

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 307 Session of 2021

INTRODUCED BY DIAMOND, ROWE AND ZIMMERMAN, JANUARY 27, 2021

REFERRED TO COMMITTEE ON FINANCE, JANUARY 27, 2021

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, for imposition of tax and for computation of
 12 tax, repealing provisions relating to exclusions from tax and
 13 further providing for alternate imposition of tax and credits
 14 and for transfers to Public Transportation Assistance Fund;
 15 and, in special taxing authority, further providing for
 16 special taxing authority.

17 The General Assembly of the Commonwealth of Pennsylvania
 18 hereby enacts as follows:

19 Section 1. Sections 201(a), (b)(4), (c)(5) and last clause,
 20 (d)(13), (f)(3) and last clause, (g)(1), (i)(4), (k)(4), (8) and
 21 (10), (o)(4), (6) and (8), (p), (t)(2) and (3), (x), (y), (z),
 22 (aa), (bb), (cc), (kk), (ll)(3), (nn), (pp)(10), (rr), (yy) and
 23 (ccc) and 202 of the act of March 4, 1971 (P.L.6, No.2), known
 24 as the Tax Reform Code of 1971, amended June 28, 2019 (P.L.50,
 25 No.13), are amended to read:

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

5 (a) "Soft drinks." All nonalcoholic beverages, whether
6 carbonated or not, such as soda water, ginger ale, coca cola,
7 lime cola, pepsi cola, Dr. Pepper, fruit juice when plain or
8 carbonated water, flavoring or syrup is added, carbonated water,
9 orangeade, lemonade, root beer or any and all preparations,
10 commonly referred to as "soft drinks," of whatsoever kind, and
11 are further described as including any and all beverages,
12 commonly referred to as "soft drinks," which are made with or
13 without the use of any syrup. [The term "soft drinks" shall not
14 include natural fruit or vegetable juices or their concentrates,
15 or non-carbonated fruit juice drinks containing not less than
16 twenty-five per cent by volume of natural fruit juices or of
17 fruit juice which has been reconstituted to its original state,
18 or natural concentrated fruit or vegetable juices reconstituted
19 to their original state, whether any of the foregoing natural
20 juices are frozen or unfrozen, sweetened or unsweetened,
21 seasoned with salt or spice or unseasoned, nor shall the term
22 "soft drinks" include coffee, coffee substitutes, tea, cocoa,
23 natural fluid milk or non-carbonated drinks made from milk
24 derivatives.]

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

26 * * *

27 [(4) The term "maintaining a place of business in this
28 Commonwealth" shall not include:

29 (i) Owning or leasing of tangible or intangible property by
30 a person who has contracted with an unaffiliated commercial

1 printer for printing, provided that:

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

3 (B) the property is located at the Pennsylvania premises of
4 the commercial printer.

5 (ii) Visits by a person's employes or agents to the premises
6 in this Commonwealth of an unaffiliated commercial printer with
7 whom the person has contracted for printing in connection with
8 said contract.]

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

15 * * *

16 (5) Research having as its objective the production of a new
17 or an improved (i) product or utility service, or (ii) method of
18 producing a product or utility service[, but in either case not
19 including market research or research having as its objective
20 the improvement of administrative efficiency].

21 * * *

22 [The term "manufacture" shall not include constructing,
23 altering, servicing, repairing or improving real estate or
24 repairing, servicing or installing tangible personal property,
25 nor the producing of a commercial motion picture, nor the
26 cooking, freezing or baking of fruits, vegetables, mushrooms,
27 fish, seafood, meats, poultry or bakery products.]

28 * * *

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

1 * * *

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

10 * * *

11 (f) "Purchase at retail."

12 * * *

13 (3) The obtaining for a consideration of those services
14 described in subclauses (2), (3) and (4) of clause (k) of this
15 section [other than for resale].

16 * * *

17 The term "purchase at retail" with respect to "liquor" and
18 "malt or brewed beverages" shall include the purchase of
19 "liquor" from any "Pennsylvania Liquor Store" by any person for
20 any purpose, and the purchase of "malt or brewed beverages" from
21 a "manufacturer of malt or brewed beverages," "distributor" or
22 "importing distributor" by any person for any purpose, except
23 purchases from a "manufacturer of malt or brewed beverages" by a
24 "distributor" or "importing distributor" or purchases from an
25 "importing distributor" by a "distributor" within the meaning of
26 the "Liquor Code." The term ["purchase at retail" shall not
27 include any purchase of "malt or brewed beverages" from a
28 "retail dispenser" or any purchase of "liquor" or "malt or
29 brewed beverages" from a person holding a "retail liquor
30 license" within the meaning of and pursuant to the provisions of

1 the "Liquor Code," but] shall include any purchase or
2 acquisition of "liquor" or "malt or brewed beverages" other than
3 pursuant to the provisions of the "Liquor Code."

4 (g) "Purchase price."

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

15 * * *

16 (i) "Resale."

17 * * *

18 [(4) The term "resale" shall not include any sale of "malt
19 or brewed beverages" by a "retail dispenser," or any sale of
20 "liquor" or "malt or brewed beverages" by a person holding a
21 "retail liquor license" within the meaning of the "Liquor
22 Code."]

23 * * *

24 (k) "Sale at retail."

25 * * *

26 (4) The rendition for a consideration of the service of
27 repairing, altering, mending, pressing, fitting, dyeing,
28 laundering, drycleaning or cleaning tangible personal property
29 other than wearing apparel or shoes, or applying or installing
30 tangible personal property as a repair or replacement part of

1 other tangible personal property except wearing apparel or shoes
2 for a consideration, whether or not the services are performed
3 directly or by any means other than by coin-operated self-
4 service laundry equipment for wearing apparel or household goods
5 and whether or not any tangible personal property is transferred
6 in conjunction therewith[, except such services as are rendered
7 in the construction, reconstruction, remodeling, repair or
8 maintenance of real estate: Provided, however, That this
9 subclause shall not be deemed to impose tax upon such services
10 in the preparation for sale of new items which are excluded from
11 the tax under clause (26) of section 204, or upon diaper
12 service].

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

18 [The term "sale at retail" shall not include (i) any such
19 transfer of tangible personal property or rendition of services
20 for the purpose of resale, or (ii) such rendition of services or
21 the transfer of tangible personal property including, but not
22 limited to, machinery and equipment and parts therefor and
23 supplies to be used or consumed by the purchaser directly in the
24 operations of--

25 (A) The manufacture of tangible personal property.

