
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 76 Session of 2015

INTRODUCED BY COX, BARBIN, BARRAR, BLOOM, BOBACK, R. BROWN, CALTAGIRONE, CUTLER, DAVIS, DIAMOND, ELLIS, GALLOWAY, GIBBONS, GILLEN, GILLESPIE, GODSHALL, GOODMAN, GREINER, HAHN, A. HARRIS, HEFFLEY, HELM, HENNESSEY, HICKERNELL, PHILLIPS-HILL, JOZWIAK, KAUFER, KAUFFMAN, KNOWLES, LAWRENCE, MAHONEY, MALONEY, McNEILL, MENTZER, MICCARELLI, MULLERY, MURT, D. PARKER, QUIGLEY, RADER, REGAN, ROZZI, SACCONI, SAYLOR, SIMMONS, STAATS, TALLMAN, TOBASH, TOEPEL, TOOHIL, TRUITT, VEREB, ZIMMERMAN, MILLARD, KAVULICH, FEE, REED AND CHRISTIANA, OCTOBER 6, 2016

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 6, 2016

AN ACT

1 Providing for tax levies and information related to taxes;
2 authorizing the imposition of a personal income tax or an
3 earned income tax by a school district subject to voter
4 approval; providing for imposition of and exclusions from a
5 sales and use tax for the stabilization of education funding,
6 for increase to the personal income tax, for certain
7 licenses, for hotel occupancy tax, for procedure and
8 administration of the tax, for expiration of authority to
9 issue certain debt and for reporting by local government
10 units of debt outstanding; establishing the Education
11 Stabilization Fund; providing for disbursements from this
12 fund; providing for senior citizen property tax rent rebate
13 assistance; and making repeals.

14 TABLE OF CONTENTS

15 Chapter 1. Preliminary Provisions
16 Section 101. Short title.
17 Section 102. Definitions.
18 Chapter 3. Taxation by School Districts

1 Section 301. Scope.
2 Section 302. Definitions.
3 Section 303. Limitation.
4 Section 304. Preemption.
5 Section 305. General tax authorization.
6 Section 306. Referendum.
7 Section 307. Continuity of tax.
8 Section 308. Collections.
9 Section 309. Credits.
10 Section 310. Exemption and special provisions.
11 Section 311. Regulations.
12 Chapter 4. Education Tax
13 Section 401. Education tax.
14 Chapter 7. Sales and Use Tax for the Stabilization of Education
15 Funding
16 Subchapter A. Preliminary Provisions
17 Section 700. Scope.
18 Section 701. Definitions.
19 Subchapter B. Sales and Use Tax
20 Section 702. Imposition of tax.
21 Section 703. Computation of tax.
22 Subchapter C. Exclusions from Sales and Use 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. Procedure and Administration
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 Section 721. Payment of tax.
11 Section 722. Time of payment.
12 Section 723. Other times for payment.
13 Section 724. Place for payment.
14 Section 725. Tax held in trust for Commonwealth.
15 Section 726. (Reserved).
16 Section 727. Discount.
17 Section 728. (Reserved).
18 Section 729. (Reserved).
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 Section 737. Collection of tax.
27 Section 738. Collection of tax on motor vehicles, trailers and
28 semitrailers.
29 Section 739. Precollection of tax.
30 Section 740. Bulk and auction sales.

1 Section 741. (Reserved).
2 Section 742. Lien for taxes.
3 Section 743. Suit for taxes.
4 Section 744. Tax suit comity.
5 Section 745. Service.
6 Section 746. Collection and payment of tax on credit sales.
7 Section 747. Prepayment of tax.
8 Section 747.1. Refund of sales tax attributed to bad debt.
9 Section 748. Registration of transient vendors.
10 Section 748.1. Bond.
11 Section 748.2. Notification to department.
12 Section 748.3. Seizure of property.
13 Section 748.4. Fines.
14 Section 748.5. Transient vendors subject to chapter.
15 Section 748.6. Promoters.
16 Section 749. (Reserved).
17 Section 750. (Reserved).
18 Section 751. (Reserved).
19 Section 752. Refunds.
20 Section 753. Refund petition.
21 Section 754. (Reserved).
22 Section 755. (Reserved).
23 Section 756. Extended time for filing special petition for
24 refund.
25 Section 757. (Reserved).
26 Section 758. Limitation on assessment and collection.
27 Section 759. Failure to file return.
28 Section 760. False or fraudulent return.
29 Section 761. Extension of limitation period.
30 Section 762. (Reserved).

1 Section 763. (Reserved).
2 Section 764. (Reserved).
3 Section 765. (Reserved).
4 Section 766. Additions to tax.
5 Section 767. Penalties.
6 Section 768. Criminal offenses.
7 Section 769. Abatement of additions or penalties.
8 Section 770. Rules and regulations.
9 Section 771. Keeping of records.
10 Section 771.1. Reports and records of promoters.
11 Section 772. Examinations.
12 Section 773. Records and examinations of delivery agents.
13 Section 774. Unauthorized disclosure.
14 Section 775. Cooperation with other governments.
15 Section 776. Interstate compacts.
16 Section 777. Bonds.
17 Section 778. Remote sales reports.
18 Subchapter G. Funding Provisions
19 Section 780. (Reserved).
20 Section 781. Appropriation for refunds.
21 Section 781.1. Construction.
22 Section 782. Transfers to Education Stabilization Fund.
23 Section 783. Transfers to Public Transportation Assistance
24 Fund.
25 Chapter 9. (Reserved)
26 Chapter 11. Limit on School District Taxation and Expiration of
27 Debt Authority
28 Section 1101. Definitions.
29 Section 1102. Coordination of school district fiscal years.
30 Section 1103. Transition period.

1 Section 1104. School district debt and budgeting.
2 Section 1105. Expiration of certain authority to levy, assess
3 and collect real property taxes.
4 Chapter 13. Funding Provisions
5 Section 1301. Definitions.
6 Section 1302. Education Stabilization Fund.
7 Section 1302.1. Sources and transfers.
8 Section 1303. Standard disbursements to school districts from
9 Education Stabilization Fund.
10 Chapter 14. Senior Citizens Property Tax and Rent Rebate
11 Assistance
12 Section 1401. Scope of chapter.
13 Section 1402. (Reserved).
14 Section 1403. Definitions.
15 Section 1404. Property tax; and rent rebate
16 Section 1405. Filing of claim.
17 Section 1406. Proof of claim.
18 Section 1407. Incorrect claim.
19 Section 1408. Funds for payment of claims.
20 Section 1409. Claim forms and rules and regulations.
21 Section 1410. Fraudulent claims and conveyances to obtain
22 benefits.
23 Section 1411. Petition for redetermination.
24 Section 1412. Review by Board of Finance and Revenue.
25 Section 1413. Appeal.
26 Chapter 15. Miscellaneous Provisions
27 Section 1501. Transitional provision.
28 Section 1502. Regulations.
29 Section 1503. Construction.
30 Section 1504. Severability.

1 Section 1505. Repeals.

2 Section 1506. Applicability.

3 Section 1507. Effective date

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 CHAPTER 1

7 PRELIMINARY PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the Property Tax
10 Independence Act.

11 Section 102. Definitions.

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

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

16 "Education Stabilization Fund." The Education Stabilization
17 Fund established in section 1302.

18 "Fiscal year." The fiscal year of the Commonwealth beginning
19 on July 1 and ending on June 30 of the immediately following
20 calendar year.

21 "Governing body." The board of school directors of a school
22 district, except that the term shall mean the city council of a
23 city of the first class for purposes of the levy and collection
24 of any tax in a school district of the first class.

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

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

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

1 "School district." A school district of the first class,
2 first class A, second class, third class or fourth class,
3 including any independent school district. For purposes of the
4 levy, assessment and collection of any tax in a school district
5 of the first class, the term shall include the City Council.

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

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

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

12 CHAPTER 3

13 Taxation by School Districts

14 Section 301. Scope.

15 This chapter authorizes school districts to levy, assess and
16 collect a tax on personal income or a tax on earned income and
17 net profits as a means of abolishing property taxation by the
18 school district.

19 Section 302. Definitions.

20 The words and phrases used in this chapter shall have the
21 same meanings given to them in the Tax Reform Code of 1971 or
22 The Local Tax Enabling Act unless the context clearly indicates
23 otherwise.

24 Section 303. Limitation.

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

27 Section 304. Preemption.

28 No act of the General Assembly shall vacate or preempt any
29 resolution passed or adopted under the authority of this
30 chapter, or any other act, providing authority for the

1 imposition of a tax by a school district, unless the act of the
2 General Assembly expressly vacates or preempts the authority to
3 pass or adopt resolutions.

