
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1041 Session of
2020

INTRODUCED BY K. WARD, LANGERHOLC, PITTMAN, REGAN, BARTOLOTTA,
SCAVELLO, MASTRIANO, J. WARD, STEFANO, ARGALL, BAKER AND
AUMENT, FEBRUARY 19, 2020

REFERRED TO FINANCE, FEBRUARY 19, 2020

AN ACT

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

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

14 Section 1. Section 201(k)(8) and (o)(4) of the act of March
15 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are
16 amended to read:

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

21 * * *

22 (k) "Sale at retail."

1 * * *

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

7 The term "sale at retail" shall not include (i) any such
8 transfer of tangible personal property or rendition of services
9 for the purpose of resale, or (ii) such rendition of services or
10 the transfer of tangible personal property including, but not
11 limited to, machinery and equipment and parts therefor and
12 supplies to be used or consumed by the purchaser directly in the
13 operations of--

14 (A) The manufacture of tangible personal property.

15 (B) Farming, dairying, agriculture, timbering, horticulture
16 or floriculture when engaged in as a business enterprise. The
17 term "farming" shall include the propagation and raising of
18 ranch raised fur-bearing animals and the propagation of game
19 birds for commercial purposes by holders of propagation permits
20 issued under 34 Pa.C.S. (relating to game) and the propagation
21 and raising of horses to be used exclusively for commercial
22 racing activities. The term "farming" shall further include the
23 direct or incidental use of a "multipurpose agricultural
24 vehicle," as defined in 75 Pa.C.S. § 102 (relating to
25 definitions), in accordance with the provisions of 75 Pa.C.S. §
26 1302(17) (relating to vehicles exempt from registration)
27 operated for the benefit of or pursuant to the operation of a
28 farm owned or operated by the owner of the vehicle or a business
29 whose enterprises and activities are considered part of farming
30 under this subclause. For the purpose of this subclause, the

1 "direct use" of a multipurpose agricultural vehicle shall
2 include repairing and maintaining buildings (including houses,
3 garages, barns, stables, greenhouses, mushroom houses and
4 storehouses), fences and stanchions permanently affixed to real
5 estate, as well as prefarming and postfarming activities as
6 defined in 61 Pa. Code § 32.33(a)(3)(iii) (relating to farming).

7 The term "timbering" shall include:

8 (1) The business of producing or harvesting trees from
9 forests, woodlots or tree farms for the purpose of the
10 commercial production of wood, paper or energy products derived
11 from wood by a company primarily engaged in the business of
12 harvesting trees.

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

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

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

29 The exclusions provided in paragraphs (A), (B), (C) and (D)
30 shall not apply to any vehicle required to be registered under

1 The Vehicle Code, except those vehicles used directly by a
2 public utility engaged in business as a common carrier; to
3 maintenance facilities; or to materials, supplies or equipment
4 to be used or consumed in the construction, reconstruction,
5 remodeling, repair or maintenance of real estate other than
6 directly used machinery, equipment, parts or foundations
7 therefor that may be affixed to such real estate.

8 The exclusions provided in paragraphs (A), (B), (C) and (D)
9 shall not apply to tangible personal property or services to be
10 used or consumed in managerial sales or other nonoperational
11 activities, nor to the purchase or use of tangible personal
12 property or services by any person other than the person
13 directly using the same in the operations described in
14 paragraphs (A), (B), (C) and (D) herein.

15 The exclusion provided in paragraph (C) shall not apply to
16 (i) construction materials, supplies or equipment used to
17 construct, reconstruct, remodel, repair or maintain facilities
18 not used directly by the purchaser in the production, delivering
19 or rendition of public utility service, (ii) construction
20 materials, supplies or equipment used to construct, reconstruct,
21 remodel, repair or maintain a building, road or similar
22 structure, or (iii) tools and equipment used but not installed
23 in the maintenance of facilities used directly in the
24 production, delivering or rendition of a public utility service.

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

30 * * *

1 (o) "Use."