26 (B) Farming, dairying, agriculture, timbering, horticulture
27 or floriculture when engaged in as a business enterprise. The
28 term "farming" shall include the propagation and raising of
29 ranch raised fur-bearing animals and the propagation of game
30 birds for commercial purposes by holders of propagation permits

1 issued under 34 Pa.C.S. (relating to game) and the propagation
2 and raising of horses to be used exclusively for commercial
3 racing activities. The term "timbering" shall include:

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

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

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

24 (D) Processing as defined in clause (d) of this section.
25 The exclusions provided in paragraphs (A), (B), (C) and (D)
26 shall not apply to any vehicle required to be registered under
27 The Vehicle Code, except those vehicles used directly by a
28 public utility engaged in business as a common carrier; to
29 maintenance facilities; or to materials, supplies or equipment
30 to be used or consumed in the construction, reconstruction,

1 remodeling, repair or maintenance of real estate other than
2 directly used machinery, equipment, parts or foundations
3 therefor that may be affixed to such real estate.

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

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

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

26 * * *

27 (10) The term "sale at retail" with respect to "liquor" and
28 "malt or brewed beverages" shall include the sale of "liquor" by
29 any "Pennsylvania liquor store" to any person for any purpose,
30 and the sale of "malt or brewed beverages" by a "manufacturer of

1 malt or brewed beverages," "distributor" or "importing
2 distributor" to any person for any purpose, except sales by a
3 "manufacturer of malt or brewed beverages" to a "distributor" or
4 "importing distributor" or sales by an "importing distributor"
5 to a "distributor" within the meaning of the "Liquor Code." [The
6 term "sale at retail" shall not include any sale of "malt or
7 brewed beverages" by a "retail dispenser" or any sale of
8 "liquor" or "malt or brewed beverages" by a person holding a
9 "retail liquor license" within the meaning of and pursuant to
10 the provisions of the "Liquor Code," but shall include any sale
11 of "liquor" or "malt or brewed beverages" other than pursuant to
12 the provisions of the "Liquor Code."]

13 * * *

14 (o) "Use."

15 * * *

16 (4) The obtaining by a purchaser of the service of
17 repairing, altering, mending, pressing, fitting, dyeing,
18 laundering, drycleaning or cleaning tangible personal property
19 other than wearing apparel or shoes or applying or installing
20 tangible personal property as a repair or replacement part of
21 other tangible personal property other than wearing apparel or
22 shoes, whether or not the services are performed directly or by
23 any means other than by means of coin-operated self-service
24 laundry equipment for wearing apparel or household goods, and
25 whether or not any tangible personal property is transferred to
26 the purchaser in conjunction therewith, except such services as
27 are obtained in the construction, reconstruction, remodeling,
28 repair or maintenance of real estate.[: Provided, however, That
29 this subclause shall not be deemed to impose tax upon such
30 services in the preparation for sale of new items which are

1 excluded from the tax under clause (26) of section 204, or upon
2 diaper service: And provided further, That the term "use" shall
3 not include--

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

10 (B) The use or consumption of tangible personal property,
11 including but not limited to machinery and equipment and parts
12 therefor, and supplies or the obtaining of the services
13 described in subclauses (2), (3) and (4) of this clause directly
14 in the operations of--

15 (i) The manufacture of tangible personal property.

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

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

29 (2) All operations prior to the transport of the harvested
30 product necessary for the removal of timber or forest products

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

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

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

1 The exclusion provided in subparagraph (iii) shall not apply
2 to (A) construction materials, supplies or equipment used to
3 construct, reconstruct, remodel, repair or maintain facilities
4 not used directly by the purchaser in the production, delivering
5 or rendition of public utility service or (B) tools and
6 equipment used but not installed in the maintenance of
7 facilities used directly in the production, delivering or
8 rendition of a public utility service.

9 The exclusion provided in subparagraphs (i), (ii), (iii) and
10 (iv) shall not apply to the services enumerated in clauses (o)
11 (9) through (16) and (w) through (kk), except that the exclusion
12 provided in subparagraph (ii) for farming, dairying and
13 agriculture shall apply to the service enumerated in clause
14 (z).]

15 * * *

16 (6) The term "use" with respect to "liquor" and "malt or
17 brewed beverages" shall include the purchase of "liquor" from
18 any "Pennsylvania liquor store" by any person for any purpose
19 and the purchase of "malt or brewed beverages" from a
20 "manufacturer of malt or brewed beverages," "distributor" or
21 "importing distributor" by any person for any purpose, [except
22 purchases from a "manufacturer of malt or brewed beverages" by a
23 "distributor" or "importing distributor," or purchases from an
24 "importing distributor" by a "distributor" within the meaning of
25 the "Liquor Code." The term "use" shall not include any purchase
26 of "malt or brewed beverages" from a "retail dispenser" or any
27 purchase of "liquor" or "malt or brewed beverages" from a person
28 holding a "retail liquor license" within the meaning of and
29 pursuant to the provisions of the "Liquor Code,"] but shall
30 include the exercise of any right or power incidental to the

1 ownership, custody or possession of "liquor" or "malt or brewed
2 beverages" obtained by the person exercising such right or power
3 in any manner other than pursuant to the provisions of the
4 "Liquor Code."

5 * * *

6 [(8) The term "use" shall not include the providing of a
7 motor vehicle to a nonprofit private or public school to be used
8 by such a school for the sole purpose of driver education.]

9 * * *

10 (p) "Vendor." Any person maintaining a place of business in
11 this Commonwealth, selling or leasing tangible personal
12 property, or rendering services, the sale or use of which is
13 subject to the tax imposed by this article, including a
14 marketplace facilitator and a marketplace seller[, but not
15 including any employe who in the ordinary scope of employment
16 renders services to his employer in exchange for wages and
17 salaries].

18 * * *

19 (t) "Transient vendor."

20 * * *

21 [(2) The term shall not include a person who delivers
22 tangible personal property within the Commonwealth pursuant to
23 orders for such property which were solicited or placed by mail
24 or other means.

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

29 * * *

30 (x) "Adjustment services, collection services or credit

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

11 (y) "Secretarial or editing services." Providing services
12 which include, but are not limited to, editing, letter writing,
13 proofreading, resume writing, typing or word processing. [Such
14 services shall not include court reporting and stenographic
15 services.]