4 Section 305. General tax authorization.

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

9 (b) Personal income tax.--

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

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

15 (3) If a board of school directors seeks to impose a
16 personal income tax under this subsection and the referendum
17 under section 306 is approved by the electorate, the board of
18 school directors shall have no authority to impose an earned
19 income and net profits tax under subsection (c) or any other
20 act.

21 (4) A personal income tax imposed under the authority of
22 this section shall be levied by the school district on each
23 of the classes of income specified in section 303 of the Tax
24 Reform Code of 1971 and regulations under that section,
25 provisions of which are incorporated by reference into this
26 chapter.

27 (i) Notwithstanding the provisions of section 353(f)
28 of the Tax Reform Code of 1971, the Department of Revenue
29 may permit the proper officer or an authorized agent of a
30 school district imposing a personal income tax pursuant

1 to this chapter to inspect the tax returns of any
2 taxpayer of the school district or may furnish to the
3 officer or an authorized agent an abstract of the return
4 of income of any current or former resident of the school
5 district or supply information concerning any item of
6 income contained in any tax return. The officer or
7 authorized agent of the school district imposing a tax
8 under this chapter shall be furnished the requested
9 information upon payment to the Department of Revenue of
10 the actual cost of providing the requested information.

11 (ii) (A) Except for official purposes or as
12 provided by law, it shall be unlawful for any officer
13 or authorized agent of a school district to do any of
14 the following:

15 (I) Disclose to any other individual or
16 entity the amount or source of income, profits,
17 losses, expenditures or any particular
18 information concerning income, profits, losses or
19 expenditures contained in any return.

20 (II) Permit any other individual or entity
21 to view or examine any return or copy of a return
22 or any book containing any abstract or
23 particulars.

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

1 relating to any return.

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

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

6 (II) May be removed from office or
7 discharged from employment.

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

9 (1) A board of school directors may levy, assess and
10 collect a tax on earned income and net profits of resident
11 individuals at a rate determined by the board of school
12 directors.

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

15 (3) If a board of school directors seeks to impose a tax
16 on earned income and net profits under this subsection and
17 the referendum under section 306 is approved by the
18 electorate, the board of school directors shall have no
19 authority to impose a personal income tax under subsection
20 (b) or any other act.

21 Section 306. Referendum.

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

26 (b) Approved by electorate.--

27 (1) Subject to notice and public hearing requirements of
28 subsection (g), a governing body may levy the personal income
29 tax or earned income and net profits tax under this chapter
30 only by obtaining the approval of the electorate of the

1 affected school district in a public referendum at only the
2 primary election preceding the fiscal year when the personal
3 income tax or earned income and net profits tax will be
4 initially imposed or the rate increased.

5 (2) The referendum question must state the initial rate
6 of the proposed personal income tax or earned income and net
7 profits tax, the purpose of the tax, the duration of the tax
8 and the amount of revenue to be generated by the
9 implementation of the tax.

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

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

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

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

23 (i) the initial rate of the personal income or
24 earned income and net profits tax imposed under this
25 chapter; and

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

28 (c) School district located in more than one county.--In the
29 event a school district is located in more than one county,
30 petitions under this section shall be filed with the election

1 officials of the county in which the administrative offices of
2 the school district are located.

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

7 (e) Notification.--

8 (1) If the election officials of the county who receive
9 the petition certify that it is sufficient under this section
10 and determine that a question should be placed on the ballot,
11 the decision shall be communicated to election officials in
12 any other county in which the school district is also
13 located.

14 (2) Election officials in the other county or counties
15 shall cooperate with election officials of the county that
16 receives the petition to ensure that an identical question is
17 placed on the ballot at the same election throughout the
18 entire school district.

19 (f) Certification of results.--Election officials from each
20 county involved shall independently certify the results from
21 their county to the governing body.

22 (g) Adoption of resolution.--

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

26 (2) Prior to adopting a resolution imposing the tax
27 authorized by this section, the governing body shall give
28 public notice of its intent to adopt the resolution in the
29 manner provided by The Local Tax Enabling Act and shall
30 conduct at least two public hearings regarding the proposed

1 adoption of the resolution. One public hearing shall be
2 conducted during normal business hours and one public hearing
3 shall be conducted during evening hours or on a weekend.

4 Section 307. Continuity of tax.

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

9 Section 308. Collections.

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

13 Section 309. Credits.

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

18 (b) Limitation.--Payment of any tax on income to any state
19 other than Pennsylvania or to any political subdivision located
20 outside the boundaries of this Commonwealth by a resident of a
21 school district located in this Commonwealth shall not be
22 credited to and allowed as a deduction from the liability of
23 such person for any income tax imposed by the school district of
24 residence pursuant to this chapter.

25 Section 310. Exemption and special provisions.

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

30 (b) Applicability to personal income tax.--Section 304 of

1 the Tax Reform Code of 1971 shall apply to any personal income
2 tax levied by a school district under section 305(b).

3 Section 311. Regulations.

4 A school district that imposes:

5 (1) an earned income and net profits tax authorized
6 under section 305(c) shall be subject to the provisions of
7 The Local Tax Enabling Act and may adopt procedures for the
8 processing of claims for credits and exemptions under section
9 309 and 310; or

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

14 CHAPTER 4

15 EDUCATION TAX

16 Section 401. Education tax.

17 (a) General rule.--In addition to the tax collected under
18 section 302 of the Tax Reform Code of 1971, the Commonwealth
19 shall impose and administer the tax set forth in subsection (b)
20 in the same manner as the tax under Article III of the Tax
21 Reform Code of 1971.

22 (b) Imposition of tax.--

23 (1) Every resident individual, estate or trust shall be
24 subject to, and shall pay for the privilege of receiving each
25 of the classes of income enumerated in section 303 of the Tax
26 Reform Code of 1971, a tax upon each dollar of income
27 received by that resident during that resident's taxable year
28 at the rate of 1.88%.

29 (2) Every nonresident individual, estate or trust shall
30 be subject to, and shall pay for the privilege of receiving

1 each of the classes of income enumerated in section 303 of
2 the Tax Reform Code of 1971 from sources within this
3 Commonwealth, a tax upon each dollar of income received by
4 that nonresident during that nonresident's taxable year at
5 the rate of 1.88%.

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

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

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

13 (d) Combination of tax forms.--The department shall
14 incorporate the taxpayer reporting requirement for the
15 implementation of this section into the forms utilized by the
16 department under Article III of the Tax Reform Code of 1971.

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

20 CHAPTER 7

21 SALES AND USE TAX FOR THE
22 STABILIZATION OF EDUCATION FUNDING

23 SUBCHAPTER A

24 PRELIMINARY PROVISIONS

25 Section 700. Scope.

26 The tax provided for under this chapter shall be known as the
27 Sales and Use Tax for the Stabilization of Education Funding,
28 which shall be a replacement for the tax imposed under Article
29 II of the Tax Reform Code of 1971 and that is repealed by this
30 act.

1 Section 701. Definitions.

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

5 (a) "Soft drinks."

6 (1) All nonalcoholic beverages, whether carbonated or
7 not, such as soda water, ginger ale, Coca Cola, lime cola,
8 Pepsi Cola, Dr. Pepper, fruit juice when plain or carbonated
9 water, flavoring or syrup is added, carbonated water,
10 orangeade, lemonade, root beer or any and all preparations,
11 commonly referred to as soft drinks, of whatsoever kind, and
12 are further described as including any and all beverages,
13 commonly referred to as soft drinks, which are made with or
14 without the use of any syrup.

15 (2) The term does not include natural fruit or vegetable
16 juices or their concentrates, or noncarbonated fruit juice
17 drinks containing not less than 25% by volume of natural
18 fruit juices or of fruit juice which has been reconstituted
19 to its original state, or natural concentrated fruit or
20 vegetable juices reconstituted to their original state,
21 whether any of the natural juices are frozen or unfrozen,
22 sweetened or unsweetened, seasoned with salt or spice or
23 unseasoned. The term also does not include coffee, coffee
24 substitutes, tea, cocoa, natural fluid milk or noncarbonated
25 drinks made from milk derivatives.

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

27 (1) Having, maintaining or using within this
28 Commonwealth, either directly or through a subsidiary,
29 representative or an agent, an office, distribution house,
30 sales house, warehouse, service enterprise or other place of

1 business; or any agent of general or restricted authority, or
2 representative, irrespective of whether the place of
3 business, representative or agent is located in this
4 Commonwealth, permanently or temporarily, or whether the
5 person or subsidiary maintaining the place of business,
6 representative or agent is authorized to do business within
7 this Commonwealth.

