less than  
21 51¢, 3¢ shall be collected.

22 (5) If the purchase price is 51¢ or more, but less than  
23 68¢, 4¢ shall be collected.

24 (6) If the purchase price is 68¢ or more, but less than  
25 85¢, 5¢ shall be collected.

26 (7) If the purchase price is 85¢ or more, but less than  
27 \$1.01, 6¢ shall be collected.

28 (8) If the purchase price is more than \$1.00, 7% of each  
29 dollar of purchase price plus the charges set forth in this  
30 section upon any fractional part of a dollar in excess of

1 even dollars shall be collected.

2 (b) Deposit into Residential Property Tax Elimination  
3 Fund.--The tax collected under section 702 shall be deposited  
4 into the Residential Property Tax Elimination Fund.

5 SUBCHAPTER C

6 EXCLUSIONS FROM TAX

7 Section 704. Exclusions from tax.

8 The tax imposed by section 702 shall not be imposed upon any  
9 of the following:

10 (1) The sale at retail or use of tangible personal  
11 property, other than motor vehicles, trailers, semitrailers,  
12 motor boats, aircraft or other similar tangible personal  
13 property required under Federal or State law to be registered  
14 or licensed, or services sold by or purchased from a person  
15 that is not a vendor in an isolated transaction or sold by or  
16 purchased from a person that is a vendor but is not a vendor  
17 with respect to the tangible personal property or services  
18 sold or purchased in the transaction. Inventory and stock in  
19 trade sold at retail or used shall not be excluded from the  
20 tax by this paragraph.

21 (2) The use of tangible personal property purchased by a  
22 nonresident person outside of, and brought into, this  
23 Commonwealth for use in this Commonwealth for a period not  
24 exceeding seven days or for a period of time when the  
25 nonresident is a tourist or vacationer, as long as the  
26 tangible personal property is not consumed within this  
27 Commonwealth.

28 (3) The use of tangible personal property in accordance  
29 with the following:

30 (i) The property is purchased outside this



1 Commonwealth for use outside this Commonwealth by an  
2 individual or business entity that, at the time of  
3 purchase, is not:

4 (A) a resident of this Commonwealth; nor

5 (B) actually doing business within this  
6 Commonwealth.

7 (ii) The purchaser later brings the tangible  
8 personal property into this Commonwealth in connection  
9 with the establishment of a permanent business or  
10 residence in this Commonwealth.

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

13 (A) the date it was first brought into this  
14 Commonwealth; or

15 (B) the establishment of a business or residence  
16 under subparagraph (ii).

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

22 (4) The sale at retail or use of:

23 (i) disposable diapers;

24 (ii) premoistened wipes;

25 (iii) incontinence products;

26 (iv) colostomy deodorants;

27 (v) toilet paper;

28 (vi) sanitary napkins, tampons or similar items used  
29 for feminine hygiene; or

30 (vii) toothpaste, toothbrushes or dental floss.

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

8           (6) (Reserved).

9           (7) (Reserved).

10          (8) (Reserved).

11          (9) (Reserved).

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

13                (A) any charitable organization, volunteer  
14 firemen's organization, volunteer firefighters'  
15 relief association as defined in 35 Pa.C.S. § 7412  
16 (relating to definitions) or nonprofit educational  
17 institution; or

18                (B) a religious organization for religious  
19 purposes of tangible personal property or services  
20 other than pursuant to a construction contract.

21          (ii) The exclusion under this paragraph shall not  
22 apply with respect to any tangible personal property or  
23 services used in any unrelated trade or business carried  
24 on by the organization or institution or with respect to  
25 any materials, supplies and equipment used and  
26 transferred to the organization or institution in the  
27 construction, reconstruction, remodeling, renovation,  
28 repairs and maintenance of any real estate structure,  
29 other than building machinery and equipment, except  
30 materials and supplies when purchased by the organization

1 or institution for routine maintenance and repairs.

2 (iii) If the department has issued sales-tax-exempt  
3 status to a volunteer firefighters' organization or a  
4 volunteer firefighters' relief association, the sales-  
5 tax-exempt status may not expire unless the activities of  
6 the organization or association change so that the  
7 organization or association does not qualify as an  
8 institution of purely public charity, in which case the  
9 organization or association shall immediately notify the  
10 department of the change. If the department ascertains  
11 that an organization or association no longer qualifies  
12 as an institution of purely public charity, the  
13 department may revoke the sales-tax-exempt status of the  
14 organization or association.

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

19 (12) The sale at retail to or use by the United States,  
20 this Commonwealth or its instrumentalities or political  
21 subdivisions of tangible personal property or services.

22 (13) The sale at retail or use of wrapping paper,  
23 wrapping twine, bags, cartons, tape, rope, labels,  
24 nonreturnable containers and all other wrapping supplies, if  
25 the use is incidental to the delivery of tangible personal  
26 property. Unless the property wrapped or packaged will be  
27 resold by the purchaser of the wrapping or packaging service,  
28 this paragraph does not apply to a charge for wrapping or  
29 packaging. As used in this paragraph, the term "cartons"  
30 includes corrugated boxes used by a person engaged in the

1 manufacture of snack food products to deliver the  
2 manufactured product, whether or not the boxes are returnable  
3 for potential reuse.

4 (14) The sale at retail or use of vessels designed for  
5 commercial use of registered tonnage of 50 tons or more when  
6 produced by the builders thereof upon special order of the  
7 purchaser.

8 (15) The sale at retail of tangible personal property or  
9 services used or consumed in building, rebuilding, repairing  
10 and making additions to or replacements in and upon vessels  
11 designed for commercial use of registered tonnage of 50 tons  
12 or more upon special order of the purchaser, or when rebuilt,  
13 repaired or enlarged, or when replacements are made upon  
14 order of or for the account of the owner.

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

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

22 (i) Prescription or nonprescription medicines, drugs  
23 or medical supplies.

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

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

29 (iv) False teeth and materials used by a dentist in  
30 dental treatment.

1 (v) Eyeglasses when especially designed or  
2 prescribed by an ophthalmologist, oculist or optometrist  
3 for the personal use of the owner or purchaser.

4 (vi) Artificial braces and supports designed solely  
5 for the use of persons who are walking-impaired or any  
6 other therapeutic, prosthetic or artificial device  
7 designed for the use of a particular individual to  
8 correct or alleviate a physical incapacity, including,  
9 but not limited to, hospital beds, iron lungs and kidney  
10 machines.

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

12 (19) (Reserved).

13 (20) (Reserved).

14 (21) (Reserved).

15 (22) (Reserved).

16 (23) (Reserved).

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

20 (i) sold to a nonresident;

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

22 (iii) registered in another state within 20 days  
23 after delivery to the vendee.

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

25 (26) (Reserved).

26 (27) (Reserved).

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

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

1           (29.1) The sale at retail of food and beverages at or  
2 from a school or church in the ordinary course of the  
3 activities of the organization.

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

5           (ii) For purposes of this paragraph, the term  
6 "newspaper" shall mean a "legal newspaper" or publication  
7 containing matters of general interest and reports of  
8 current events which qualifies as a "newspaper of general  
9 circulation" qualified to carry a "legal advertisement"  
10 as those terms are defined in 45 Pa.C.S. § 101 (relating  
11 to definitions), not including magazines.

12           (iii) This paragraph includes any printed  
13 advertising materials circulated with the newspaper  
14 regardless of where or by whom the advertising material  
15 was produced.

16           (31) The sale at retail or use of caskets and burial  
17 vaults for human remains and markers and tombstones for human  
18 graves.

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

21           (33) The sale at retail or use of textbooks for use in  
22 schools, colleges and universities, either public or private,  
23 that are recognized by the Department of Education, when the  
24 textbooks are purchased on behalf of or through the schools,  
25 colleges or universities.

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

29           (35) (Reserved).

30           (36) The sale at retail or use of rail transportation

1 equipment used in the movement of personalty.

2 (37) The sale at retail of buses to be used under  
3 contract with school districts that are replacements for  
4 buses destroyed or lost in the flood of 1977 for a period  
5 ending December 31, 1977, in the counties of Armstrong,  
6 Bedford, Cambria, Indiana, Jefferson, Somerset and  
7 Westmoreland, or the use of the buses.