16 (z) "Disinfecting or pest control services." Providing
17 disinfecting, termite control, insect control, rodent control or
18 other pest control services. Such services include, but are not
19 limited to, deodorant servicing of rest rooms, washroom
20 sanitation service, rest room cleaning service, extermination
21 service or fumigating service. [As used in this clause, the term
22 "fumigating service" shall not include the fumigation of
23 agricultural commodities or containers used for agricultural
24 commodities. As used in this clause, the term "insect control"
25 shall not include the spraying of trees which are harvested for
26 commercial purposes for gypsy moth control.]

27 (aa) "Building maintenance or cleaning services." Providing
28 services which include, but are not limited to, janitorial, maid
29 or housekeeping service, office or interior building cleaning or
30 maintenance service, window cleaning service, floor waxing

1 service, lighting maintenance service such as bulb replacement,
2 cleaning, chimney cleaning service, acoustical tile cleaning
3 service, venetian blind cleaning, cleaning and maintenance of
4 telephone booths or cleaning and degreasing of service stations.

5 [This term shall not include repairs on buildings and other
6 structures; nor shall this term include the maintenance or
7 repair of boilers, furnaces and residential air conditioning
8 equipment or parts thereof; the painting, wallpapering or
9 applying other like coverings to interior walls, ceilings or
10 floors; or the exterior painting of buildings.]

11 (bb) "Employment agency services." Providing employment
12 services to a prospective employer or employe [other than
13 employment services provided by theatrical employment agencies
14 and motion picture casting bureaus]. Such services shall
15 include, but are not limited to, services of the type provided
16 by employment agencies, executive placing services and labor
17 contractor employment agencies other than farm labor.

18 (cc) "Help supply services." Providing temporary or
19 continuing help where the help supplied is on the payroll of the
20 supplying person or entity, but is under the supervision of the
21 individual or business to which help is furnished. Such services
22 include, but are not limited to, service of a type provided by
23 labor and manpower pools, employe leasing services, office help
24 supply services, temporary help services, usher services,
25 modeling services or fashion show model supply services. [Such
26 services shall not include providing farm labor services. The
27 term shall not include human health-related services, including
28 nursing, home health care and personal care.] As used in this
29 clause, "personal care" shall include providing at least one of
30 the following types of assistance to persons with limited

1 ability for self-care:

2 (1) dressing, bathing or feeding;

3 (2) supervising self-administered medication;

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

5 (4) routine housekeeping chores when provided in conjunction

6 with and supplied by the same provider of the assistance listed

7 in subclause (1), (2) or (3).

8 * * *

9 (kk) "Self-storage service." Providing a building, a room
10 in a building or a secured area within a building with separate

11 access provided for each purchaser of self-storage service,

12 primarily for the purpose of storing personal property. [The

13 term excludes providing:

14 (1) safe deposit boxes by financial institutions;

15 (2) storage in refrigerator or freezer units;

16 (3) storage in commercial warehouses;

17 (4) facilities for goods distribution; and

18 (5) lockers in airports, bus stations, museums and other

19 public places.]

20 (ll) "Premium cable or premium video programming service."

21 That portion of cable television services, video programming

22 services, community antenna television services or any other

23 distribution of television, video, audio or radio services which

24 meets all of the following criteria:

25 * * *

26 (3) does not constitute a component of a basic service tier
27 provided by a cable television system or a cable programming

28 service tier provided by a cable television system. A basic

29 service tier shall include all signals of domestic television

30 broadcast stations, any public, educational, governmental or

1 religious programming and any additional video programming
2 signals or service added to the basic service tier by the cable
3 operator. The basic service tier shall also include a single
4 additional lower-priced package of broadcast channels and access
5 information channels which is a subset of the basic service tier
6 as set forth above. A cable programming service tier includes
7 any video programming other than: (i) the basic service tier;
8 (ii) video programming offered on a pay-per-channel or pay-per-
9 view basis; or (iii) a combination of multiple channels of pay-
10 per-channel or pay-per-view programming offered as a package.
11 If a purchaser receives or agrees to receive premium cable or
12 premium video programming service, then the following charges
13 are included in the purchase price: charges for installation or
14 repair of any premium cable or premium video programming
15 service, upgrade to include additional premium cable or premium
16 video programming service, downgrade to exclude all or some
17 premium cable or premium video programming service, additional
18 premium cable outlets in excess of ten or any other charge or
19 fee related to premium cable or premium video programming
20 services. [The term shall not apply to transmissions by public
21 television, public radio services or official Federal, State or
22 local government cable services. Nor shall the term apply to
23 local origination programming which provides a variety of public
24 service programs unique to the community, programming which
25 provides coverage of public affairs issues which are presented
26 without commentary or analysis, including United States
27 Congressional proceedings, or programming which is substantially
28 related to religious subjects. Nor shall the term "premium cable
29 or premium video programming service" apply to subscriber
30 charges for access to a video dial tone system or charges by a

1 common carrier to a video programmer for the transport of video
2 programming.]

3 * * *

4 (nn) "Construction contract." A written or oral contract or
5 agreement for the construction, reconstruction, remodeling,
6 renovation or repair of real estate or a real estate structure.
7 [The term shall not apply to services which are taxable under
8 clauses (k) (14) and (17) and (o) (12) and (15).]

9 * * *

10 (pp) "Building machinery and equipment." Generation
11 equipment, storage equipment, conditioning equipment,
12 distribution equipment and termination equipment, which shall be
13 limited to the following:

14 * * *

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

30 * * *

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

14 (1) Subscriber charges for access to a video dial tone
15 system.

16 (2) Charges to video programmers for the transport of video
17 programming.

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

20 (A) The transport over the Internet or any proprietary
21 network using the Internet protocol of telephone calls,
22 facsimile transmissions or other telecommunications traffic to
23 or from end users on the public switched telephone network if
24 the signal sent from or received by an end user is not in an
25 Internet protocol.

26 (B) Telecommunication services purchased by an Internet
27 service provider to deliver access to the Internet to its
28 customers.

29 (4) Mobile telecommunications services.]

30 * * *

1 (yy) "Prebuilt housing sale." A sale of prebuilt housing to
2 a prebuilt housing purchaser, including a sale to a landlord,
3 without regard to whether the person making the sale is
4 responsible for installing the prebuilt housing or whether the
5 prebuilt housing becomes a real estate structure upon
6 installation. [Temporary installation by a prebuilt housing
7 builder for display purposes of a unit held for resale shall not
8 be considered occupancy for residential purposes.]