8 (1.1) Providing taxable services.

9 (2) Engaging in any activity as a business within this
10 Commonwealth by any person, either directly or through a
11 subsidiary, representative or an agent, in connection with
12 the lease, sale or delivery of tangible personal property or
13 the performance of services thereon for use, storage or
14 consumption or in connection with the sale or delivery for
15 use of the services described in subclauses (11) through (18)
16 of clause (k) of this section, including, but not limited to,
17 having, maintaining or using any office, distribution house,
18 sales house, warehouse or other place of business, any stock
19 of goods or any solicitor, canvasser, salesman,
20 representative or agent under its authority, at its direction
21 or with its permission, regardless of whether the person or
22 subsidiary is authorized to do business in this Commonwealth.

23 (3) Regularly or substantially soliciting orders within
24 this Commonwealth in connection with the lease, sale or
25 delivery of tangible personal property to or the performance
26 thereon of services or in connection with the sale or
27 delivery of the services described in subclauses (11) through
28 (18) of clause (k) of this section for residents of this
29 Commonwealth by means of catalogs or other advertising,
30 whether the orders are accepted within or without this

1 Commonwealth.

2 (3.1) Entering this Commonwealth by any person to
3 provide assembly, service or repair of tangible personal
4 property, either directly or through a subsidiary,
5 representative or an agent.

6 (3.2) Delivering tangible personal property to locations
7 within this Commonwealth if the delivery includes the
8 unpacking, positioning, placing or assembling of the tangible
9 personal property.

10 (3.3) Having any contact within this Commonwealth which
11 would allow the Commonwealth to require a person to collect
12 and remit tax under the Constitution of the United States.

13 (3.4) Providing a customer's mobile telecommunications
14 service deemed to be provided by the customer's home service
15 provider under the Mobile Telecommunications Sourcing Act (4
16 U.S.C. § 116). For purposes of this clause, words and phrases
17 used in this clause shall have the meanings given to them in
18 the Mobile Telecommunications Sourcing Act.

19 (4) The term does not include:

20 (i) Owning or leasing of tangible or intangible
21 property by a person who has contracted with an
22 unaffiliated commercial printer for printing, provided
23 that:

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

26 (B) the property is located at the Pennsylvania
27 premises of the commercial printer.

28 (ii) Visits by a person's employees or agents to the
29 premises in this Commonwealth of an unaffiliated
30 commercial printer with whom the person has contracted

1 for printing in connection with said contract.

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

8 (1) Every operation commencing with the first production
9 stage and ending with the completion of tangible personal
10 property having the physical qualities, including packaging,
11 if any, passing to the ultimate consumer, which it has when
12 transferred by the manufacturer to another. For purposes of
13 this definition, "operation" includes clean rooms and their
14 component systems, including: environmental control systems,
15 antistatic vertical walls and manufacturing platforms and
16 floors which are independent of the real estate; process
17 piping systems; specialized lighting systems; deionized water
18 systems; process vacuum and compressed air systems; process
19 and specialty gases; and alarm or warning devices
20 specifically designed to warn of threats to the integrity of
21 the product or people. For purposes of this definition, a
22 "clean room" is a location with a self-contained, sealed
23 environment with a controlled, closed air system independent
24 from the facility's general environmental control system.

25 (2) The publishing of books, newspapers, magazines and
26 other periodicals and printing.

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

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

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

9 (i) product or utility service; or

10 (ii) method of producing a product or utility
11 service,

12 but in either case not including market research or research
13 having as its objective the improvement of administrative
14 efficiency.

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

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

1 aircraft, vehicles, parts or components. For purposes of this
2 clause, the following terms or phrases have the following
3 meanings:

4 (i) "aircraft" means fixed-wing aircraft,
5 helicopters, powered aircraft, tilt-rotor or tilt-wing
6 aircraft, unmanned aircraft and gliders;

7 (ii) "armored vehicles" means tanks, armed personnel
8 carriers and all other armed track or semitrack vehicles;
9 and

10 (iii) "other defense-related vehicles" means trucks,
11 truck-tractors, trailers, jeeps and other utility
12 vehicles, including any unmanned vehicles.

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

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

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

30 (d) "Processing." The performance of the following

1 activities when engaged in as a business enterprise:

2 (1) The filtering or heating of honey, 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
11 person engaged in the activity packages the property in
12 sealed 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 clause, a bakery, a
28 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 (e) "Person." Any natural person, association, fiduciary,
13 partnership, corporation or other entity, including the
14 Commonwealth of Pennsylvania, its political subdivisions and
15 instrumentalities and public authorities. Whenever used in
16 prescribing and imposing a penalty or imposing a fine or
17 imprisonment, or both, the term as applied to an association,
18 includes the members of the association and, as applied to a
19 corporation, the officers of the corporation.

20 (f) "Purchase at retail."

21 (1) The acquisition for a consideration of the
22 ownership, custody or possession of tangible personal
23 property other than for resale by the person acquiring the
24 same when the acquisition is made for the purpose of
25 consumption or use, whether the acquisition is absolute or
26 conditional, and by any means it is effected.

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

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

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

8 (5) The obtaining for a consideration of those services
9 described in subclauses (11) through (18) of clause (k) of
10 this section.

11 The term, with respect to liquor and malt or brewed beverages,
12 includes the purchase of liquor from any Pennsylvania Liquor
13 Store by any person for any purpose, and the purchase of malt or
14 brewed beverages from a manufacturer of malt or brewed
15 beverages, distributor or importing distributor by any person
16 for any purpose, except purchases from a manufacturer of malt or
17 brewed beverages by a distributor or importing distributor or
18 purchases from an importing distributor by a distributor within
19 the meaning of the Liquor Code. The term does not include any
20 purchase of malt or brewed beverages from a retail dispenser or
21 any purchase of liquor or malt or brewed beverages from a person
22 holding a retail liquor license within the meaning of and
23 pursuant to the provisions of the Liquor Code, but includes any
24 purchase or acquisition of liquor or malt or brewed beverages
25 other than pursuant to the provisions of the Liquor Code.

26 (g) "Purchase price."

27 (1) The total value of anything paid or delivered, or
28 promised to be paid or delivered, whether money or otherwise,
29 in complete performance of a sale at retail or purchase at
30 retail, without any deduction on account of the cost or value

1 of the property sold, cost or value of transportation, cost
2 or value of labor or service, interest or discount paid or
3 allowed after the sale is consummated, any other taxes
4 imposed by the Commonwealth or any other expense except that
5 there shall be excluded any gratuity or separately stated
6 deposit charge for returnable containers.

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

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

1 distortion of the price or value is likewise absent.

2 (ii) For the purpose of this clause where a taxable
3 sale or purchase at retail transaction occurs between a
4 parent and a subsidiary, affiliate or controlled
5 corporation of such parent corporation, there shall be a
6 rebuttable presumption, that because of the common
7 interest, the transaction was not at arm's length.

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

29 (5) (i) With respect to the tax imposed by section
30 702(a)(2), on any tangible personal property originally

1 purchased by the user of the property six months or
2 longer prior to the first taxable use of the property
3 within this Commonwealth, the user may elect to pay tax
4 on a substituted base determined by considering the
5 purchase price of the property for tax purposes to be
6 equal to the prevailing market price of similar tangible
7 personal property at the time and place of the first use
8 within this Commonwealth.

9 (ii) The election must be made at the time of filing
10 a tax return with the department and reporting the tax
11 liability and paying the proper tax due plus all accrued
12 penalties and interest, if any, within six months of the
13 due date of such report and payment, as provided for by
14 section 717(a) and (c).

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

29 (7) Unless the vendor separately states that portion of
30 the billing which applies to premium cable service as defined

1 in clause (11), the total bill for the provision of all cable
2 services shall be the purchase price.

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

11 (9) Amounts representing on-the-spot cash discounts,
12 employee discounts, volume discounts, store discounts such as
13 "buy one, get one free," wholesaler's or trade discounts,
14 rebates and store or manufacturer's coupons shall establish a
15 new purchase price if both the item and the coupon are
16 described on the invoice or cash register tape. An amount
17 representing a discount allowed for prompt payment of bills
18 which is dependent upon an event occurring after the
19 completion of the sale may not be deducted in computing the
20 tax. A sale is completed when there is a transfer of
21 ownership of the property or services to the purchaser.