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

29 (39) The sale at retail or use of fish feed purchased by  
30 or on behalf of sportsmen's clubs, fish cooperatives or

1 nurseries approved by the Pennsylvania Fish and Boat  
2 Commission.

3 (40) (Reserved).

4 (41) The sale at retail of supplies and materials to  
5 tourist promotion agencies which receive grants from the  
6 Commonwealth for distribution to the public as promotional  
7 material and the use of supplies and materials by the  
8 agencies for the purposes set forth in this paragraph.

9 (42) The sale or use of brook trout (*Salvelinus*  
10 *fontinalis*), brown trout (*Salmo trutta*) or rainbow trout  
11 (*Salmo gairdneri*).

12 (43) The sale at retail or use of buses to be used  
13 exclusively for the transportation of children for school  
14 purposes.

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

21 (45) The sale at retail or use of materials used in the  
22 construction and erection of objects purchased by not-for-  
23 profit organizations for purposes of commemoration and  
24 memorialization of historical events, provided that the  
25 object is erected upon publicly owned property or property to  
26 be conveyed to a public entity upon the commemoration or  
27 memorialization of the historical event.

28 (46) The sale at retail or use of tangible personal  
29 property purchased in accordance with the Food and Nutrition  
30 Act of 2008 (Public Law 88-525, 7 U.S.C. § 2011 et seq.).



1 (47) (Reserved).

2 (48) (Reserved).

3 (49) The sale at retail or use of food and beverages by  
4 nonprofit associations which support sports programs. The  
5 following words and phrases when used in this paragraph shall  
6 have the following meanings:

7 "Nonprofit association." An entity which is  
8 organized as a nonprofit corporation or nonprofit  
9 unincorporated association under the laws of the United  
10 States or this Commonwealth or any entity which is  
11 authorized to do business in this Commonwealth as a  
12 nonprofit corporation or unincorporated association under  
13 the laws of this Commonwealth, including youth or  
14 athletic, volunteer fire, ambulance, religious,  
15 charitable, fraternal, veterans or civic, or any  
16 separately chartered auxiliary of the association, if  
17 organized and operated on a nonprofit basis.

18 "Sports program." Baseball, including softball,  
19 football, basketball, soccer and any other competitive  
20 sport formally recognized as a sport by the United States  
21 Olympic Committee as specified by and under the  
22 jurisdiction of the Ted Stevens Olympic and Amateur  
23 Sports Act (Public Law 105-277, 36 U.S.C. § 220501 et  
24 seq.), the Amateur Athletic Union or the National  
25 Collegiate Athletic Association. The term shall be  
26 limited to a program or that portion of a program that is  
27 organized for recreational purposes. The term shall be  
28 limited to a program or that portion of a program which  
29 is organized for recreational purposes and the activities  
30 of which are substantially for those purposes and which

1 is primarily for participants who are 18 years of age or  
2 younger or whose 19th birthdays occur during the year of  
3 participation or the competitive season, whichever is  
4 longer. There shall, however, be no age limitation for  
5 programs operated for persons with physical disabilities  
6 or persons with mental retardation.

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

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

22 (51) The sale at retail or use of interior office  
23 building cleaning services but only as relates to the costs  
24 of the supplied employee, which costs are wages, salaries,  
25 bonuses and commissions, employment benefits, expense  
26 reimbursements and payroll and withholding taxes, to the  
27 extent that these costs are specifically itemized or that  
28 these costs in aggregate are stated in billings from the  
29 vendor or supplying entity.

30 (52) (Reserved).

1           (53) The sale at retail or use of candy or gum  
2 regardless of the location from which the candy or gum is  
3 sold.

4           (54) (Reserved).

5           (55) The sale at retail or use of horses to be used  
6 exclusively for commercial racing activities and the sale at  
7 retail and use of feed, bedding, grooming supplies, riding  
8 tack, farrier services, portable stalls and sulkeys for  
9 horses used exclusively for commercial racing activities.

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

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

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

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

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

26           (i) transferred pursuant to a construction contract  
27 for any charitable organization, volunteer firemen's  
28 organization, volunteer firefighters' relief association,  
29 nonprofit educational institution or religious  
30 organization for religious purposes, if the building

1 machinery and equipment and services thereto are not used  
2 in any unrelated trade or business; or

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

6 (58) As follows:

7 (i) The sale at retail or use of a personal  
8 computer, a peripheral device or an Internet access  
9 device, or a service contract or single-user licensed  
10 software purchased in conjunction with a personal  
11 computer, peripheral device or Internet access device,  
12 during the exclusion period by an individual purchaser  
13 for nonbusiness use.

14 (ii) The exclusion does not include a sale at retail  
15 or use, leasing, rental or repair of:

16 (A) a personal computer, peripheral device or  
17 Internet access device;

18 (B) mainframe computers;

19 (C) network servers;

20 (D) local area network hubs;

21 (E) routers and network cabling;

22 (F) network operating systems;

23 (G) multiple-user licensed software;

24 (H) minicomputers;

25 (I) hand-held computers;

26 (J) personal digital assistants without Internet  
27 access;

28 (K) hardware word processors;

29 (L) graphical calculators;

30 (M) video game consoles;

1 (O) telephones or digital cameras;  
2 (P) pagers;  
3 (Q) compact discs encoded with music or movies;  
4 and  
5 (R) digital versatile discs encoded with music  
6 or movies.

7 (iii) The following words and phrases when used in  
8 this paragraph shall have the meanings given to them in  
9 this subparagraph unless the context clearly indicates  
10 otherwise:

11 "Exclusion period." The period of time from August  
12 5, 2001, to and including August 12, 2001, and from  
13 February 17, 2002, to and including February 24, 2002.

14 "Purchaser." An individual who places an order and  
15 pays the purchase price by cash or credit during the  
16 exclusion period even if delivery takes place after the  
17 exclusion period.

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

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

23 (61) The sale at retail to or use of food and  
24 nonalcoholic beverages by an airline which will transfer the  
25 food or nonalcoholic beverages to passengers in connection  
26 with the rendering of the airline service.

27 (62) The sale at retail or use of tangible personal  
28 property or services which are directly used in farming,  
29 dairying or agriculture when engaged in as a business  
30 enterprise whether or not the sale is made to the person

1 directly engaged in the business enterprise or to a person  
2 contracting with the person directly engaged in the business  
3 enterprise for the production of food.

4 (63) The sale at retail or use of separately stated fees  
5 paid under 13 Pa.C.S. § 9525 (relating to fees).

6 (64) The sale at retail to or use by a construction  
7 contractor, employed by a public school district pursuant to  
8 a construction contract, of any materials and building  
9 supplies which, during construction or reconstruction, are  
10 made part of any public school building utilized for  
11 instructional classroom education within this Commonwealth,  
12 if the construction or reconstruction:

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

16 (ii) takes place during the period when there is a  
17 declaration of disaster emergency under 35 Pa.C.S. §  
18 7301(c) (relating to general authority of Governor).

19 (65) The sale at retail or use of investment metal  
20 bullion and investment coins. "Investment metal bullion"  
21 means any elementary precious metal which has been put  
22 through a process of smelting or refining, including, but not  
23 limited to, gold, silver, platinum and palladium, and which  
24 is in the state or condition that its value depends upon its  
25 content and not its form. "Investment metal bullion" does not  
26 include precious metal which has been assembled, fabricated,  
27 manufactured or processed in one or more specific and  
28 customary industrial, professional, aesthetic or artistic  
29 uses. "Investment coins" means numismatic coins or other  
30 forms of money and legal tender manufactured of gold, silver,

1 platinum, palladium or other metal and of the United States  
2 or any foreign nation with a fair market value greater than  
3 any nominal value of the coins. "Investment coins" does not  
4 include jewelry or works of art made of coins, nor does it  
5 include commemorative medallions.

6 (66) The sale at retail or use of copies of an official  
7 document sold by a government agency or a court. The  
8 following words and phrases when used in this paragraph shall  
9 have the following meanings:

10 (i) "Court." Includes:

11 (A) an appellate court as defined in 42 Pa.C.S.  
12 § 102 (relating to definitions);

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

15 (C) the minor judiciary as defined in 42 Pa.C.S.  
16 § 102.