9 * * *

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

22 * * *

23 Section 202. Imposition of Tax.--(a) There is hereby
24 imposed upon each separate sale at retail of tangible personal
25 property or services, as defined herein, within this
26 Commonwealth a tax of [six] one and nine-tenths per cent of the
27 purchase price, which tax shall, except as otherwise provided,
28 be collected by the vendor or any other person required by this
29 article from the purchaser, and shall be paid over to the
30 Commonwealth as herein provided.

1 (b) There is hereby imposed upon the use, on and after the
2 effective date of this article, within this Commonwealth of
3 tangible personal property purchased at retail on or after the
4 effective date of this article, and on those services described
5 herein purchased at retail on and after the effective date of
6 this article, a tax of [six] one and nine-tenths per cent of the
7 purchase price, which tax shall be paid to the Commonwealth by
8 the person who makes such use as herein provided, except that
9 such tax shall not be paid to the Commonwealth by such person
10 where he has paid the tax imposed by subsection (a) of this
11 section or has paid the tax imposed by this subsection (b) to
12 the vendor with respect to such use, or such vendor advertises
13 or holds out or states to such person directly or indirectly
14 subject to the conditions set forth in section 268(b) that such
15 vendor will pay the tax imposed by subsection (a) or this
16 subsection for such person. The tax at the rate of [six] one and
17 nine-tenths per cent imposed by this subsection shall not be
18 deemed applicable where the tax has been incurred under the
19 provisions of the "Tax Act of 1963 for Education."

20 (c) Notwithstanding any other provisions of this article,
21 the tax with respect to telecommunications service within the
22 meaning of clause (m) of section 201 of this article shall,
23 except for telegrams paid for in cash at telegraph offices, be
24 computed at the rate of [six] one and nine-tenths per cent upon
25 the total amount charged to customers for such services,
26 irrespective of whether such charge is based upon a flat rate or
27 upon a message unit charge[, but in no event shall charges for
28 telephone calls paid for by inserting money into a telephone
29 accepting direct deposits of money to operate be subject to this
30 tax]. A telecommunications service provider shall have no

1 responsibility or liability to the Commonwealth for billing,
2 collecting or remitting taxes that apply to services, products
3 or other commerce sold over telecommunications lines by third-
4 party vendors. To prevent actual multistate taxation of
5 interstate telecommunications service, any taxpayer, upon proof
6 that the taxpayer has paid a similar tax to another state on the
7 same interstate telecommunications service, shall be allowed a
8 credit against the tax imposed by this section on the same
9 interstate telecommunications service to the extent of the
10 amount of such tax properly due and paid to such other state.

11 (d) Notwithstanding any other provisions of this article,
12 the sale or use of food and beverages dispensed by means of coin
13 operated vending machines shall be taxed at the rate of [~~six~~]
14 one and nine tenths per cent of the receipts collected from any
15 such machine which dispenses food and beverages heretofore
16 taxable.

17 (e) (1) Notwithstanding any provisions of this article, the
18 sale or use of prepaid telecommunications evidenced by the
19 transfer of tangible personal property shall be subject to the
20 tax imposed by subsections (a) and (b).

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

25 (3) Notwithstanding clause (2), the sale or use of prepaid
26 telecommunications service not evidenced by the transfer of
27 tangible personal property shall be taxed at the rate of [~~six~~]
28 one and nine tenths per cent of the receipts collected on each
29 sale if the service provider elects to collect the tax imposed
30 by this article on receipts of each sale. The service provider

1 shall notify the department of its election and shall collect
2 the tax on receipts of each sale until the service provider
3 notifies the department otherwise.

4 (e.1) (1) Notwithstanding any other provision of this
5 article, the sale or use of prepaid mobile telecommunications
6 service evidenced by the transfer of tangible personal property
7 shall be subject to the tax imposed by subsections (a) and (b).

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

14 (3) Notwithstanding clause (2), the sale or use of prepaid
15 mobile telecommunications service not evidenced by the transfer
16 of tangible personal property shall be taxed at the rate of
17 ~~[six]~~ one and nine-tenths per cent of the receipts collected on
18 each sale if the service provider elects to collect the tax
19 imposed by this article on receipts of each sale. The service
20 provider shall notify the department of its election and shall
21 collect the tax on receipts of each sale until the service
22 provider notifies the department otherwise.

23 (f) Notwithstanding any other provision of this article, tax
24 with respect to sales of prebuilt housing shall be imposed on
25 the prebuilt housing builder at the time of the prebuilt housing
26 sale within this Commonwealth and shall be paid and reported by
27 the prebuilt housing builder to the department in the time and
28 manner provided in this article: Provided, however, That a
29 manufacturer of prebuilt housing may, at its option, precollect
30 the tax from the prebuilt housing builder at the time of sale to

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

7 (g) Notwithstanding any other provisions of this article and
8 in accordance with the Mobile Telecommunications Sourcing Act (4
9 U.S.C. § 116), the sale or use of mobile telecommunications
10 services which are deemed to be provided to a customer by a home
11 service provider under section 117(a) and (b) of the Mobile
12 Telecommunications Sourcing Act shall be subject to the tax of
13 [~~six~~] one and nine-tenths per cent of the purchase price, which
14 tax shall be collected by the home service provider from the
15 customer, and shall be paid over to the Commonwealth as herein
16 provided if the customer's place of primary use is located
17 within this Commonwealth, regardless of where the mobile
18 telecommunications services originate, terminate or pass
19 through. For purposes of this subsection, words and phrases used
20 in this subsection shall have the same meanings given to them in
21 the Mobile Telecommunications Sourcing Act.

22 (h) (1) Notwithstanding any other provision of this
23 article, Article II-B, the act of July 28, 1953 (P.L.723,
24 No.230), known as the Second Class County Code, or Chapter 5 or
25 6 of the act of June 5, 1991 (P.L.9, No.6), known as the
26 Pennsylvania Intergovernmental Cooperation Authority Act for
27 Cities of the First Class, the tax shall be imposed on a
28 manufacturer of malt or brewed beverages with respect to sales
29 of malt or brewed beverages sold by the manufacturer directly to
30 the ultimate consumer for consumption on or off premises.

1 (2) The tax imposed under clause (1) shall be paid and
2 reported by the manufacturer of malt or brewed beverages to the
3 department in the time and manner provided in this article.