22 (h) "Purchaser." Any person who acquires, for a
23 consideration, the ownership, custody or possession by sale,
24 lease or otherwise of tangible personal property, or who obtains
25 services in exchange for a purchase price but not including an
26 employer who obtains services from his employees in exchange for
27 wages or salaries when such services are rendered in the
28 ordinary scope of their employment.

29 (i) "Resale."

30 (1) Any transfer of ownership, custody or possession of

1 tangible personal property for a consideration, including the
2 grant of a license to use or consume and transactions where
3 the possession of the property is transferred but where the
4 transferor retains title only as security for payment of the
5 selling price whether the transaction is designated as
6 bailment lease, conditional sale or otherwise.

7 (2) The physical incorporation of tangible personal
8 property as an ingredient or constituent into other tangible
9 personal property, which is to be sold in the regular course
10 of business or the performance of those services described in
11 subclauses (2), (3) and (4) of clause (k) upon tangible
12 personal property which is to be sold in the regular course
13 of business or where the person incorporating the property
14 has undertaken at the time of purchase to cause it to be
15 transported in interstate commerce to a destination outside
16 this Commonwealth. The term includes telecommunications
17 services purchased by a cable operator or video programmer
18 that are used to transport or deliver cable or video
19 programming services which are sold in the regular course of
20 business.

21 (3) The term also includes tangible personal property
22 purchased or having a situs within this Commonwealth solely
23 for the purpose of being processed, fabricated or
24 manufactured into, attached to or incorporated into tangible
25 personal property and thereafter transported outside this
26 Commonwealth for use exclusively outside this Commonwealth.

27 (4) The term does not include any sale of malt or brewed
28 beverages by a retail dispenser, or any sale of liquor or
29 malt or brewed beverages by a person holding a retail liquor
30 license within the meaning of the act of April 12, 1951

1 (P.L.90, No.21), known as the Liquor Code.

2 (5) The physical incorporation of tangible personal
3 property as an ingredient or constituent in the construction
4 of foundations for machinery or equipment the sale or use of
5 which is excluded from tax under the provisions of paragraphs
6 (A), (B), (C) and (D) of subclause (8) of clause (k) and
7 subparagraphs (i), (ii), (iii) and (iv) of paragraph (B) of
8 subclause (4) of clause (o), whether the foundations at the
9 time of construction or transfer constitute tangible personal
10 property or real estate.

11 (6) The sale at retail or use of services performed for
12 resale in the ordinary course of business of the purchaser or
13 user of such services.

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

17 (j) "Resident."

18 (1) Any natural person:

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

20 (ii) who maintains a permanent place of abode within
21 this Commonwealth and spends in the aggregate more than
22 60 days of the year within this Commonwealth.

23 (2) Any corporation:

24 (i) incorporated under the laws of this
25 Commonwealth;

26 (ii) authorized to do business or doing business
27 within this Commonwealth; or

28 (iii) maintaining a place of business within this
29 Commonwealth.

30 (3) Any association, fiduciary, partnership or other

1 entity:

2 (i) domiciled in this Commonwealth;

3 (ii) authorized to do business or doing business
4 within this Commonwealth; or

5 (iii) maintaining a place of business within this
6 Commonwealth.

7 (k) "Sale at retail."

8 (1) Any transfer, for a consideration, of the ownership,
9 custody or possession of tangible personal property,
10 including the grant of a license to use or consume whether
11 the transfer is absolute or conditional and by any means the
12 transfer is effected.

13 (2) The rendition of the service of printing or
14 imprinting of tangible personal property for a consideration
15 for persons who furnish, either directly or indirectly, the
16 materials used in the printing or imprinting.

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

18 (i) washing, cleaning, waxing, polishing or
19 lubricating of motor vehicles of another, regardless of
20 whether any tangible personal property is transferred in
21 conjunction with the activity; and

22 (ii) inspecting motor vehicles pursuant to the
23 mandatory requirements of 75 Pa.C.S. (relating to
24 vehicles).

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

1 than wearing apparel or shoes for a consideration, regardless
2 of whether the services are performed directly or by any
3 means other than by coin-operated self-service laundry
4 equipment for wearing apparel or household goods and whether
5 or not any tangible personal property is transferred in
6 conjunction with the activity, except such services as are
7 rendered in the construction, reconstruction, remodeling,
8 repair or maintenance of real estate.

9 (5) (Reserved).

10 (6) (Reserved).

11 (7) (Reserved).

12 (8) Any retention of possession, custody or a license to
13 use or consume tangible personal property or any further
14 obtaining of services described in subclauses (2), (3) and
15 (4) of this clause pursuant to a rental or service contract
16 or other arrangement (other than as security). The term does
17 not include:

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

20 (ii) the rendition of services or the transfer of
21 tangible personal property, including, but not limited
22 to, machinery and equipment and their parts and supplies
23 to be used or consumed by the purchaser directly in the
24 operations of:

25 (A) The manufacture of tangible personal
26 property.

27 (B) Farming, dairying, agriculture, horticulture
28 or floriculture when engaged in as a business
29 enterprise. The term "farming" includes the
30 propagation and raising of ranch raised fur-bearing

1 animals and the propagation of game birds for
2 commercial purposes by holders of propagation permits
3 issued under 34 Pa.C.S. (relating to game) and the
4 propagation and raising of horses to be used
5 exclusively for commercial racing activities.

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

11 (D) Processing as defined in clause (d). The
12 exclusions provided in this paragraph or paragraph
13 (A), (B) or (C) do not apply to any vehicle required
14 registered under 75 Pa.C.S. (relating to vehicles),
15 except those vehicles used directly by a public
16 utility engaged in business as a common carrier; to
17 maintenance facilities; or to materials, supplies or
18 equipment to be used or consumed in the construction,
19 reconstruction, remodeling, repair or maintenance of
20 real estate other than directly used machinery,
21 equipment, parts or foundations that may be affixed
22 to such real estate. The exclusions provided in this
23 paragraph or paragraph (A), (B) or (C) do not apply
24 to tangible personal property or services to be used
25 or consumed in managerial sales or other
26 nonoperational activities, nor to the purchase or use
27 of tangible personal property or services by any
28 person other than the person directly using the same
29 in the operations described in this paragraph or
30 paragraph (A), (B) or (C).

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

2 (i) construction materials, supplies or equipment
3 used to construct, reconstruct, remodel, repair or
4 maintain facilities not used directly by the purchaser in
5 the production, delivering or rendition of public utility
6 service;

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

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

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

20 (9) Where tangible personal property or services are
21 utilized for purposes constituting a sale at retail and for
22 purposes excluded from the definition of "sale at retail," it
23 shall be presumed that the tangible personal property or
24 services are utilized for purposes constituting a sale at
25 retail and subject to tax unless the user proves to the
26 department that the predominant purposes for which such
27 tangible personal property or services are utilized do not
28 constitute a sale at retail.

29 (10) The term, with respect to liquor and malt or brewed
30 beverages, includes the sale of liquor by any Pennsylvania

1 liquor store to any person for any purpose, and the sale of
2 malt or brewed beverages by a manufacturer of malt or brewed
3 beverages, distributor or importing distributor to any person
4 for any purpose, except sales by a manufacturer of malt or
5 brewed beverages to a distributor or importing distributor or
6 sales by an importing distributor to a distributor within the
7 meaning of the act of April 12, 1951 (P.L.90, No.21), known
8 as the Liquor Code. The term does not include any sale of
9 malt or brewed beverages by a retail dispenser or any sale of
10 liquor or malt or brewed beverages by a person holding a
11 retail liquor license within the meaning of and pursuant to
12 the provisions of the Liquor Code, but shall include any sale
13 of liquor or malt or brewed beverages other than pursuant to
14 the provisions of the Liquor Code.

15 (11) The rendition for a consideration of lobbying
16 services.

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

19 (13) The rendition for a consideration of secretarial or
20 editing services.

21 (14) The rendition for a consideration of disinfecting
22 or pest control services, building maintenance or cleaning
23 services.

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

26 (16) (Reserved).

27 (17) The rendition for a consideration of lawn care
28 service.

29 (18) The rendition for a consideration of self-storage
30 service.

1 (19) The rendition for a consideration of a mobile
2 telecommunications service.

3 (20) Except as otherwise provided under section 704, the
4 rendition for a consideration of any service enumerated in
5 clause (dd) when the primary objective of the purchaser is
6 the receipt of any benefit of the service performed, as
7 distinguished from the receipt of property.

8 (1) "Storage." Any keeping or retention of tangible
9 personal property within this Commonwealth for any purpose
10 including the interim keeping, retaining or exercising any right
11 or power over such tangible personal property. This term is in
12 no way limited to the provision of self-storage service.