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

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

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

1 (68) The sale at retail or use of helicopters and  
2 similar rotorcraft.

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

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

9 (71) The sale at retail or use of services related to  
10 the set up, tear down or maintenance of tangible personal  
11 property rented by an authority to exhibitors at a convention  
12 center or a public auditorium, established under 64 Pa.C.S.  
13 Ch. 60 (relating to Pennsylvania Convention Center  
14 Authority), the act of July 28, 1953 (P.L.723, No.230), known  
15 as the Second Class County Code, or the act of August 9, 1955  
16 (P.L.323, No.130), known as The County Code.  
17 Section 705. Alternate imposition of tax.

18 (a) Dealers of motor vehicles.--

19 (1) This subsection applies to a person actively and  
20 principally engaged in the business of selling new or used  
21 motor vehicles, trailers or semitrailers and registered with  
22 the department in the dealer's class who:

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

25 (ii) prior to the resale, uses the motor vehicle,  
26 trailer or semitrailer for a taxable use under this  
27 chapter.

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



1 (b) Commercial aircraft operators.--

2 (1) This subsection applies to a commercial aircraft  
3 operator who:

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

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

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

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

15 Section 706. Credit against tax.

16 (a) Prerequisites.--

17 (1) Subject to the provisions of paragraph (2), a credit  
18 against the tax imposed by section 702 shall be granted with  
19 respect to tangible personal property or services purchased  
20 for use outside this Commonwealth equal to the tax paid to  
21 another state by reason of the imposition by the other state  
22 of a tax similar to the tax imposed by this chapter.

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

26 (b) Call center credit.--A credit against the tax imposed by  
27 section 702 on telecommunications services shall be granted to a  
28 call center for gross receipts tax paid by a telephone company  
29 on the receipts derived from the sale of incoming and outgoing  
30 interstate telecommunications services to the call center under

1 section 1101(a) (2) of the Tax Reform Code of 1971. The following  
2 apply:

3 (1) A telephone company, upon request, shall notify a  
4 call center of the amount of gross receipts tax paid by the  
5 telephone company on the receipts derived from the sale of  
6 incoming and outgoing interstate telecommunications services  
7 to the call center.

8 (2) A call center that is eligible for the credit in  
9 this subsection may apply for a tax credit as set forth in  
10 this subsection.

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

16 (4) By April 15 of the calendar year following the close  
17 of the calendar year during which the gross receipts tax was  
18 incurred, the department shall notify the applicant of the  
19 amount of the applicant's tax credit approved by the  
20 department.

21 (5) The total amount of tax credits provided for in this  
22 subsection and approved by the department shall not exceed  
23 \$30,000,000 in any fiscal year. If the total amount of tax  
24 credits applied for by all applicants exceeds the amount  
25 allocated for those credits, then the credit to be received  
26 by each applicant shall be determined as follows:

27 (i) Divide:

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

29 by

30 (B) the total of all tax credits applied for by

1 all applicants.

2 (ii) Multiply:

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

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

5 SUBCHAPTER D

6 LICENSES

7 Section 708. Licenses.

8 (a) General rule.--Every person maintaining a place of  
9 business in this Commonwealth, selling or leasing services or  
10 tangible personal property, the sale or use of which is subject  
11 to tax and who has not obtained a license from the department,  
12 shall, prior to the beginning of business, make application to  
13 the department, on a form prescribed by the department, for a  
14 license. If the person maintains more than one place of business  
15 in this Commonwealth, the license shall be issued for the  
16 principal place of business in this Commonwealth.

17 (b) Conditions of licensure.--The department shall, after  
18 the receipt of an application, issue the license applied for  
19 under subsection (a), if the applicant has filed all required  
20 State tax reports and paid any State taxes not subject to a  
21 timely perfected administrative or judicial appeal or subject to  
22 a duly authorized deferred payment plan. The license shall be  
23 nonassignable and valid for a period of five years.

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

25 (1) If an applicant for a license or any person holding  
26 a license has not filed all required State tax reports and  
27 paid any State taxes not subject to a timely perfected  
28 administrative or judicial appeal or subject to a duly  
29 authorized deferred payment plan, the department may refuse  
30 to issue, may suspend or may revoke said license.

1           (2) The department shall notify the applicant or  
2 licensee of any refusal, suspension or revocation. The notice  
3 shall contain a statement that the refusal, suspension or  
4 revocation may be made public and shall be sent by first  
5 class mail.

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

9           (4) In the case of a suspension or revocation which is  
10 appealed, the license shall remain valid pending a final  
11 outcome of the appeals process. Notwithstanding sections 274,  
12 353(f), 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform  
13 Code of 1971 or any other provision of law to the contrary,  
14 if no appeal is taken or if an appeal is taken and denied at  
15 the conclusion of the appeal process, the department may  
16 disclose, by publication or otherwise, the identity of a  
17 person and the fact that the person's license has been  
18 refused, suspended or revoked under this subsection. The  
19 department may include the basis for refusal, suspension or  
20 revocation in the disclosure.

21       (c) Penalties.--

22           (1) A person who maintains a place of business in this  
23 Commonwealth for the purpose of selling or leasing services  
24 or tangible personal property, the sale or use of which is  
25 subject to tax, without having first been licensed by the  
26 department shall be guilty of a summary offense and, upon  
27 conviction thereof, be sentenced to pay a fine of not less  
28 than \$300 nor more than \$1,500 and, in default thereof, to  
29 imprisonment of not less than five days nor more than 30  
30 days.



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

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

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

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

15 (b) Special definitions.--The following words and phrases,  
16 when used in Subchapters D and F, for the purposes of those  
17 subchapters only, shall, in addition to the meaning ascribed to  
18 them in section 701, have the meanings ascribed to them in this  
19 subsection, except where the context clearly indicates a  
20 different meanings:

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

22 Being the operator of a hotel in this Commonwealth.

23 "Purchase at retail." Occupancy.

24 "Purchase price." Rent.

25 "Purchaser." An occupant.

26 "Sale at retail." The providing of occupancy to an occupant  
27 by an operator.

28 "Services." Occupancy.

29 "Tangible personal property." Occupancy.

30 "Use." Occupancy.

1 "Vendor." Operator.

2 Section 710. Imposition of tax.

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

9 Section 711. Seasonal tax returns.

10 Notwithstanding any other provision of this chapter or the  
11 Tax Reform Code of 1971, the department may, by regulation,  
12 waive the requirement for the filing of quarterly returns in the  
13 case of an operator whose hotel is operated only during certain  
14 seasons of the year and may provide for the filing of returns by  
15 those persons at times other than those provided by former  
16 section 221 of the Tax Reform Code of 1971.

17 SUBCHAPTER F

18 RETURNS

19 Section 715. Persons required to make returns.

20 A person required to pay tax to the department or collect and  
21 remit tax to the department shall file returns with respect to  
22 the tax.

23 Section 716. Form of returns.

24 The returns required by section 715 shall be on forms  
25 prescribed by the department and shall show information with  
26 respect to the taxes imposed by this chapter as the department  
27 may reasonably require.

28 Section 717. Time for filing returns.

29 (a) Quarterly and monthly returns.--

30 (1) A return shall be filed quarterly by every licensee

1 on or before the 20th day of April, July, October and January  
2 for the three months ending the last day of March, June,  
3 September and December.

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

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

17 (i) Either of the following:

18 (A) An amount equal to 50% of the licensee's  
19 actual tax liability for the same month in the  
20 preceding calendar year if the licensee was a monthly  
21 filer or, if the licensee was a quarterly or  
22 semiannual filer, 50% of the licensee's average  
23 actual tax liability for that tax period in the  
24 preceding calendar year. The average actual tax  
25 liability shall be the actual tax liability for the  
26 tax period divided by the number of months in that  
27 tax period. For licensees that were not in business  
28 during the same month in the preceding calendar year  
29 or were in business for only a portion of that month,  
30 50% of the average actual tax liability for each tax



1 period the licensee has been in business. If the  
2 licensee is filing a tax liability for the first time  
3 with no preceding tax periods, the amount shall be  
4 zero.