4 (3) Notwithstanding any law to the contrary, a school
5 district or local government authorized to impose a local
6 alcoholic beverage tax under the act of June 10, 1971 (P.L.153,
7 No.7), known as the First Class School District Liquor Sales Tax
8 Act of 1971, or 53 Pa.C.S. § 8602 (relating to local financial
9 support), may impose or continue to impose a local alcoholic
10 beverage tax on the sale at retail of malt or brewed beverages
11 made by a manufacturer of malt or brewed beverages to the
12 ultimate consumer for consumption on or off premises at the same
13 rate as authorized under the First Class School District Liquor
14 Sales Tax Act of 1971 or 53 Pa.C.S. § 8602 and notwithstanding
15 anything to the contrary in such laws or in a local law or
16 ordinance in existence on the effective date of this section.

17 (4) The payment of the tax imposed under clause (1) shall
18 eliminate the need for the ultimate consumer to pay or remit a
19 sales or use tax on the related transaction or upon the
20 subsequent use of the malt or brewed beverages.

21 Section 2. Section 203 of the act is amended to read:

22 Section 203. Computation of Tax.--The amount of tax imposed
23 by section 202 of this article shall be computed [as follows:

24 (a) If the purchase price is ten cents (10¢) or less, no tax
25 shall be collected.

26 (b) If the purchase price is eleven cents (11¢) or more but
27 less than eighteen cents (18¢), one cent (1¢) shall be
28 collected.

29 (c) If the purchase price is eighteen cents (18¢) or more
30 but less than thirty-five cents (35¢), two cents (2¢) shall be

1 collected.

2 (d) If the purchase price is thirty-five cents (35¢) or more
3 but less than fifty-one cents (51¢), three cents (3¢) shall be
4 collected.

5 (e) If the purchase price is fifty-one cents (51¢) or more
6 but less than sixty-eight cents (68¢), four cents (4¢) shall be
7 collected.

8 (f) If the purchase price is sixty-eight cents (68¢) or more
9 but less than eighty-five cents (85¢), five cents (5¢) shall be
10 collected.

11 (g) If the purchase price is eighty-five cents (85¢) or more
12 but less than one dollar and one cent (\$1.01), six cents (6¢)
13 shall be collected.

14 (h) If the purchase price is more than one dollar (\$1.00),
15 six per centum of each dollar of purchase price plus the above
16 bracket charges upon any fractional part of a dollar in excess
17 of even dollars shall be collected.] by the department. The
18 department shall provide the computation to the Legislative
19 Reference Bureau for publication in the Pennsylvania Bulletin.

20 Section 3. Section 204 of the act is repealed:

21 [Section 204. Exclusions from Tax.--The tax imposed by
22 section 202 shall not be imposed upon any of the following:

23 (1) The sale at retail or use of tangible personal property
24 (other than motor vehicles, trailers, semi-trailers, motor
25 boats, aircraft or other similar tangible personal property
26 required under either Federal law or laws of this Commonwealth
27 to be registered or licensed) or services sold by or purchased
28 from a person not a vendor in an isolated transaction or sold by
29 or purchased from a person who is a vendor but is not a vendor
30 with respect to the tangible personal property or services sold

1 or purchased in such transaction: Provided, That inventory and
2 stock in trade so sold or purchased, shall not be excluded from
3 the tax by the provisions of this subsection.

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

10 (3) The use of tangible personal property purchased outside
11 this Commonwealth for use outside this Commonwealth by a then
12 nonresident natural person or a business entity not actually
13 doing business within this Commonwealth, who later brings such
14 tangible personal property into this Commonwealth in connection
15 with his establishment of a permanent business or residence in
16 this Commonwealth: Provided, That such property was purchased
17 more than six months prior to the date it was first brought into
18 this Commonwealth or prior to the establishment of such business
19 or residence, whichever first occurs. This exclusion shall not
20 apply to tangible personal property temporarily brought into
21 Pennsylvania for the performance of contracts for the
22 construction, reconstruction, remodeling, repairing and
23 maintenance of real estate.

24 (4) The sale at retail or use of disposable diapers; pre-
25 moistened wipes; incontinence products; colostomy deodorants;
26 toilet paper; sanitary napkins, tampons or similar items used
27 for feminine hygiene; or toothpaste, toothbrushes or dental
28 floss.

29 (5) The sale at retail or use of steam, natural and
30 manufactured and bottled gas, fuel oil, electricity or

1 intrastate subscriber line charges, basic local telephone
2 service or telegraph service when purchased directly by the user
3 thereof solely for his own residential use and charges for
4 telephone calls paid for by inserting money into a telephone
5 accepting direct deposits of money to operate.

6 (10) The sale at retail to or use by (i) any charitable
7 organization, volunteer firemen's organization, volunteer
8 firefighters' relief association as defined in 35 Pa.C.S. § 7412
9 (relating to definitions) or nonprofit educational institution,
10 or (ii) a religious organization for religious purposes of
11 tangible personal property or services other than pursuant to a
12 construction contract: Provided, however, That the exclusion of
13 this clause shall not apply with respect to any tangible
14 personal property or services used in any unrelated trade or
15 business carried on by such organization or institution or with
16 respect to any materials, supplies and equipment used and
17 transferred to such organization or institution in the
18 construction, reconstruction, remodeling, renovation, repairs
19 and maintenance of any real estate structure, other than
20 building machinery and equipment, except materials and supplies
21 when purchased by such organizations or institutions for routine
22 maintenance and repairs. If the department has issued sales tax-
23 exempt status to a volunteer firefighters' organization or a
24 volunteer firefighters' relief association, the sales tax-exempt
25 status may not expire unless the activities of the organization
26 or association change so that the organization or association
27 does not qualify as an institution of purely public charity in
28 which case the organization or association shall immediately
29 notify the department of the change. If the department
30 ascertains that an organization or association no longer

1 qualifies as an institution of purely public charity, the
2 department may revoke the sales tax-exempt status of the
3 organization or association.

4 (11) The sale at retail, or use of gasoline and other motor
5 fuels, the sales of which are otherwise subject to excise taxes
6 under the act of May 21, 1931 (P.L.194), known as the "Liquid
7 Fuels Tax Act," and the act of January 14, 1952 (P.L.1965),
8 known as the "Fuel Use Tax Act."

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

12 (13) The sale at retail, or use of wrapping paper, wrapping
13 twine, bags, cartons, tape, rope, labels, nonreturnable
14 containers and all other wrapping supplies, when such use is
15 incidental to the delivery of any personal property, except that
16 any charge for wrapping or packaging shall be subject to tax at
17 the rate imposed by section 202, unless the property wrapped or
18 packaged will be resold by the purchaser of the wrapping or
19 packaging service. As used in this paragraph, the term "cartons"
20 includes corrugated boxes used by a person engaged in the
21 manufacture of snack food products to deliver the manufactured
22 product, whether or not the boxes are returnable for potential
23 reuse.