13 (m) "Tangible personal property." Corporeal personal
14 property including, but not limited to, goods, wares,
15 merchandise, steam and natural and manufactured and bottled gas
16 for non-residential use, electricity for non-residential use,
17 prepaid telecommunications, cable or video programming service,
18 spirituous or vinous liquor and malt or brewed beverages and
19 soft drinks, interstate telecommunications service originating
20 or terminating in this Commonwealth and charged to a service
21 address in this Commonwealth, intrastate telecommunications
22 service with the exception of:

23 (1) Subscriber line charges and basic local telephone
24 service for residential use.

25 (2) Charges for telephone calls paid for by inserting
26 money into a telephone accepting direct deposits of money to
27 operate, provided further, the service address of any
28 intrastate telecommunications service is deemed to be within
29 this Commonwealth or within a political subdivision,
30 regardless of how or where billed or paid.

1 In the case of any interstate or intrastate telecommunications
2 service, any charge paid through a credit or payment mechanism
3 which does not relate to a service address, such as a bank,
4 travel, credit or debit card, but not including prepaid
5 telecommunications, is deemed attributable to the address of
6 origination of the telecommunications service.

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

9 (o) "Use."

10 (1) The exercise of any right or power incidental to the
11 ownership, custody or possession of tangible personal
12 property and includes, but is not limited to, transportation,
13 storage or consumption.

14 (2) The obtaining by a purchaser of the service of
15 printing or imprinting of tangible personal property when the
16 purchaser furnishes, either directly or indirectly, the
17 articles used in the printing or imprinting.

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

19 (i) washing, cleaning, waxing, polishing or
20 lubricating of motor vehicles regardless of whether any
21 tangible personal property is transferred to the
22 purchaser in conjunction with the services; and

23 (ii) inspecting motor vehicles pursuant to the
24 mandatory requirements of 75 Pa.C.S. (relating to
25 vehicles).

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

1 replacement part of other tangible personal property,
2 including, but not limited to, wearing apparel or shoes,
3 regardless of whether the services are performed directly or
4 by any means other than by means of coin-operated self-
5 service laundry equipment for wearing apparel or household
6 goods, and regardless of whether any tangible personal
7 property is transferred to the purchaser in conjunction with
8 the activity, therewith, except such services are obtained in
9 the construction, reconstruction, remodeling, repair or
10 maintenance of real estate. The term "use" does not include:

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

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

24 (i) The manufacture of tangible personal property.

25 (ii) Farming, dairying, agriculture, horticulture or
26 floriculture when engaged in as a business enterprise.
27 The term includes the propagation and raising of ranch-
28 raised furbearing animals and the propagation of game
29 birds for commercial purposes by holders of propagation
30 permits issued under 34 Pa.C.S. (relating to game) and

1 the propagation and raising of horses to be used
2 exclusively for commercial racing activities.

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

8 (iv) Processing as defined in subclause (d).
9 The exclusions provided in subparagraphs (i), (ii), (iii)
10 and (iv) do not apply to any vehicle required to be
11 registered under 75 Pa.C.S. (relating to vehicles) except
12 those vehicles directly used by a public utility engaged
13 in the business as a common carrier; to maintenance
14 facilities; or to materials, supplies or equipment to be
15 used or consumed in the construction, reconstruction,
16 remodeling, repair or maintenance of real estate other
17 than directly used machinery, equipment, parts or
18 foundations therefor that may be affixed to such real
19 estate. The exclusions provided in subparagraphs (i),
20 (ii), (iii) and this subparagraph do not apply to
21 tangible personal property or services to be used or
22 consumed in managerial sales or other nonoperational
23 activities, nor to the purchase or use of tangible
24 personal property or services by any person other than
25 the person directly using the same in the operations
26 described in subparagraphs (i), (ii), (iii) and this
27 subparagraph. The exclusion provided in subparagraph
28 (iii) does not apply to:

29 (A) construction materials, supplies or
30 equipment used to construct, reconstruct, remodel,

1 repair or maintain facilities not used directly by
2 the purchaser in the production, delivering or
3 rendition of public utility service; or

4 (B) tools and equipment used but not installed
5 in the maintenance of facilities used directly in the
6 production, delivering or rendition of a public
7 utility service.

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

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

22 (6) The term, with respect to liquor and malt or brewed
23 beverages, includes the purchase of liquor from any
24 Pennsylvania Liquor Store by any person for any purpose and
25 the purchase of malt or brewed beverages from a manufacturer
26 of malt or brewed beverages, distributor or importing
27 distributor by any person for any purpose, except purchases
28 from a manufacturer of malt or brewed beverages by a
29 distributor or importing distributor, or purchases from an
30 importing distributor by a distributor within the meaning of

1 the act of April 12, 1951 (P.L.90, No.21), known as the
2 Liquor Code. The term does not include any purchase of malt
3 or brewed beverages from a retail dispenser or any purchase
4 of liquor or malt or brewed beverages from a person holding a
5 retail liquor license within the meaning of and pursuant to
6 the provisions of the Liquor Code, but includes the exercise
7 of any right or power incidental to the ownership, custody or
8 possession of liquor or malt or brewed beverages obtained by
9 the person exercising the right or power in any manner other
10 than pursuant to the provisions of the Liquor Code.

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

15 (8) (Reserved).

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 (17) The obtaining by a construction contractor of
2 tangible personal property or services provided to tangible
3 personal property which will be used pursuant to a
4 construction contract regardless of whether the tangible
5 personal property or services are transferred.

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

8 (19) Except as otherwise provided under section 704, the
9 obtaining by the purchaser of any service enumerated in
10 clause (dd) when the primary objective of the purchaser is
11 the receipt of any benefit of the service performed, as
12 distinguished from the receipt of property.

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

19 (q) "NAICS." The 2012 North American Industry
20 Classification System developed by the Federal Office of
21 Management and Budget and published at 76 Fed. Reg. 159 (Aug.
22 17, 2011) or its successor revision.

23 (r) "Gratuity." Any amount paid or remitted for services
24 performed in conjunction with any sale of food or beverages, or
25 hotel or motel accommodations which amount is in excess of the
26 charges and the tax for such food, beverages or accommodations
27 regardless of the method of billing or payment.

28 (s) "Commercial aircraft operator." A person, excluding a
29 scheduled airline who engages in any or all of the following:
30 charter of aircraft, leasing of aircraft, aircraft sales,

1 aircraft rental, flight instruction, air freight or any other
2 flight activities for compensation.

3 (t) "Transient vendor."

4 (1) Any person who:

5 (i) brings into this Commonwealth, by automobile,
6 truck or other means of transportation, or purchases in
7 this Commonwealth tangible personal property the sale or
8 use of which is subject to the tax imposed by this
9 chapter or comes into this Commonwealth to perform
10 services the sale or use of which is subject to the tax
11 imposed by this chapter;

12 (ii) offers or intends to offer the tangible
13 personal property or services for sale at retail within
14 this Commonwealth; and

15 (iii) does not maintain an established office,
16 distribution house, saleshouse, warehouse, service
17 enterprise, residence from which business is conducted or
18 other place of business within this Commonwealth.

19 (2) The term does not include a person who delivers
20 tangible personal property within this Commonwealth pursuant
21 to orders for the property which were solicited or placed by
22 mail or other means.

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

27 (u) "Promoter." A person who either, directly or
28 indirectly, rents, leases or otherwise operates or grants
29 permission to any person to use space at a show for the display
30 for sale or for the sale of tangible personal property or

1 services subject to tax under section 702.

2 (v) "Show." An event, the primary purpose of which involves
3 the display or exhibition of any tangible personal property or
4 services for sale, including, but not limited to, a flea market,
5 antique show, coin show, stamp show, comic book show, hobby
6 show, automobile show, fair or any similar show, whether held
7 regularly or of a temporary nature, at which more than one
8 vendor displays for sale or sells tangible personal property or
9 services subject to tax under section 702.

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

13 (x) "Adjustment services, collection services or credit
14 reporting services." Providing collection or adjustments of
15 accounts receivable or mercantile or consumer credit reporting,
16 including, but not limited to, services of the type provided by
17 adjustment bureaus or collection agencies, consumer or
18 mercantile credit reporting bureaus, credit bureaus or agencies,
19 credit clearinghouses or credit investigation services. The term
20 does not include providing credit card service with collection
21 by a central agency, providing debt counseling or adjustment
22 services to individuals or billing or collection services
23 provided by local exchange telephone companies.