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

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

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

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

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

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

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

28 (9) If a licensee required to remit payments under  
29 paragraph (3) or (4) fails to make a timely payment or makes  
30 a payment which is less than the required amount, the

1 department may, in addition to any applicable penalties,  
2 impose an additional penalty equal to 5% of the amount due  
3 under paragraph (3) or (4) which was not timely paid. The  
4 penalty under this paragraph shall be determined when the tax  
5 return is filed for the tax period.

6 (b) Annual returns.--For the calendar year 1971 and for each  
7 year thereafter no annual return shall be filed except as may be  
8 required by rules and regulations of the department promulgated  
9 and published at least 60 days prior to the end of the year with  
10 respect to which the returns are made. Where annual returns are  
11 required, licensees shall not be required to file the returns  
12 prior to the 20th day of the year succeeding the year with  
13 respect to which the returns are made.

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

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

23 Section 718. Extension of time for filing returns.

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

28 Section 719. Place for filing returns.

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

1 returns.

2 Section 720. Timely mailing treated as timely filing and  
3 payment.

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

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

17 SUBCHAPTER G

18 PAYMENT

19 Section 721. Payment.

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

23 Section 722. Time of payment.

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

29 (b) Annual payments.--If the amount of tax due for the  
30 preceding year as shown by the annual return of any taxpayer is

1 greater than the amount already paid by the taxpayer in  
2 connection with the taxpayer's monthly or quarterly returns, the  
3 taxpayer shall send with the annual return a remittance for the  
4 unpaid amount of tax for the year.

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

8 Section 723. Other times for payment.

9 In the event that the department authorizes a taxpayer to  
10 file a return at other times than those specified in section  
11 717, the tax due shall be paid at the time the return is filed.

12 Section 724. Place for payment.

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

15 Section 725. Tax held in trust for Commonwealth.

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

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

30 (c) Appeal.--A person, other than a taxpayer, against whom

1 the department makes any claim under this section shall have the  
2 same right to petition and appeal as is given taxpayers by any  
3 provisions of this subchapter.

4 Section 726. Local receivers of use tax.

5 (a) County treasurers.--

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

11 (2) Each county treasurer shall remit to the department  
12 all use taxes received under the authority of this section  
13 minus the costs of administering this provision not exceeding  
14 1% of the amount of use taxes received, which amount shall be  
15 retained in lieu of any commission otherwise allowable by law  
16 for the collection of the tax.

17 (b) Nonapplicability.--This section shall not apply to  
18 counties of the first class.

19 Section 727. Discount.

20 If a return is filed by a licensee and the tax shown to be  
21 due thereon less any discount is paid all within the time  
22 prescribed, the licensee shall be entitled, as compensation for  
23 the expense of collecting and remitting the tax and as a  
24 consideration of the prompt payment of the tax, to credit and  
25 apply against the tax payable by the licensee a discount of the  
26 lesser of:

27 (1) one percent of the amount of the tax collected; or

28 (2) as follows:

29 (i) twenty-five dollars per return for a monthly  
30 filer;



1 shall ascertain the difference between the amount of tax shown  
2 in the return and the amount determined. A notice of assessment  
3 for the deficiency and the reasons for the deficiency shall then  
4 be sent to the taxpayer. The deficiency shall be paid to the  
5 department within 30 days after a notice of the assessment has  
6 been mailed to the taxpayer. The term "deficiency" as used in  
7 this subsection shall mean the difference between the amount of  
8 tax shown in the return and the amount determined.

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

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

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

30 Section 733. Assessment to recover erroneous refunds.

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

8 Section 734. (Reserved).

9 Section 735. (Reserved).

10 Section 736. Burden of proof.

11 In all cases of petitions for reassessment, review or appeal,  
12 the burden of proof shall be upon the petitioner or appellant,  
13 as the case may be.

14 SUBCHAPTER I

15 COLLECTION

16 Section 737. Collection of tax.

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

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

28 (c) Collection by persons delivering property in this  
29 Commonwealth.--Every person not otherwise required to collect  
30 tax that delivers tangible personal property to a location



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

14 (d) Failure to collect tax.--Any person required under this  
15 chapter to collect tax from another person, who shall fail to  
16 collect the proper amount of the tax, shall be liable for the  
17 full amount of the tax which the person should have collected.

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

1 provide all school districts and intermediate units with a  
2 permanent tax exemption number.

3 (f) Good faith reliance on exemption certificate.--An  
4 exemption certificate, which is complete and regular and on its  
5 face discloses a valid basis of exemption if taken in good  
6 faith, shall relieve the vendor from the liability imposed by  
7 this section. An exemption certificate accepted by a vendor from  
8 a natural person domiciled within this Commonwealth or any  
9 association, fiduciary, partnership, corporation or other  
10 entity, either authorized to do business within this  
11 Commonwealth or having an established place of business within  
12 this Commonwealth, in the ordinary course of the vendor's  
13 business, which on its face discloses a valid basis of exemption  
14 consistent with the activity of the purchaser and character of  
15 the property or service being purchased or which is provided to  
16 the vendor by a charitable, religious, educational, volunteer  
17 firefighters' relief association or volunteer firemen's  
18 organization and contains the organization's charitable  
19 exemption number and which, in the case of any purchase costing  
20 \$200 or more, is accompanied by a sworn declaration on a form to  
21 be provided by the department of an intended usage of the  
22 property or service which would render it nontaxable, shall be  
23 presumed to be taken in good faith and the burden of proving  
24 otherwise shall be on the department.

25 (g) Direct payment permits.--The department may authorize a  
26 purchaser or lessee who acquires tangible personal property or  
27 services under circumstances that make it impossible at the time  
28 of acquisition to determine the manner in which the tangible  
29 personal property or service will be used to pay the tax  
30 directly to the department and waive the collection of the tax

1 by the vendor. No authority shall be granted or exercised except  
2 upon application to the department and the issuance by the  
3 department, in its discretion, of a direct payment permit. If a  
4 direct payment permit is granted, its use shall be subject to  
5 conditions specified by the department, and the payment of tax  
6 on all acquisitions pursuant to the permit shall be made  
7 directly to the department by the permit holder.

8 Section 738. Collection of tax on motor vehicles, trailers and  
9 semitrailers.

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

21 (b) Failure to pay tax.--The department may cancel or  
22 suspend any record of certificate of title or registration of a  
23 motor vehicle, trailer or semitrailer when the check received in  
24 payment of the tax on the vehicle is not paid upon demand. The  
25 tax shall be considered as a first encumbrance against the  
26 vehicle and the vehicle may not be transferred without first  
27 payment in full of the tax and any interest additions or  
28 penalties which shall accrue thereon in accordance with this  
29 chapter.

30 Section 739. Precollection of tax.

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

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

19 (c) Sale at retail.--The vendor, upon making a sale at  
20 retail of tangible personal property with respect to which the  
21 vendor has prepaid the tax, must separately state at the time of  
22 resale the proper amount of tax on the transaction and reimburse  
23 himself on account of the taxes which he has previously prepaid.  
24 Should the vendor collect a greater amount of tax in any  
25 reporting period than the vendor had previously prepaid upon  
26 purchase of the goods with respect to which the vendor prepaid  
27 the tax, the vendor must file a return and remit the balance to  
28 the Commonwealth at the time at which a return would otherwise  
29 be due with respect to those sales.

30 Section 740. Bulk and auction sales.

1 A person that sells or causes to be sold at auction, or that  
2 sells or transfers in bulk, 51% or more of any stock of goods,  
3 wares or merchandise of any kind, fixtures, machinery,  
4 equipment, buildings or real estate, involved in a business for  
5 which the person is licensed or required to be licensed under  
6 the provisions of this chapter, or is liable for filing use tax  
7 returns in accordance with the provisions of this chapter, shall  
8 be subject to the provisions of section 1403 of the Fiscal Code.  
9 Section 741. Collection upon failure to request reassessment,  
10 review or appeal.

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

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

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

17 (3) Within 30 days from the date of the decision of the  
18 Board of Finance and Revenue upon a petition for review, or  
19 of the expiration of the board's time for acting upon the  
20 petition, if no appeal has been made.