24 (14) Sale at retail or use of vessels designed for
25 commercial use of registered tonnage of fifty tons or more when
26 produced by the builders thereof upon special order of the
27 purchaser.

28 (15) Sale at retail of tangible personal property or
29 services used or consumed in building, rebuilding, repairing and
30 making additions to or replacements in and upon vessels designed

1 for commercial use of registered tonnage of fifty tons or more
2 upon special order of the purchaser, or when rebuilt, repaired
3 or enlarged, or when replacements are made upon order of or for
4 the account of the owner.

5 (16) The sale at retail or use of tangible personal property
6 or services to be used or consumed for ship cleaning or
7 maintenance or as fuel, supplies, ships' equipment, ships'
8 stores or sea stores on vessels designed for commercial use of
9 registered tonnage of fifty tons or more to be operated
10 principally outside the limits of the Commonwealth.

11 (17) The sale at retail or use of prescription or non-
12 prescription medicines, drugs or medical supplies, crutches and
13 wheelchairs for the use of cripples and invalids, artificial
14 limbs, artificial eyes and artificial hearing devices when
15 designed to be worn on the person of the purchaser or user,
16 false teeth and materials used by a dentist in dental treatment,
17 eyeglasses when especially designed or prescribed by an
18 ophthalmologist, oculist or optometrist for the personal use of
19 the owner or purchaser and artificial braces and supports
20 designed solely for the use of crippled persons or any other
21 therapeutic, prosthetic or artificial device designed for the
22 use of a particular individual to correct or alleviate a
23 physical incapacity, including but not limited to hospital beds,
24 iron lungs, and kidney machines.

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

26 (24) The sale at retail or use of motor vehicles, trailers
27 and semi-trailers, or bodies attached to the chassis thereof,
28 sold to a nonresident of Pennsylvania to be used outside of
29 Pennsylvania and which are registered in a state other than
30 Pennsylvania within twenty days after delivery to the vendee.

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

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

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

16 (29) The sale at retail or use of food and beverages for
17 human consumption, except that this exclusion shall not apply
18 with respect to--

19 (i) Soft drinks;

20 (ii) Malt and brewed beverages and spirituous and vinous
21 liquors;

22 (iii) Food or beverages, whether sold for consumption on or
23 off the premises or on a "take-out" or "to go" basis or
24 delivered to the purchaser or consumer, when purchased (A) from
25 persons engaged in the business of catering; or (B) from persons
26 engaged in the business of operating establishments from which
27 ready-to-eat food and beverages are sold, including, but not
28 limited to, restaurants, cafes, lunch counters, private and
29 social clubs, taverns, dining cars, hotels, night clubs, fast
30 food operations, pizzerias, fairs, carnivals, lunch carts, ice

1 cream stands, snack bars, cafeterias, employe cafeterias,
2 theaters, stadiums, arenas, amusement parks, carryout shops,
3 coffee shops and other establishments whether mobile or
4 immobile. For purposes of this clause, a bakery, a pastry shop,
5 a donut shop, a delicatessen, a grocery store, a supermarket, a
6 farmer's market, a convenience store or a vending machine shall
7 not be considered an establishment from which food or beverages
8 ready to eat are sold except for the sale of meals, sandwiches,
9 food from salad bars, hand-dipped or hand-served iced based
10 products including ice cream and yogurt, hot soup, hot pizza and
11 other hot food items, brewed coffee and hot beverages. For
12 purposes of this subclause, beverages shall not include malt and
13 brewed beverages and spirituous and vinous liquors but shall
14 include soft drinks. The sale at retail of food and beverages at
15 or from a school or church in the ordinary course of the
16 activities of such organization is not subject to tax.

17 (30) The sale at retail or use of newspapers. For purposes
18 of this section, the term "newspaper" shall mean a "legal
19 newspaper" or a publication containing matters of general
20 interest and reports of current events which qualifies as a
21 "newspaper of general circulation" qualified to carry a "legal
22 advertisement" as those terms are defined in 45 Pa.C.S. § 101
23 (relating to definitions), not including magazines. This
24 exclusion shall also include any printed advertising materials
25 circulated with such newspaper regardless of where or by whom
26 such printed advertising material was produced.

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

29 (32) The sale at retail or use of flags of the United States
30 of America and the Commonwealth of Pennsylvania.

1 (33) The sale at retail or use of textbooks for use in
2 schools, colleges and universities, either public or private
3 when purchased in behalf of or through such schools, colleges or
4 universities provided such institutions of learning are
5 recognized by the Department of Education.

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

9 (35) The sale at retail or use of mail order catalogs and
10 direct mail advertising literature or materials, including
11 electoral literature or materials, such as envelopes, address
12 labels and a one-time license to use a list of names and mailing
13 addresses for each delivery of direct mail advertising
14 literature or materials, including electoral literature or
15 materials, through the United States Postal Service.

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

18 (37) The sale at retail of buses to be used under contract
19 with school districts that are replacements for buses destroyed
20 or lost in the flood of 1977 for a period ending December 31,
21 1977 in the counties of Armstrong, Bedford, Cambria, Indiana,
22 Jefferson, Somerset and Westmoreland, or the use of such buses.

23 (38) The sale at retail of horses, if at the time of
24 purchase, the seller is directed to ship or deliver the horse to
25 an out-of-State location, whether or not the charges for
26 shipment are paid for by the seller or the purchaser; the seller
27 shall obtain a bill of lading, either from the carrier or from
28 the purchaser, who, in turn has obtained the bill of lading from
29 the carrier, reflecting delivery to the out-of-State address to
30 which the horse has been shipped. The seller shall execute a

1 "Certificate of Delivery to Destination Outside of the
2 Commonwealth" for each bill of lading reflecting out-of-State
3 delivery. The seller shall be required to retain the certificate
4 of delivery form to justify the noncollection of sales tax with
5 respect to the transaction to which the form relates.

6 In transactions where a horse is sold by the seller and
7 delivered to a domiciled person, agent or corporation prior to
8 its being delivered to an out-of-State location, the
9 "Certificate of Delivery to Destination Outside of the
10 Commonwealth" form must have attached to it bills of lading both
11 for the transfer to the domiciled person, agent or corporation
12 and from the aforementioned to the out-of-State location.