2 * * *

3 (4) The obtaining by a purchaser of the service of
4 repairing, altering, mending, pressing, fitting, dyeing,
5 laundering, drycleaning or cleaning tangible personal property
6 other than wearing apparel or shoes or applying or installing
7 tangible personal property as a repair or replacement part of
8 other tangible personal property other than wearing apparel or
9 shoes, whether or not the services are performed directly or by
10 any means other than by means of coin-operated self-service
11 laundry equipment for wearing apparel or household goods, and
12 whether or not any tangible personal property is transferred to
13 the purchaser in conjunction therewith, except such services as
14 are obtained in the construction, reconstruction, remodeling,
15 repair or maintenance of real estate: Provided, however, That
16 this subclause shall not be deemed to impose tax upon such
17 services in the preparation for sale of new items which are
18 excluded from the tax under clause (26) of section 204, or upon
19 diaper service: And provided further, That the term "use" shall
20 not include--

21 * * *

22 (B) The use or consumption of tangible personal property,
23 including but not limited to machinery and equipment and parts
24 therefor, and supplies or the obtaining of the services
25 described in subclauses (2), (3) and (4) of this clause directly
26 in the operations of--

27 (i) The manufacture of tangible personal property.

28 (ii) Farming, dairying, agriculture, timbering, horticulture
29 or floriculture when engaged in as a business enterprise. The
30 term "farming" shall include the propagation and raising of

1 ranch-raised furbearing animals and the propagation of game
2 birds for commercial purposes by holders of propagation permits
3 issued under 34 Pa.C.S. (relating to game) and the propagation
4 and raising of horses to be used exclusively for commercial
5 racing activities. The term "farming" shall further include the
6 direct or incidental use of a "multipurpose agricultural
7 vehicle," as defined in 75 Pa.C.S. § 102, in accordance with the
8 provisions of 75 Pa.C.S. § 1302(17) operated for the benefit of
9 or pursuant to the operation of a farm owned or operated by the
10 owner of the vehicle or a business whose enterprises and
11 activities are considered part of farming under this subclause.
12 For the purpose of this subclause, the "direct use" of a
13 multipurpose agricultural vehicle shall include repairing and
14 maintaining buildings (including houses, garages, barns,
15 stables, greenhouses, mushroom houses and storehouses), fences
16 and stanchions permanently affixed to real estate, as well as
17 prefarming and postfarming activities as defined in 61 Pa. Code
18 § 32.33(a)(3)(iii). The term "timbering" shall include:

19 (1) The business of producing or harvesting trees from
20 forests, woodlots or tree farms for the purpose of the
21 commercial production of wood, paper or energy products derived
22 from wood by a company primarily engaged in the business of
23 harvesting trees.

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

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

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

9 (iv) Processing as defined in subclause (d) of this section.

10 The exclusions provided in subparagraphs (i), (ii), (iii) and
11 (iv) shall not apply to any vehicle required to be registered
12 under The Vehicle Code except those vehicles directly used by a
13 public utility engaged in the business as a common carrier; to
14 maintenance facilities; or to materials, supplies or equipment
15 to be used or consumed in the construction, reconstruction,
16 remodeling, repair or maintenance of real estate other than
17 directly used machinery, equipment, parts or foundations
18 therefor that may be affixed to such real estate. The exclusions
19 provided in subparagraphs (i), (ii), (iii) and (iv) shall not
20 apply to tangible personal property or services to be used or
21 consumed in managerial sales or other nonoperational activities,
22 nor to the purchase or use of tangible personal property or
23 services by any person other than the person directly using the
24 same in the operations described in subparagraphs (i), (ii),
25 (iii) and (iv).

26 The exclusion provided in subparagraph (iii) shall not apply
27 to (A) construction materials, supplies or equipment used to
28 construct, reconstruct, remodel, repair or maintain facilities
29 not used directly by the purchaser in the production, delivering
30 or rendition of public utility service or (B) tools and

1 equipment used but not installed in the maintenance of
2 facilities used directly in the production, delivering or
3 rendition of a public utility service.

4 The exclusion provided in subparagraphs (i), (ii), (iii) and
5 (iv) shall not apply to the services enumerated in clauses (o)
6 (9) through (16) and (w) through (kk), except that the exclusion
7 provided in subparagraph (ii) for farming, dairying and
8 agriculture shall apply to the service enumerated in clause (z).

9 * * *

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