21 (4) In all cases of judicial sales, receiverships,  
22 assignments or bankruptcies.

23 (b) Defenses.--In any case in a proceeding for the  
24 collection of the taxes, the person against whom they were  
25 assessed shall not be permitted to set up any ground of defense  
26 that might have been determined by the department, the Board of  
27 Finance and Revenue or the courts. The defense of failure of the  
28 department to mail notice of assessment or reassessment to the  
29 taxpayer and the defense of payment of assessment or  
30 reassessment, however, may be raised in proceedings for

1 collection by a motion to stay the proceedings.

2 SUBCHAPTER J

3 NONPAYMENT

4 Section 742. Lien for taxes.

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

21 (b) Priority of lien and effect on judicial date; no  
22 discharge by sale on junior lien.--The lien imposed under this  
23 section shall have priority from the date of its recording under  
24 subsection (a), and shall be fully paid and satisfied out of the  
25 proceeds of any judicial sale of property subject to the lien  
26 before any other obligation, judgment, claim, lien or estate to  
27 which the property may subsequently become subject, except costs  
28 of the sale and of the writ upon which the sale was made, and  
29 real estate taxes and municipal claims against the property, but  
30 shall be subordinate to mortgages and other liens existing and

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

25 (c) Duty of prothonotary.--Any willful failure of any  
26 prothonotary to carry out any duty imposed upon the prothonotary  
27 by this section shall be a misdemeanor and, upon conviction, the  
28 prothonotary shall be sentenced to pay a fine not exceeding  
29 \$1,000 and costs of prosecution or to imprisonment for not more  
30 than one year, or both.

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

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

21 Section 743. Suit for taxes.

22 (a) Commencement.--At any time within three years after any  
23 tax or any amount of tax shall be finally due and payable, the  
24 department may commence an action in the courts of this  
25 Commonwealth, of any state or of the United States, in the name  
26 of the Commonwealth of Pennsylvania, to collect the amount of  
27 tax due together with additions, interest, penalties and costs  
28 in the manner provided at law or in equity for the collection of  
29 ordinary debts.

30 (b) Procedure.--The Attorney General shall prosecute the



1 action and, except as provided in this chapter, the provisions  
2 of the Rules of Civil Procedure and the provisions of the laws  
3 of this Commonwealth relating to civil procedures and remedies  
4 shall, to the extent that they are applicable, be available in  
5 those proceedings.

6 (c) Other remedies.--The provisions of this section are in  
7 addition to any process, remedy or procedure for the collection  
8 of taxes provided by this chapter or by the laws of this  
9 Commonwealth, and this section is neither limited by nor  
10 intended to limit any process, remedy or procedure.

11 Section 744. Tax suit comity.

12 The courts of this Commonwealth shall recognize and enforce  
13 liabilities for sales and use taxes lawfully imposed by any  
14 other state, provided that the other state extends a like comity  
15 to this Commonwealth.

16 Section 745. Service.

17 Any person maintaining a place of business within this  
18 Commonwealth is deemed to have appointed the Secretary of the  
19 Commonwealth the person's agent for the acceptance of service of  
20 process or notice in any proceedings for the enforcement of the  
21 civil provisions of this chapter, and any service made upon the  
22 Secretary of the Commonwealth as the agent shall be of the same  
23 legal force and validity as if the service had been personally  
24 made upon the person. Where service cannot be made upon the  
25 person in the manner provided by other laws of this Commonwealth  
26 relating to service of process, service may be made upon the  
27 Secretary of the Commonwealth and, in that case, a copy of the  
28 process or notice shall also be personally served upon any agent  
29 or representative of the person who may be found within this  
30 Commonwealth, or where no agent or representative may be found a

1 copy of the process or notice shall be sent by registered mail  
2 to the person at the last known address of the person's  
3 principal place of business, home office or residence.

4 SUBCHAPTER K

5 MISCELLANEOUS PROVISIONS

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

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

15 Section 747. Prepayment of tax.

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

29 (b) Petition for refund.--Tax prepaid shall be subject to  
30 refund upon petition to the department under the provisions of

1 section 752 filed within 105 days of the close of the fiscal  
2 year in which the accounts are written off.

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

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

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

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

11 (3) The debt has been deducted for Federal income tax  
12 purposes under section 166 of the Internal Revenue Code of  
13 1986.

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

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

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

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

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

1 1986 by the lender or an affiliate of the lender.

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

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

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

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

22 (1) Interest.

23 (2) Finance charges.

24 (3) Expenses incurred in attempting to collect any  
25 amount receivable.

26 (e) Refund procedure.--Documentation requirements are as  
27 follows:

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

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

3 (ii) Name and address of purchaser.

4 (iii) Amount that the purchaser paid or agreed to  
5 pay.

6 (iv) Taxable and nontaxable charges.

7 (v) Amount on which the retailer reported and paid  
8 sales tax.

9 (vi) All payments or other credits applied to the  
10 account of the purchaser.

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

16 (viii) The county in which any local sales tax was  
17 incurred.

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

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

22 (xi) Any other information required by the  
23 department.

24 (2) A person claiming a refund under this section may  
25 provide alternative forms of documentation acceptable to the  
26 department if appropriate in light of the volume and  
27 character of uncollectible accounts, including the following:

28 (i) If a vendor remits sales or use tax to the  
29 Commonwealth and to another state, the entity claiming a  
30 refund under this section may use an apportionment method

1 to substantiate the amount of Pennsylvania tax included  
2 in the bad debts to which the refund applies.

3 (ii) The apportionment method must use the vendor's  
4 Pennsylvania and non-Pennsylvania sales, the vendor's  
5 taxable and nontaxable sales and the amount of tax the  
6 vendor remitted to Pennsylvania.

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

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

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

24 (3) A person that collects, in whole or in part, the  
25 purchase price attributed to a prior bad debt refund is  
26 required to maintain adequate books, records or other  
27 documentation to allow the department to determine whether  
28 the purchase price attributed to a prior bad debt refund has  
29 been collected. Information under this paragraph includes the  
30 pertinent facts required under subsection (e).

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

8           (g) Interest.--Notwithstanding the provisions of section  
9 806.1 of the Fiscal Code, no interest shall be paid by the  
10 Commonwealth on refunds of sales tax attributed to bad debt  
11 under this section.

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

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

22           "Affiliate." A person that is:

23           (1) an affiliated entity under section 1504 of the  
24 Internal Revenue Code of 1986 of a vendor; or

25           (2) a person described in paragraph (1) or (2) of the  
26 definition of "lender" that would be an affiliated entity  
27 under section 1504 of the Internal Revenue Code of 1986 of a  
28 vendor but for the fact the person is not a corporation, an  
29 assignee or another transferee of a person described in those  
30 paragraphs.

1 "Lender." Any of the following:

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

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

8 (3) A person that is:

9 (i) an affiliate of a person described in paragraph  
10 (1) or (2); or

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

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

23 Section 748. Registration of transient vendors.

24 (a) General rule.--Prior to conducting business or otherwise  
25 commencing operations within this Commonwealth, a transient  
26 vendor shall register with the department. The application for  
27 registration shall be in a form and contain information as the  
28 department, by regulation, shall prescribe and shall set forth  
29 truthfully and accurately the information desired by the  
30 department. This registration shall be renewed and updated



1 annually.

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

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

14 (d) Notice on certificate.--The certificate issued by the  
15 department shall state that the transient vendor named therein  
16 has registered with the department and shall provide notice to  
17 the transient vendor that:

18 (1) The transient vendor must notify the department in  
19 writing before it enters this Commonwealth to conduct  
20 business of the location or locations where it intends to  
21 conduct business and the date or dates on which it intends to  
22 conduct business.

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

26 (3) Conducting business within this Commonwealth after a  
27 certificate has been suspended or revoked may result in  
28 criminal conviction and the imposition of fines or other  
29 penalties.

30 Section 748.1. Bond.

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

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

16 Section 748.2. Notification to department; inspection of  
17 records.

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

23 (b) Inspection of records.--While conducting business within  
24 this Commonwealth, the transient vendor shall permit authorized  
25 employees of the department to inspect its sales records,  
26 including, but not limited to, sales receipts and inventory or  
27 price lists, and to permit inspection of the tangible personal  
28 property offered for sale at retail.