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

16 (40) The sale at retail of supplies and materials to tourist
17 promotion agencies, which receive grants from the Commonwealth,
18 for distribution to the public as promotional material or the
19 use of such supplies and materials by said agencies for said
20 purposes.

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

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

28 (43) The sale at retail or use of buses to be used
29 exclusively for the transportation of children for school
30 purposes.

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

6 (45) The sale at retail or use of materials used in the
7 construction and erection of objects purchased by not-for-profit
8 organizations for purposes of commemoration and memorialization
9 of historical events, provided that the object is erected upon
10 publicly owned property or property to be conveyed to a public
11 entity upon the commemoration or memorialization of the
12 historical event.

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

16 (49) The sale at retail or use of food and beverages by
17 nonprofit associations which support sports programs or youth
18 centers. For purposes of this clause, the phrases:

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

29 (iv) "sports program" means baseball (including softball),
30 football, basketball, soccer and any other competitive sport

1 formally recognized as a sport by the United States Olympic
2 Committee as specified by and under the jurisdiction of the
3 Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. § 371
4 et seq.), the Amateur Athletic Union or the National Collegiate
5 Athletic Association. The term shall be limited to a program or
6 that portion of a program that is organized for recreational
7 purposes and whose activities are substantially for such
8 purposes and which is primarily for participants who are 18
9 years of age or younger or whose 19th birthday occurs during the
10 year of participation or the competitive season, whichever is
11 longer. There shall, however, be no age limitation for programs
12 operated for persons with physical handicaps or persons with
13 mental retardation;

14 (v) "support" means:

15 (A) the funds raised from sales are used to pay the expenses
16 of a sports program or a youth center; or

17 (B) the nonprofit association sells the food and beverages
18 at a youth center or a location where a sports program is being
19 conducted under this act;

20 (vi) "youth center" means a fixed location used exclusively
21 for programs for individuals who are 19 years of age or younger
22 as long as the programs are:

23 (A) conducted primarily by volunteers;

24 (B) designed to advance recreational, civic or moral
25 objectives; and

26 (C) conducted by an organization that is qualified under
27 section 501(c)(3) of the Internal Revenue Code of 1986 (Public
28 Law 99-514, 26 U.S.C. § 501(c)(3)) and that has obtained an
29 exemption number from the department as a charitable
30 organization under clause (10).

1 (50) The sale at retail or use of subscriptions for
2 magazines. The term "magazine" refers to a periodical published
3 at regular intervals not exceeding three months and which are
4 circulated among the general public, containing matters of
5 general interest and reports of current events published for the
6 purpose of disseminating information of a public character or
7 devoted to literature, the sciences, art or some special
8 industry. This exclusion shall also include any printed
9 advertising material circulated with the periodical or
10 publication regardless of where or by whom the printed
11 advertising material was produced.

12 (51) The sale at retail or use of interior office building
13 cleaning services but only as relates to the costs of the
14 supplied employe, which costs are wages, salaries, bonuses and
15 commissions, employment benefits, expense reimbursements, and
16 payroll and withholding taxes, to the extent that these costs
17 are specifically itemized or that these costs in aggregate are
18 stated in billings from the vender or supplying entity.

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

21 (55) The sale at retail or use of horses to be used
22 exclusively for commercial racing activities and the sale at
23 retail and use of feed, bedding, grooming supplies, riding tack,
24 farrier services, portable stalls and sulkies for horses used
25 exclusively for commercial racing activities.

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

30 (i) The equipment or devices are used by a person who, by

1 virtue of a physical disability, is unable to ascend or descend
2 stairs without the aid of such equipment or device.

3 (ii) The equipment or device is installed or used in such
4 person's place of residence.

5 (iii) A physician has certified the physical disability of
6 the person in whose residence the equipment or device is
7 installed or used.

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

11 (i) transferred pursuant to a construction contract for any
12 charitable organization, volunteer firemen's organization,
13 volunteer firefighters' relief association, nonprofit
14 educational institution or religious organization for religious
15 purposes, provided that the building machinery and equipment and
16 services thereto are not used in any unrelated trade or
17 business; or

18 (ii) transferred to the United States or the Commonwealth or
19 its instrumentalities or political subdivisions; or

20 (58) The sale at retail or use of a personal computer, a
21 peripheral device or an Internet access device, or a service
22 contract or single-user licensed software purchased in
23 conjunction with a personal computer, peripheral device or
24 Internet access device, during the exclusion period by an
25 individual purchaser for nonbusiness use. The exclusion does not
26 include a sale at retail or use of, leasing, rental or repair of
27 a personal computer, peripheral device or Internet access
28 device; mainframe computers; network servers; local area network
29 hubs; routers and network cabling; network operating systems;
30 multiple-user licensed software; minicomputers; hand-held

1 computers; personal digital assistants without Internet access;
2 hardware word processors; graphical calculators; video game
3 consoles; telephones; digital cameras; pagers; compact discs
4 encoded with music or movies; and digital versatile discs
5 encoded with music or movies. For purposes of this clause, the
6 phrase "exclusion period" means the period of time from August
7 5, 2001, to and including August 12, 2001, and from February 17,
8 2002, to and including February 24, 2002. For purposes of this
9 clause, "purchaser" means an individual who places an order and
10 pays the purchase price by cash or credit during the exclusion
11 period even if delivery takes place after the exclusion period.

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

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

17 (61) The sale at retail to or use of food and nonalcoholic
18 beverages by an airline which will transfer the food or
19 nonalcoholic beverages to passengers in connection with the
20 rendering of the airline service.

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

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

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

1 contractor, employed by a public school district pursuant to a
2 construction contract, of any materials and building supplies
3 which, during construction or reconstruction, are made part of
4 any public school building utilized for instructional classroom
5 education within this Commonwealth, if the construction or
6 reconstruction:

7 (i) is necessitated by a disaster emergency, as defined in
8 35 Pa.C.S. § 7102 (relating to definitions); and

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

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

28 (66) The sale at retail or use of copies of an official
29 document sold by a government agency or a court. For the
30 purposes of this clause, the following terms or phrases shall

1 have the following meanings:

2 (i) "court" includes:

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

5 (B) a "court of common pleas" as defined in 42 Pa.C.S. §
6 102;

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

8 (ii) "government agency" means an "agency" as defined in
9 section 1 of the act of June 21, 1957 (P.L.390, No.212),
10 referred to as the "Right-to-Know Law";

11 (iii) "official document" means a "record" as defined in
12 section 1 of the "Right-to-Know Law." The term shall include
13 notes of court testimony, deposition transcripts, driving
14 records, accident reports, birth and death certificates, deeds,
15 divorce decrees and other similar documents.