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

28 (z) "Disinfecting or pest control services." Providing
29 disinfecting, termite control, insect control, rodent control or
30 other pest control services. The term includes, but is not

1 limited to, deodorant servicing of rest rooms, washroom
2 sanitation service, rest room cleaning service, extermination
3 service or fumigating service. As used in this clause, the term
4 "fumigating service" does not include the fumigation of
5 agricultural commodities or containers used for agricultural
6 commodities. As used in this clause, the term "insect control"
7 does not include the gypsy moth control spraying of trees which
8 are harvested for commercial purposes.

9 (aa) "Building maintenance or cleaning services." Providing
10 services which include, but are not limited to, janitorial, maid
11 or housekeeping service, office or interior building cleaning or
12 maintenance service, window cleaning service, floor waxing
13 service, lighting maintenance service such as bulb replacement,
14 cleaning, chimney cleaning service, acoustical tile cleaning
15 service, venetian blind cleaning, cleaning and maintenance of
16 telephone booths or cleaning and degreasing of service stations.
17 The term does not include: repairs on buildings and other
18 structures; the maintenance or repair of boilers, furnaces and
19 residential air conditioning equipment or their parts; the
20 painting, wallpapering or applying other like coverings to
21 interior walls, ceilings or floors; or the exterior painting of
22 buildings.

23 (bb) "Employment agency services." Providing employment
24 services to a prospective employer or employee other than
25 employment services provided by theatrical employment agencies
26 and motion picture casting bureaus. The term includes, but is
27 not limited to, services of the type provided by employment
28 agencies, executive placing services and labor contractor
29 employment agencies other than farm labor.

30 (cc) "Help supply services." Providing temporary or

1 continuing help where the help supplied is on the payroll of the
2 supplying person or entity, but is under the supervision of the
3 individual or business to which help is furnished. The term
4 includes, but is not limited to, service of a type provided by
5 labor and manpower pools, employee leasing services, office help
6 supply services, temporary help services, usher services,
7 modeling services or fashion show model supply services. The
8 term does not include: providing farm labor services or human
9 health-related services, including nursing, home health care and
10 personal care. As used in this clause, "personal care" shall
11 include providing at least one of the following types of
12 assistance to persons with limited ability for self-care:

- 13 (1) dressing, bathing or feeding;
- 14 (2) supervising self-administered medication;
- 15 (3) transferring a person to or from a bed or
16 wheelchair; or
- 17 (4) routine housekeeping chores when provided in
18 conjunction with and supplied by the same provider of the
19 assistance listed in subclause (1), (2) or (3).

20 (dd) "NAICS taxable services." Any service performed in
21 this Commonwealth as defined in the following subsectors and
22 industries of the revised 2012 NAICS developed by the Federal
23 Office of Management and Budget and published at 76 Fed. Reg.
24 159 (Aug. 17, 2011) or its successor revision:

- 25 481, for intrastate transport of persons
- 26 482, for intrastate transport of persons
- 27 483, for intrastate transport of persons
- 28 4851, for intrastate transport of persons
- 29 4852, for intrastate transport of persons
- 30 4853, for intrastate transport of persons

1 4855, for intrastate transport of persons
2 4859, for intrastate transport of persons
3 487
4 48841
5 5111
6 5112
7 5121
8 512131
9 512132
10 523930
11 541
12 5611
13 5612
14 5613
15 5614
16 5615
17 5619
18 5621

19 Nontuition and non-housing-related charges imposed by the
20 following industries: 6112, 6113, 6114, 6115 and 6116
21 6216, 6219, 6231, 6232, 6233, 6239, 6241, 6242, 6243,
22 unless provided by a nonprofit organization

23 6244

24 7111, unless imposed by industry 611110 or a nonprofit
25 corporation or nonprofit unincorporated association under the
26 laws of this Commonwealth or the United States or any entity
27 that is authorized to do business in this Commonwealth as a
28 nonprofit corporation or unincorporated association under the
29 laws of this Commonwealth, including a youth or athletic,
30 volunteer fire, ambulance, religious, charitable, fraternal,

1 veterans or civic association or any separately chartered
2 auxiliary of the foregoing and operated on a nonprofit basis
3 7112, unless imposed by industry 611110 or a nonprofit
4 corporation or nonprofit unincorporated association under the
5 laws of this Commonwealth or the United States or any entity
6 that is authorized to do business in this Commonwealth as a
7 nonprofit corporation or unincorporated association under the
8 laws of this Commonwealth, including a youth or athletic,
9 volunteer fire, ambulance, religious, charitable, fraternal,
10 veterans or civic association or any separately chartered
11 auxiliary of the foregoing and operated on a nonprofit basis

12 7113

13 7114

14 712

15 7131

16 7139

17 7212

18 7224

19 8121

20 8122

21 8123

22 8129

23 (ee) (Reserved).

24 (ff) (Reserved).

25 (gg) (Reserved).

26 (hh) (Reserved).

27 (ii) (Reserved).

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

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

6 (1) safe deposit boxes by financial institutions;

7 (2) storage in refrigerator or freezer units;

8 (3) storage in commercial warehouses;

9 (4) facilities for goods distribution; and

10 (5) lockers in airports, bus stations, museums and other
11 public places.

12 (ll) "Cable or video programming service." Cable television
13 services, video programming services, community antenna
14 television services or any other distribution of television,
15 video, audio or radio services which is transmitted with or
16 without the use of wires to purchasers.

17 If a purchaser receives or agrees to receive cable or video
18 programming service, then the following charges are included in
19 the purchase price: charges for installation or repair of any
20 cable or video programming service, upgrade to include
21 additional premium cable or premium video programming service,
22 downgrade to exclude all or some premium cable or premium video
23 programming service, additional cable outlets in excess of ten
24 or any other charge or fee related to cable or video programming
25 services. The term does not apply to: transmissions by public
26 television, public radio services or official Federal, State or
27 local government cable services; local origination programming
28 which provides a variety of public service programs unique to
29 the community, programming which provides coverage of public
30 affairs issues which are presented without commentary or

1 analysis, including United States Congressional proceedings, or
2 programming which is substantially related to religious
3 subjects; or subscriber charges for access to a video dial tone
4 system or charges by a common carrier to a video programmer for
5 the transport of video programming.

6 (mm) (Reserved).

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

12 (oo) "Construction contractor." A person who performs an
13 activity pursuant to a construction contract, including a
14 subcontractor.

15 (pp) "Building machinery and equipment." Generation
16 equipment, storage equipment, conditioning equipment,
17 distribution equipment and termination equipment, limited to the
18 following:

19 (1) air conditioning limited to heating, cooling,
20 purification, humidification, dehumidification and
21 ventilation;

22 (2) electrical;

23 (3) plumbing;

24 (4) communications limited to voice, video, data, sound,
25 master clock and noise abatement;

26 (5) alarms limited to fire, security and detection;

27 (6) control system limited to energy management, traffic
28 and parking lot and building access;

29 (7) medical system limited to diagnosis and treatment
30 equipment, medical gas, nurse call and doctor paging;

- 1 (8) laboratory system;
- 2 (9) cathodic protection system; or
- 3 (10) furniture, cabinetry and kitchen equipment.

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

17 (qq) "Real estate structure." A structure or item purchased
18 by a construction contractor pursuant to a construction contract
19 with:

20 (1) 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 under
24 the act of November 26, 1997 (P.L.508, No.55), known as the
25 Institutions of Purely Public Charity Act;

26 (2) the United States; or

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

29 The term includes building machinery and equipment; developed or
30 undeveloped land; streets; roads; highways; parking lots;

1 stadiums and stadium seating; recreational courts; sidewalks;
2 foundations; structural supports; walls; floors; ceilings;
3 roofs; doors; canopies; millwork; elevators; windows and
4 external window coverings; outdoor advertising boards or signs;
5 airport runways; bridges; dams; dikes; traffic control devices,
6 including traffic signs; satellite dishes; antennas; guardrail
7 posts; pipes; fittings; pipe supports and hangers; valves;
8 underground tanks; wire; conduit; receptacle and junction boxes;
9 insulation; ductwork and coverings; and any structure or item
10 similar to any of the foregoing, regardless of whether the
11 structure or item constitutes a fixture or is affixed to the
12 real estate; or damage would be done to the structure or item or
13 its surroundings on removal.

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

27 (1) Subscriber charges for access to a video dial tone
28 system.

29 (2) Charges to video programmers for the transport of
30 video programming.