29 (c) Suspension or revocation of certificate.--The department  
30 may suspend or revoke a certificate issued to a transient vendor

1 if the transient vendor:

2 (1) fails to notify the department as required by  
3 subsection (a);

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

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

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

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

12 Section 748.3. Seizure of property.

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

24 (b) Release of seized property.--Property seized under  
25 subsection (a) shall be released upon:

26 (1) presentation of a valid certificate to authorized  
27 employees of the department; or

28 (2) registration by the transient vendor with the  
29 department and the posting of a bond in the amount of \$500,  
30 either immediately or within 15 days after the property is

1 seized.

2 Section 748.4. Fines.

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

9 Section 748.5. Transient vendors subject to chapter.

10 Except as otherwise provided, a transient vendor shall be  
11 subject to the provisions of this chapter in the same manner as  
12 a vendor who maintains a place of business within this  
13 Commonwealth.

14 Section 748.6. Promoters.

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

21 (b) Issuance of license.--Except as provided in this  
22 section, the department shall, within 15 days after receipt of  
23 an application for a license, issue to the promoter without  
24 charge a license to operate shows. If application for a license  
25 under this section has been timely filed and if the license has  
26 not been received by the promoter prior to the opening of the  
27 show, the authorization contained in this section with respect  
28 to the obtaining of a promoter's license shall be deemed to have  
29 been complied with, unless or until the promoter receives notice  
30 from the department denying the application for a promoter's

1 license.

2 (c) Compliance with vendor provisions.--Any promoter who is  
3 a vendor under the provisions of section 701 shall comply with  
4 all the provisions of this chapter applicable to vendors and  
5 with the provisions of this section applicable to promoters.

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

12 (e) Denial or revocation of license.--Any licensed promoter  
13 who permits any person to display for sale or to sell tangible  
14 personal property or service without first having been licensed  
15 under section 708 fails to maintain records of a show under  
16 section 771.1, knowingly maintains false records or fails to  
17 comply with any provision contained in this section or any  
18 regulation promulgated by the department pertaining to shows  
19 shall be subject to denial of a license or the revocation of any  
20 existing license issued under this section. In addition, the  
21 department may deny the promoter a license certificate to  
22 operate a show for a period of not more than six months from the  
23 date of the denial. This penalty shall be in addition to any  
24 other penalty imposed by this chapter. Within 20 days of notice  
25 of denial or revocation of a license by the department, the  
26 promoter may petition the department for a hearing under 2  
27 Pa.C.S. (relating to administrative law and procedure).

28 SUBCHAPTER L

29 REFUNDS AND CREDITS

30 Section 750. (Reserved).

1 Section 751. (Reserved).

2 Section 752. Refunds.

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

19 Section 753. Refund petition.

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

27 (b) Refund upon assessment.--A refund or credit of tax,  
28 interest or penalty, paid as a result of an assessment made by  
29 the department under section 731, shall be made only where the  
30 person who has actually paid the tax files with the department a

1 petition for a refund with the department under Article XXVII of  
2 the Tax Reform Code of 1971 within the time limits of section  
3 3003.1 of the Tax Reform Code of 1971. The filing of a petition  
4 for refund, under the provisions of this subsection, shall not  
5 affect the abatement of interest, additions or penalties to  
6 which the person may be entitled by reason of his payment of the  
7 assessment.

8 Section 754. (Reserved).

9 Section 755. (Reserved).

10 Section 756. Extended time for filing special petition for  
11 refund.

12 Any party to a transaction who has paid tax by reason of a  
13 transaction with respect to which the department is assessing  
14 tax against another person may, within six months after the  
15 filing by the department of the assessment against the other  
16 person, file a special petition for refund, notwithstanding the  
17 party's failure to timely file a petition under section 3003.1  
18 of the Tax Reform Code of 1971. Article XXVII of the Tax Reform  
19 Code of 1971 shall apply to the special petition for refund,  
20 except that the department need not act on the petition until  
21 there is a final determination as to the propriety of the  
22 assessment filed against the other party to the transaction.

23 Where a petition is filed under this provision in order to take  
24 advantage of the extended period of limitations, overpayments by  
25 the petitioner shall be refunded but only to the extent of the  
26 actual tax, without consideration of interest and penalties,  
27 paid by the other party to the transaction. The purpose of this  
28 section is to avoid duplicate payment of tax where a  
29 determination is made by the department that one party to a  
30 transaction is subject to tax, and another party to the

1 transaction has previously paid tax with respect to the  
2 transaction, and this section shall be construed as extending  
3 right beyond that provided for by section 753 and not to limit  
4 the other section.

5 SUBCHAPTER M

6 LIMITATIONS

7 Section 758. Limitation on assessment and collection.

8 The amount of the tax imposed by this chapter shall be  
9 assessed within three years after the date when the return  
10 provided for by section 717(a) or (c) is filed or the end of the  
11 year in which the tax liability arises, whichever occurs last.

12 The assessment may be made at any time during the period  
13 notwithstanding that the department may have made one or more  
14 previous assessments against the taxpayer for the year in  
15 question or for any part of the year. In any case, no credit  
16 shall be given for any penalty previously assessed or paid.

17 Section 759. Failure to file return.

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

21 Section 760. False or fraudulent return.

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

25 Section 761. Extension of limitation period.

26 Notwithstanding any of the foregoing provisions of this  
27 chapter, where, before the expiration of the period prescribed  
28 therein for the assessment of a tax, a taxpayer has consented in  
29 writing that the period be extended, the amount of tax due may  
30 be assessed at any time within the extended period. The period



1 so extended may be extended further by subsequent consents in  
2 writing made before the expiration of the extended period.

3 SUBCHAPTER N

4 INTEREST, ADDITIONS, PENALTIES AND CRIMES

5 Section 765. Interest.

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

16 Section 766. Additions to tax.

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

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

1 (c) Interest.--If the department assesses a tax according to  
2 section 731(a), (b) or (c), there shall be added to the amount  
3 of the deficiency interest at the rate of .75% per month for  
4 each month, or fraction thereof, from the date prescribed by  
5 section 722(a) or (c) for the payment of the tax to the date of  
6 notice of the assessment.

7 Section 767. Penalties.

8 (a) Penalty assessed as tax.--The penalties, additions,  
9 interest and liabilities provided by this chapter shall be paid  
10 upon notice and demand by the department and shall be assessed  
11 and collected in the same manner as taxes. Except as otherwise  
12 provided, any reference in this chapter to a tax imposed by this  
13 chapter shall be deemed also to refer to the penalties,  
14 additions, interest and liabilities provided by this chapter.

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

23 (c) Burden of proof.--In any direct proceeding arising out  
24 of a petition for reassessment or refund as provided in this  
25 chapter, in which an issue of fact is raised with respect to  
26 whether a return is fraudulent or with respect to the propriety  
27 of the imposition by the department of the penalty prescribed in  
28 subsection (b), the burden of proof with respect to the issue  
29 shall be upon the department.

30 Section 768. Crimes.

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

7 (b) Other crimes.--Except as otherwise provided by  
8 subsection (a), the following persons commit a misdemeanor and  
9 shall, upon conviction, be sentenced to pay a fine not to exceed  
10 \$1,000 and costs of prosecution or to imprisonment for not more  
11 than one year, or both:

12 (1) Any person who advertises or holds out or states to  
13 the public or to any purchaser or user, directly or  
14 indirectly, that the tax or any part thereof imposed by this  
15 chapter will be absorbed by the person, or that it will not  
16 be added to the purchase price of the tangible personal  
17 property or services described in paragraphs (2), (3), (4),  
18 (11), (12), (13), (14), (15), (16), (17) and (18) under the  
19 definition of "sale at retail" in section 701 sold or, if  
20 added, that the tax or any part thereof will be refunded,  
21 other than when the person refunds the purchase price because  
22 of the property being returned to the vendor.

23 (2) Any person selling or leasing tangible personal  
24 property or services the sale or use of which by the  
25 purchaser is subject to tax under this chapter, who shall  
26 willfully fail to collect the tax from the purchaser and  
27 timely remit the same to the department.