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

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

23 (69) The sale at retail or use of aircraft parts, services
24 to aircraft and aircraft components. For purposes of this
25 clause, the term "aircraft" shall include a fixed-wing aircraft,
26 powered aircraft, tilt-rotor or tilt-wing aircraft, glider or
27 unmanned aircraft.

28 (70) The sale at retail or use of services related to the
29 set up, tear down or maintenance of tangible personal property
30 rented by an authority to exhibitors at a convention center or a

1 public auditorium, established under 64 Pa.C.S. Ch. 60 (relating
2 to Pennsylvania Convention Center Authority), the act of July
3 28, 1953 (P.L.723, No.230), known as the Second Class County
4 Code, or the act of August 9, 1955 (P.L.323, No.130), known as
5 The County Code.

6 (71) The sale at retail or use of food and beverages by a
7 volunteer firemen's organization to raise funds for the purposes
8 of the volunteer firemen's organization.

9 (72) The sale at retail of building materials and supplies
10 used for the construction or repair of an animal housing
11 facility, regardless if the sale is made to the purchaser
12 directly or pursuant to a construction contract.

13 (73) The sale at retail or use by a financial institution of
14 canned computer software directly utilized in conducting the
15 business of banking. for the purposes of this clause, the
16 following words and phrases shall have the following meanings:

17 "Directly utilized in conducting the business of banking"
18 includes the purchase of canned computer software by a financial
19 institution to be used in transactions with customers and
20 service providers. The term does not include the purchase of
21 canned computer software by entities, other than a financial
22 institution, such as holding companies and subsidiaries of a
23 financial institution.

24 "Financial institution" means an institution doing business
25 in this commonwealth subject to the tax imposed by Article VII
26 or Article XV.]

27 Section 4. Sections 205, 281.2 and 201-B(b) of the act are
28 amended to read:

29 Section 205. Alternate Imposition of Tax; Credits.--(a) If
30 any person actively and principally engaged in the business of

1 selling new or used motor vehicles, trailers or semi-trailers,
2 and registered with the department in the "dealer's class,"
3 acquires a motor vehicle, trailer or semi-trailer for the
4 purpose of resale, and prior to such resale, uses the motor
5 vehicle, trailer or semi-trailer for a taxable use under this
6 act, the person may pay a tax equal to [~~six~~] one and nine-
7 tenths per cent of the fair rental value of the motor vehicle,
8 trailer or semi-trailer during such use. This section shall not
9 apply to the use of a vehicle as a wrecker, parts truck,
10 delivery truck or courtesy car.

11 (b) A commercial aircraft operator who acquires an aircraft
12 for the purpose of resale, or lease, or is entitled to claim
13 another valid exemption at the time of purchase, and subsequent
14 to such purchase, periodically uses the same aircraft for a
15 taxable use under this act, may elect to pay a tax equal to
16 [~~six~~] one and nine-tenths per cent of the fair rental value of
17 the aircraft during such use.

18 Section 281.2. Transfers to Public Transportation Assistance
19 Fund.--[(a) All revenues received on or after July 1, 1992,
20 from the imposition of the tax on periodicals shall be
21 transferred to the Public Transportation Assistance Fund
22 according to the formula set forth in subsection (b)].

23 (b) Within 30 days of the close of any calendar month, .44
24 per cent (.0044) of the taxes received in the previous month
25 under this article, less any amounts collected in that previous
26 calendar month under former 74 Pa.C.S. § 1314(d) (relating to
27 Public Assistance Transportation Fund), shall be transferred to
28 the Public Transportation Assistance Fund established under
29 Article XXIII.

30 (c) In fiscal year 1991-1992, the Secretary of Revenue will

1 ensure that ten million dollars (\$10,000,000) is deposited in
2 the Public Assistance Transportation Fund from the combination
3 of revenues received under former 74 Pa.C.S. § 1314(d) and
4 transfers of periodical taxes received under this article.

5 (d) Within 30 days of the close of any calendar month, .09
6 per cent (.0009) of the taxes received in the previous month
7 under this article shall be transferred to the Public
8 Transportation Assistance Fund established under Article XXIII.

9 (e) Within 30 days of the close of a calendar month, .417
10 per cent (.00417) of the taxes received in the previous month
11 under this article shall be transferred to the Public
12 Transportation Assistance Fund established under Article XXIII.]

13 Within 30 days of the close of a calendar month, .3 per cent
14 (0.003) of the taxes received in the previous month under this
15 article shall be transferred to the Public Transportation
16 Assistance Fund established under Article XXIII.

17 Section 201-B. Special taxing authority.

18 * * *

19 (b) Rate.--The tax authorized under subsection (a) shall be
20 imposed and collected at the rate of [1%] 0.32% and shall be
21 computed as set forth in section 503(e)(2) of the Pennsylvania
22 Intergovernmental Cooperation Authority Act for Cities of the
23 First Class.

24 * * *

25 Section 5. The Secretary of the Commonwealth shall submit to
26 the Legislative Reference Bureau a notice for publication in the
27 Pennsylvania Bulletin if the General Assembly has enacted all of
28 the following:

29 (1) An act that reduces the rate of tax imposed under
30 section 3152-B of the act of July 28, 1953 (P.L.723, No.230),

1 known as the Second Class County Code, in a manner that would
2 result in the revenue generated by the tax imposed under
3 section 3152-B of the Second Class County Code, being revenue
4 neutral, subject to the repeal of exclusions from the sales
5 and use tax in this act, in comparison to the amount
6 generated in the prior fiscal year.

7 (2) An act that reduces the rate of tax imposed under
8 section 503(a) and (b) of the act of June 5, 1991 (P.L.9,
9 No.6), known as the Pennsylvania Intergovernmental
10 Cooperation Authority Act for Cities of the First Class, in a
11 manner that would result in the revenue generated by the tax
12 being revenue neutral, subject to the repeal of exclusions
13 from the sales and use tax in this act, in comparison to the
14 amount generated in the prior fiscal year.

15 (3) An act that reduces the amount deposited into the
16 Public Transportation Trust Fund under 74 Pa.C.S. § 1506(c)
17 (1).

18 Section 6. This act shall take effect as follows:

19 (1) Section 5 of this act and this section shall take
20 effect immediately.

21 (2) The remainder of this act shall take effect upon
22 publication of the notice under section 5 of this act.