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

3 (i) The transport over the Internet or any
4 proprietary network using the Internet protocol of
5 telephone calls, facsimile transmissions or other
6 telecommunications traffic to or from end users on the
7 public switched telephone network if the signal sent from
8 or received by an end user is not in an Internet
9 protocol.

10 (ii) Telecommunication services purchased by an
11 Internet service provider to deliver access to the
12 Internet to its customers.

13 (4) Mobile telecommunications services.

14 (ss) "Internet." The international nonproprietary computer
15 network of both Federal and non-Federal interoperable packet
16 switched data networks.

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

18 (1) Thoroughbred and harness racing at which pari-mutuel
19 wagering is conducted under the act of December 17, 1981
20 (P.L.435, No.135), known as the Race Horse Industry Reform
21 Act.

22 (2) Fair racing sanctioned by the State Harness Racing
23 Commission.

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

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

29 (1) Manufactured housing, including mobile homes, which
30 bears a label as required by and referred to in the act of

1 November 17, 1982 (P.L.676, No.192), known as the
2 Manufactured Housing Construction and Safety Standards
3 Authorization Act.

4 (2) Industrialized housing as defined in the act of May
5 11, 1972 (P.L.286, No.70), known as the Industrialized
6 Housing Act.

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

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

11 (yy) "Prebuilt housing sale." A sale of prebuilt housing to
12 a prebuilt housing purchaser, including a sale to a landlord,
13 without regard to whether the person making the sale is
14 responsible for installing the prebuilt housing or whether the
15 prebuilt housing becomes a real estate structure upon
16 installation. Temporary installation by a prebuilt housing
17 builder for display purposes of a unit held for resale shall not
18 be considered occupancy for residential purposes.

19 (zz) "Prebuilt housing purchaser." A person who purchases
20 prebuilt housing in a transaction and who intends to occupy the
21 unit for residential purposes in this Commonwealth.

22 (aaa) "Mobile telecommunications service." Mobile
23 telecommunications service as that term is defined in the Mobile
24 Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. §
25 116 et seq.).

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

28 (ccc) "Prepaid mobile telecommunications service." Mobile
29 telecommunications service which is paid for in advance and
30 which enables the origination of calls using an access number,

1 authorization code or both, regardless of whether manually or
2 electronically dialed, if the remaining amount of units of the
3 prepaid mobile telecommunications service is known by the
4 service provider of the prepaid mobile telecommunications
5 service on a continuous basis. The term does not include the
6 advance purchase of mobile telecommunications service if the
7 purchase is pursuant to a service contract between the service
8 provider and customer and if the service contract requires the
9 customer to make periodic payments to maintain the mobile
10 telecommunications service.

11 (ddd) (Reserved).

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

16 (fff) "Physician services." The general and usual services
17 rendered and care administered by medical doctors, as defined in
18 the act of December 20, 1985 (P.L.457, No.112), known as the
19 Medical Practice Act of 1985, or doctors of osteopathy, as
20 defined in the act of October 5, 1978 (P.L.1109, No.261), known
21 as the Osteopathic Medical Practice Act.

22 (ggg) "Clothing." All vesture, wearing apparel, raiments,
23 garments, footwear and other articles of clothing, including
24 clothing patterns and items that are to be a component part of
25 clothing, worn or carried on or about the human body including,
26 but not limited to, all accessories, ornamental wear, formal day
27 or evening apparel and articles made of fur on the hide or pelt
28 or any material imitative of fur and articles of which such fur,
29 real, imitation or synthetic, is the component material of chief
30 value, but only if such value is more than three times the value

1 of the next most valuable component material, and sporting goods
2 and clothing not normally used or worn when not engaged in
3 sports.

4 (hhh) "Food and beverages." All food and beverages for
5 human consumption.

6 SUBCHAPTER B

7 SALES AND USE TAX

8 Section 702. Imposition of tax.

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

11 (1) There is hereby imposed on each separate sale at
12 retail of tangible personal property or services in this
13 Commonwealth a tax of 7% of the purchase price, which tax
14 shall be collected by the vendor from the purchaser, and
15 shall be paid over to the Commonwealth as provided in this
16 chapter.

17 (2) There is hereby imposed on the use in this
18 Commonwealth of tangible personal property purchased at
19 retail and on those services purchased at retail a tax of 7%
20 of the purchase price, which tax shall be paid to the
21 Commonwealth by the person who makes such use as provided
22 under this chapter, except that the tax shall not be paid to
23 the Commonwealth by the person where the person has paid the
24 tax imposed by paragraph (1) or has paid the tax imposed by
25 this subsection to the vendor with respect to the use.

26 (b) General sourcing rules.--

27 (1) All sales of products shall be sourced according to
28 this subsection by sellers obligated to collect sales and use
29 tax under this chapter. The sourcing rules described in this
30 subsection apply to sales of tangible personal property,

1 digital goods and all services other than telecommunications
2 services. This subsection only applies to determine a
3 seller's obligation to pay or collect and remit a sales or
4 use tax with respect to the seller's sale of a product. This
5 subsection does not affect the obligation of a purchaser or
6 lessee to remit tax on the use of the product to the taxing
7 jurisdictions in which the use occurs. A seller's obligation
8 to collect sales tax or use tax under this chapter only
9 occurs if the sale is sourced to this State. Whether sales
10 tax to a sale source to the Commonwealth shall be determined
11 based on the location at which the sale is consummated by
12 delivery or, in the case of a service, where the first use of
13 the service occurs.

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

16 (i) When the product is received by the purchaser at
17 a business location of the seller, the sale is sourced to
18 that business location.

19 (ii) When the product is not received by the
20 purchaser at a business location of the seller, the sale
21 is sourced to the location where receipt by the purchaser
22 or the purchaser's donee, designated such by the
23 purchaser, occurs, including the location indicated by
24 instructions for delivery to the purchaser or donee,
25 known to the seller.

26 (iii) When subparagraphs (i) and (ii) do not apply,
27 the sale is sourced to the location indicated by an
28 address for the purchaser that is available from the
29 business records of the seller that are maintained in the
30 ordinary course of the seller's business when use of this

1 address does not constitute bad faith.

2 (iv) When subparagraphs (i), (ii) and (iii) do not
3 apply, the sale is sourced to the location indicated by
4 an address for the purchaser obtained during the
5 consummation of the sale, including the address of a
6 purchaser's payment instrument, if no other address is
7 available, when use of this address does not constitute
8 bad faith.

9 (v) When subparagraphs (i), (ii), (iii) and (iv) do
10 not apply, including the circumstance where the seller is
11 without sufficient information to apply the previous
12 rules, when the location will be determined by the
13 address from which tangible personal property was
14 shipped, from which the digital good or the computer
15 software delivered electronically was first available for
16 transmission by the seller or from which the service was
17 provided disregarding for these purposes any location
18 that merely provided the digital transfer of the product
19 sold.

20 (c) Telecommunications service.--

21 (1) Notwithstanding any other provisions of this
22 chapter, the tax with respect to telecommunications service
23 within the meaning of "tangible personal property" in section
24 701 shall be computed at the rate of 7% on the total amount
25 charged to customers for the services, irrespective of
26 whether such charge is based on a flat rate or on a message
27 unit charge.

28 (2) A telecommunications service provider shall have no
29 responsibility or liability to the Commonwealth for billing,
30 collecting or remitting taxes that apply to services,

1 products or other commerce sold over telecommunications lines
2 by third-party vendors.

3 (3) To prevent actual multistate taxation of interstate
4 telecommunications service, any taxpayer, on proof that the
5 taxpayer has paid a similar tax to another state on the same
6 interstate telecommunications service, shall be allowed a
7 credit against the tax imposed by this section on the same
8 interstate telecommunications service to the extent of the
9 amount of the tax properly due and paid to the other state.

10 (4) With respect to interstate telecommunications
11 services, only services for interstate telecommunications
12 which originate or are terminated in this Commonwealth and
13 which are billed and charged to a service address in this
14 Commonwealth shall be presumed to have been performed
15 completely in this Commonwealth and shall be subject to tax
16 under this chapter.

17 (d) Coin-operated vending machines.--Notwithstanding any
18 other provisions of this chapter, the sale or use of food and
19 beverages dispensed by means of coin-operated vending machines
20 shall be taxed at the rate of 7% of the receipts collected from
21 any coin-operated vending machine which dispenses food and
22 beverages.

23 (e) Prepaid telecommunications.--

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

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

1 deemed to occur at the purchaser's billing address.