28 (3) Any person who shall willfully fail or neglect to  
29 timely file any return or report required by this chapter or  
30 any taxpayer who shall refuse to timely pay any tax, penalty

1 or interest imposed or provided for by this chapter, or who  
2 shall willfully fail to preserve his books, papers and  
3 records as directed by the department.

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

15 (c) Place of business outside Commonwealth.--Any person  
16 maintaining a place of business outside this Commonwealth may  
17 absorb the tax with respect to taxable sales made in the normal  
18 course of business to customers present at the place of business  
19 without being subject to the penalty and fines under subsection  
20 (b).

21 (d) Prepaid mobile telecommunications services.--Advertising  
22 tax-included prices shall be permissible, if the prepaid  
23 services are sold by the service provider, for prepaid  
24 telecommunications services not evidenced by the transfer of  
25 tangible personal property or for prepaid mobile  
26 telecommunications services.

27 (e) Sales suppression devices.--

28 (1) Notwithstanding any other provision of this chapter,  
29 any person who purchases, installs or uses in this  
30 Commonwealth an automated sales suppression device or zapper

1 or phantomware with the intent to defeat or evade the  
2 determination of an amount due under this chapter commits a  
3 misdemeanor.

4 (2) Any person who, for commercial gain, sells,  
5 purchases, installs, transfers or possesses in this  
6 Commonwealth an automated sales suppression device or zapper  
7 or phantomware with the knowledge that the sole purpose of  
8 the device is to defeat or evade the determination of an  
9 amount due under this chapter commits an offense which shall  
10 be punishable by a fine specified under paragraph (3) or by  
11 imprisonment for not more than one year, or both. A person  
12 who uses an automated sales suppression device or zapper or  
13 phantomware shall be liable for all taxes, interest and  
14 penalties due as a result of the use of that device.

15 (3) If a person is guilty of an offense under this  
16 paragraph and the person sold, installed, transferred or  
17 possessed not more than three automated sales suppression  
18 devices or zappers or phantomware, the person commits an  
19 offense punishable by a fine of not more than \$5,000.

20 (4) If a person commits an offense under paragraph (1)  
21 and the person sold, installed, transferred or possessed more  
22 than three automated sales suppression devices or zappers or  
23 phantomware, the person commits an offense punishable by a  
24 fine of not more than \$10,000.

25 (5) This subsection shall not apply to a corporation  
26 that possesses an automated sales suppression device or  
27 zapper or phantomware for the sole purpose of developing  
28 hardware or software to combat the evasion of taxes by use of  
29 automated sales suppression devices or zappers or  
30 phantomware.

1           (6) As used in this subsection, the following words and  
2 phrases shall have the meanings given to them in this  
3 paragraph unless the context clearly indicates otherwise:

4           "Automated sales suppression device" or "zapper." A  
5 software program carried on a memory stick or removable  
6 compact disc, accessed through an Internet link or through  
7 any other means, that falsifies the electronic records of  
8 electronic cash registers and other point-of-sale systems,  
9 including, but not limited to, transaction data and  
10 transaction reports.

11           "Electronic cash register." A device that keeps a  
12 register or supporting document through the means of an  
13 electronic device or computer system designed to record  
14 transaction data for the purpose of computing, compiling or  
15 processing retail sales transaction data in whatever manner.

16           "Phantomware." A hidden programming option, which is  
17 either preinstalled or installed at a later time, embedded in  
18 the operating system of an electronic cash register or  
19 hardwired into the electronic cash register that can be used  
20 to create a virtual second till or may eliminate or  
21 manipulate a transaction record that may or may not be  
22 preserved in digital formats to represent the true or  
23 manipulated record of transactions in the electronic cash  
24 register.

25           "Transaction data." Includes information regarding items  
26 purchased by a customer, the price for each item, a  
27 taxability determination for each item, a segregated tax  
28 amount for each of the taxed items, the amount of cash or  
29 credit tendered, the net amount returned to the customer in  
30 change, the date and time of the purchase, the name, address

1 and identification number of the vendor and the receipt or  
2 invoice number of the transaction.

3 (f) Prosecution.--This subsection shall not preclude  
4 prosecution under any other law.

5 (g) Other penalties.--The penalties imposed by this  
6 subsection shall be in addition to any other penalties imposed  
7 by any provision of this chapter.

8 Section 769. Abatement of additions or penalties.

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

15 SUBCHAPTER O

16 ENFORCEMENT AND EXAMINATIONS

17 Section 770. Rules and regulations.

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

27 (b) Sales between affiliated interests.--In determining the  
28 purchase price of taxable sales where, because of affiliation of  
29 interests between the vendor and the purchaser or irrespective  
30 of any affiliation, if for any other reason, the purchase price

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

17 Section 771. Keeping of records.

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

29 (b) Persons collecting tax from others.--Any person liable  
30 to collect tax from another person under this chapter shall file



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

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

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

26 (e) Other methods.--

27 (1) In those instances where a vendor gives no sales  
28 memoranda or uses registers showing only total sales, the  
29 vendor must adopt some method of segregating tax from sales  
30 receipts and keep records showing the segregation, all in

1 accordance with proper accounting and business practices.

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

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

14 Section 771.1. Reports and records of promoters.

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

28 Section 772. Examinations.

29 The department or any of its authorized agents are authorized  
30 to examine the books, papers and records of any taxpayer in

1 order to verify the accuracy and completeness of any return made  
2 or, if no return was made, to ascertain and assess the tax  
3 imposed by this chapter. The department may require the  
4 preservation of any books, papers and records for any period  
5 deemed proper by it, but not exceeding three years from the end  
6 of the calendar year to which the records relate. Each taxpayer  
7 is required to give to the department, or its agent, the means,  
8 facilities and opportunity for examinations and investigation.  
9 The department is further authorized to examine any person,  
10 under oath, concerning taxable sales or use by any taxpayer or  
11 concerning any other matter relating to the enforcement or  
12 administration of this chapter, and to this end may compel the  
13 production of books, papers and records and the attendance of  
14 all persons whether as parties or witnesses whom it believes to  
15 have knowledge of the matters. The procedure for hearings or  
16 examinations shall be the same as that provided by the Fiscal  
17 Code, relating to inquisitorial powers of fiscal officers.

18 Section 773. Records and examinations of delivery agents.

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

25 Section 774. Unauthorized disclosure.

26 Any information gained by the department as a result of any  
27 return, examination, investigation, hearing or verification,  
28 required or authorized by this chapter, shall be confidential,  
29 except for official purposes and except in accordance with  
30 proper judicial order or as otherwise provided by law, and any

1 person unlawfully divulging the information commits a  
2 misdemeanor and shall, upon conviction, be sentenced to pay a  
3 fine of not more than \$1,000 and costs of prosecution or to  
4 imprisonment for not more than one year, or both.

5 Section 775. Cooperation with other governments.

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

19 Section 776. Interstate compacts.

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

1 Section 777. Bonds.

2 (a) Taxpayer to file bond.--

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

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

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

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

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

30       (c) Failure to file bond.--The department may file a lien

1 under section 742 against any taxpayer who fails to file a bond  
2 when required to do so under this section. All funds received  
3 upon execution of the judgment on a lien shall be refunded to  
4 the taxpayer with 3% interest should a final determination be  
5 made that the taxpayer does not owe any payment to the  
6 department.

7 SUBCHAPTER P

8 APPROPRIATION, CONSTRUCTION,

9 TRANSFERS AND APPLICABILITY

10 Section 781. Appropriation for refunds.

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

15 Section 781.1. Construction of chapter.

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

22 Section 781.2. Transfers to Public Transportation Assistance  
23 Fund.

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

29 (b) Transfer to Public Transportation Assistance Fund.--  
30 Within 30 days of the close of any calendar month, 0.44% of the

1 taxes received in the previous month under this chapter, less  
2 any amounts collected in that previous calendar month under  
3 former 74 Pa.C.S. § 1314(d) (relating to Public Transportation  
4 Assistance Fund), shall be transferred to the Public  
5 Transportation Assistance Fund established under Article XXIII  
6 of the Tax Reform Code of 1971.

7 (c) (Reserved).

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

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

18 Section 782. Transfers to Residential Property Tax Elimination  
19 Fund.

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

24 (b) Source of funding for transfers.--Except as otherwise  
25 provided under section 781.2, all revenues received on or after  
26 January 1, 2019, from the tax imposed by this chapter shall be  
27 transferred to the Residential Property Tax Elimination Fund.

28 Section 783. Applicability.

29 This chapter shall apply to sales and uses occurring on or  
30 after January 1, 2019.



1 CHAPTER 9

2 LIMITATIONS ON

3 SCHOOL DISTRICT TAXATION

4 Section 901. Authority to levy taxes and effect of future  
5 constitutional amendment.

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

7 (1) The authority of any school district to levy, assess  
8 and collect any residential real property tax under the  
9 Public School Code of 1949 or any other act shall expire,  
10 subject to the provisions of section 902, at midnight  
11 December 31, 2021.

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

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

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

29 Section 902. Transitional taxes.

30 (a) Transitional taxes for school districts other than

1 school districts of the first class.--Notwithstanding any other  
2 provision of the Public School Code of 1949 or any other law to  
3 the contrary:

4 (1) Any school district, other than a school district of  
5 the first class, may continue to levy, assess and collect a  
6 real property tax for fiscal year 2023-2024.

7 (2) For all fiscal years beginning after June 30, 2023,  
8 no school district shall have any power or authority to levy,  
9 assess and collect any real property tax, except as necessary  
10 to reduce the amount of its outstanding debt in existence on  
11 December 31, 2021.

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

15 (1) Any school district of the first class and city of  
16 the first class may continue to levy, assess and collect a  
17 real property tax and all other taxes in existence on July  
18 31, 2021, at the rates in effect on that date for the use of  
19 a coterminous school district of the first class for fiscal  
20 year 2023-2024. The authority to levy, assess and collect  
21 those taxes for the use of coterminous school districts shall  
22 expire at midnight on December 31, 2021.

23 (2) For all fiscal years beginning after June 30, 2021,  
24 no city of the first class shall have any power or authority  
25 to levy, assess and collect any of the taxes identified under  
26 paragraph (1) for school purposes, except as necessary to  
27 reduce the amount of its outstanding debt in existence on  
28 December 31, 2021.

29 Section 903. Consideration of State appropriations or  
30 reimbursements.

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

6 Section 904. Taxes for cities and school districts of the first  
7 class.

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

15 CHAPTER 11

16 INDEBTEDNESS

17 Section 1101. Expiration of authority to issue debt.

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

24 Section 1102. Notices and reporting by school districts of debt  
25 outstanding.

26 (a) Duties.--

27 (1) Each school district, including a school district of  
28 the first class, shall identify the outstanding amount of all  
29 electoral debt, lease rental debt or nonelectoral debt  
30 incurred as of December 31, 2021.

1 (2) On or before September 30, 2023, each school  
2 district, including a school district of the first class,  
3 shall certify and report to the department the outstanding  
4 amount of all electoral debt, lease rental debt or  
5 nonelectoral debt incurred as of December 31, 2021, together  
6 with any information requested by the department in order for  
7 the Commonwealth to comply with requirements of this section.

8 (b) Audit by department.--

9 (1) The department shall audit each report submitted  
10 under subsection (a) and shall certify the amount of each  
11 report and the total aggregate amount of all reports to the  
12 State Treasurer on or before March 31, 2024.

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

## 18 CHAPTER 13

### 19 FUNDING PROVISIONS

20 Section 1301. Definitions.

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

24 "Base revenue." The money a school district receives from  
25 property tax during fiscal year 2021-2022.

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

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

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

3       "Fund." The Residential Property Tax Elimination Fund  
4 established in section 1302.

5 Section 1302. Residential Property Tax Elimination Fund.

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

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

9           (1) Money collected by the Department of Education  
10 under:

11               (i) Chapter 5; or

12               (ii) Chapter 7.

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

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

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

19       (3) Appropriations.

20       (4) Return on money in the fund.

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

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

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

28       (a) Initial.--For fiscal year 2021-2022, the Department of  
29 Education shall make disbursements to each school district as  
30 follows:

- 1 (1) Ascertain base revenue.
- 2 (2) Multiply:
  - 3 (i) the amount ascertained under paragraph (1); by
  - 4 (ii) the cost-of-living factor.
- 5 (3) Divide:
  - 6 (i) the product under paragraph (2); by
  - 7 (ii) four.
- 8 (4) Each quarter, disburse the quotient under paragraph
- 9 (3).

10 (b) Subsequent.--For fiscal years beginning after June 30,  
11 2021, the Department of Education shall make disbursements to  
12 each school district as required by statute.

#### 13 CHAPTER 15

#### 14 MISCELLANEOUS PROVISIONS

15 Section 1501. Transitional provision.

16 (a) Sales tax.--Notwithstanding the repeal of Article II of  
17 the Tax Reform Code of 1971, under section 1504, the department  
18 shall have the authority to enforce the collection of taxes  
19 imposed for transactions that occur prior to the effective date  
20 of this section under former Article II of the Tax Reform Code  
21 of 1971. The taxes collected after January 1, 2022, regardless  
22 of the transaction date, shall be deposited into the Residential  
23 Property Tax Elimination Fund.

24 (b) Other taxes.--Notwithstanding the repeal of any  
25 provision of the Public School Code of 1949 or of any other law  
26 authorizing school districts to impose taxes, a governing body  
27 shall have the authority to enforce, after the effective date of  
28 the repeal, the collection of taxes levied and assessed under  
29 those former provisions prior to the effective date of the  
30 repeal under section 1504.

1 Section 1502. Construction.

2 Any and all references in any other act to Article II of the  
3 Tax Reform Code of 1971 or any provision in Article II of the  
4 Tax Reform Code of 1971 shall be deemed a reference to Chapter 7  
5 of this act or the corresponding provisions in Chapter 7 of this  
6 act.

7 Section 1503. Severability.

8 The provisions of this act are severable as follows:

9 (1) If any provision of this act is held invalid, the  
10 invalidity shall not affect other provisions or applications  
11 of this act which can be given effect without the invalid  
12 provision or application.

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

20 Section 1504. Repeals.

21 (a) Intent.--The General Assembly declares that the repeals  
22 under subsection (b) are necessary to effectuate this act.

23 (b) Provisions.--The following acts and parts of acts are  
24 repealed:

25 (1) Section 631 of the Public School Code of 1949, is  
26 repealed.

27 (2) Any provision of the Public School Code of 1949 and  
28 of any other law relating to the authority of any school  
29 district to levy, assess and collect any tax on real property  
30 and the power of any city of the first class to levy, assess

1 and collect any tax on real property for school purposes is  
2 repealed upon the expiration of the respective schedule  
3 prescribed in sections 901 and 902.

4 (3) Any provision of the Public School Code of 1949 and  
5 any other law relating to debt is repealed to the extent that  
6 it is inconsistent with this act.

7 (4) Any provision of the Public School Code of 1949 and  
8 any home rule charter adopted pursuant thereto is repealed  
9 insofar as it is inconsistent with this act.

10 (5) Any provision of the act of August 9, 1963 (P.L.643,  
11 No.341), known as the First Class City Public Education Home  
12 Rule Act, and any home rule school district charter adopted  
13 pursuant thereto is repealed insofar as it is inconsistent  
14 with this act.

15 (6) Article II of the act of March 4, 1971 (P.L.6,  
16 No.2), known as the Tax Reform Code of 1971, is repealed.

17 (7) Section 321(b) of the act of June 27, 2006 (1st  
18 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act,  
19 is repealed regarding the tax on earned income.

20 (8) Any provision of the Taxpayer Relief Act, is  
21 repealed insofar as it is inconsistent with this act.

22 (9) All acts and parts of acts that are inconsistent  
23 with this act are repealed to the extent of the  
24 inconsistency.

25 Section 1505. Effective date.

26 This act shall take effect upon the amendment of the  
27 Constitution of Pennsylvania to provide for special tax  
28 provisions that prohibit a school district from imposing a tax  
29 on real property classified as residential property.