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

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

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

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

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

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

30 (ii) The service provider shall notify the

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

4 (f) Prebuilt housing.--

5 (1) Notwithstanding any other provision of this chapter,
6 tax with respect to sales of prebuilt housing shall be
7 imposed on the prebuilt housing builder at the time of the
8 prebuilt housing sale within this Commonwealth and shall be
9 paid and reported by the prebuilt housing builder to the
10 department in the time and manner provided in this chapter.

11 (2) A manufacturer of prebuilt housing may, at its
12 option, precollect the tax from the prebuilt housing builder
13 at the time of sale to the prebuilt housing builder.

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

21 (g) Home service providers.--

22 (1) Notwithstanding any other provisions of this chapter
23 and in accordance with the Mobile Telecommunications Sourcing
24 Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or
25 use of mobile telecommunications services which are deemed to
26 be provided to a customer by a home service provider under 4
27 U.S.C. § 117 (relating to sourcing rules) shall be subject to
28 the tax of 7% of the purchase price, which tax shall be
29 collected by the home service provider from the customer, and
30 shall be paid over to the Commonwealth as provided in this

1 chapter if the customer's place of primary use is located
2 within this Commonwealth, regardless of where the mobile
3 telecommunications services originate, terminate or pass
4 through.

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

8 Section 703. Computation of tax.

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

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

13 (2) If the purchase price is 8¢ or more but less than
14 22¢, 1¢ shall be collected.

15 (3) If the purchase price is 22¢ or more but less than
16 36¢, 2¢ shall be collected.

17 (4) If the purchase price is 36¢ or more but less than
18 50¢, 3¢ shall be collected.

19 (5) If the purchase price is 50¢ or more but less than
20 65¢, 4¢ shall be collected.

21 (6) If the purchase price is 65¢ or more but less than
22 79¢, 5¢ shall be collected.

23 (7) If the purchase price is 79¢ or more but less than
24 93¢, 6¢ shall be collected.

25 (8) If the purchase price is 93¢ or more but less than
26 \$1.07, seven percent of each dollar of purchase price plus
27 the above tax bracket charges upon any fractional part of a
28 dollar in excess of even dollars shall be collected.

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

1 Education Stabilization Fund.

2 SUBCHAPTER C

3 EXCLUSIONS FROM SALES AND USE TAX

4 Section 704. Exclusions from tax.

5 The tax imposed by section 702 shall not be imposed upon any
6 of the following:

7 (1) The sale at retail or use of tangible personal
8 property (other than motor vehicles, trailers, semi-trailers,
9 motor boats, aircraft or other similar tangible personal
10 property required under either Federal law or laws of this
11 Commonwealth to be registered or licensed) or services sold
12 by or purchased from a person not a vendor in an isolated
13 transaction or sold by or purchased from a person who is a
14 vendor but is not a vendor with respect to the tangible
15 personal property or services sold or purchased in such
16 transaction, provided that inventory and stock in trade so
17 sold or purchased shall not be excluded from the tax by the
18 provisions of this subsection.

19 (2) The use of tangible personal property purchased by a
20 nonresident person outside of, and brought into this
21 Commonwealth for use therein for a period not to exceed seven
22 days, or for any period of time when such nonresident is a
23 tourist or vacationer and, in either case not consumed within
24 the Commonwealth.

25 (3) (i) The use of tangible personal property purchased
26 outside this Commonwealth for use outside this
27 Commonwealth by a then nonresident natural person or a
28 business entity not actually doing business within this
29 Commonwealth, who later brings the tangible personal
30 property into this Commonwealth in connection with the

1 person's or entity's establishment of a permanent
2 business or residence in this Commonwealth, provided that
3 the property was purchased more than six months prior to
4 the date it was first brought into this Commonwealth or
5 prior to the establishment of the business or residence,
6 whichever first occurs.

7 (ii) This paragraph shall not apply to tangible
8 personal property temporarily brought into this
9 Commonwealth for the performance of contracts for the
10 construction, reconstruction, remodeling, repairing and
11 maintenance of real estate.

12 (4) (Reserved).

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

17 (6) (Reserved).

18 (7) (Reserved).

19 (8) (Reserved).

20 (9) (Reserved).

21 (10) (i) The sale at retail to or use by any charitable
22 organization, volunteer firefighters' organization or
23 nonprofit educational institution or a religious
24 organization for religious purposes of tangible personal
25 property or services other than pursuant to a
26 construction contract.

27 (ii) This paragraph shall not apply with respect to
28 any tangible personal property or services used in any
29 unrelated trade or business carried on by the
30 organization or institution or with respect to any

1 materials, supplies and equipment used and transferred to
2 the organization or institution in the construction,
3 reconstruction, remodeling, renovation, repairs and
4 maintenance of any real estate structure, other than
5 building machinery and equipment, except materials and
6 supplies when purchased by the organization or
7 institution for routine maintenance and repairs.

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

12 (12) (i) The sale at retail to, or use by the United
13 States, this Commonwealth or its instrumentalities or
14 political subdivisions, nonpublic schools, charter
15 schools, cyber charter schools or vocational schools of
16 tangible personal property or services.

17 (ii) This paragraph includes the sale at retail to a
18 supervisor of a home education program of tangible
19 personal property or services used exclusively for the
20 home education program.

21 (iii) As used in this paragraph, the terms
22 "nonpublic school," "charter school," "cyber charter
23 school," "vocational school," "supervisor" and "home
24 education program" shall have the meanings given to them
25 in the Public School Code of 1949.

26 (13) The sale at retail, or use of wrapping paper,
27 wrapping twine, bags, cartons, tape, rope, labels,
28 nonreturnable containers and all other wrapping supplies,
29 when such use is incidental to the delivery of any personal
30 property, except that any charge for wrapping or packaging

1 shall be subject to tax at the rate imposed by section 702.

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

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

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

19 (17) The sale at retail or use of prescription
20 medicines, drugs or medical supplies, crutches and
21 wheelchairs for the use of persons with disabilities and
22 invalids, artificial limbs, artificial eyes and artificial
23 hearing devices when designed to be worn on the person of the
24 purchaser or user, false teeth and materials used by a
25 dentist in dental treatment, eyeglasses when especially
26 designed or prescribed by an ophthalmologist, oculist or
27 optometrist for the personal use of the owner or purchaser
28 and artificial braces and supports designed solely for the
29 use of persons with disabilities or any other therapeutic,
30 prosthetic or artificial device designed for the use of a

1 particular individual to correct or alleviate a physical
2 incapacity, including, but not limited to, hospital beds,
3 iron lungs and kidney machines.

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

5 (19) (Reserved).

6 (20) (Reserved).

7 (21) (Reserved).

8 (22) (Reserved).

9 (23) (Reserved).

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

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

17 (26) The sale at retail or use of clothing as defined in
18 section 701(ggg) with a purchase price of less than \$50.

19 (27) (Reserved).

20 (28) (Reserved).

21 (29) The sale at retail or use of food and beverages
22 authorized for the Women, Infants and Children Program under
23 section 17 of the Child Nutrition Act of 1966 (Public Law 89-
24 642, 42 U.S.C. § 1786) as administered by the Department of
25 Health.

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

28 (31) (Reserved).

29 (32) (Reserved).

30 (33) (Reserved).

1 (34) (Reserved).

2 (35) (Reserved).

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

5 (37) (Reserved).

6 (38) (Reserved).

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

10 (40) The sale at retail of supplies and materials to
11 tourist promotion agencies, which receive grants from the
12 Commonwealth, for distribution to the public as promotional
13 material or the use of such supplies and materials by said
14 agencies for said purposes.

15 (41) (Reserved).

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

19 (43) The sale at retail or use of buses to be used
20 exclusively for the transportation of children for school
21 purposes.

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

28 (45) (Reserved).

29 (46) The sale at retail or use of tangible personal
30 property purchased in accordance with the Food Stamp Act of

1 1977, as amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029).

2 (47) (Reserved).

3 (48) (Reserved).

4 (49) (i) The sale at retail or use of food and
5 beverages by nonprofit associations which support sports
6 programs.

7 (ii) 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 "Nonprofit association." An entity which is
12 organized as a nonprofit corporation or nonprofit
13 unincorporated association under the laws of this
14 Commonwealth or the United States or any entity which is
15 authorized to do business in this Commonwealth as a
16 nonprofit corporation or unincorporated association under
17 the laws of this Commonwealth, including, but not limited
18 to, youth or athletic associations, volunteer fire,
19 ambulance, religious, charitable, fraternal, veterans,
20 civic, or any separately chartered auxiliary of the
21 foregoing, if organized and operated on a nonprofit
22 basis.

23 "Sports program." Baseball, softball, football,
24 basketball, soccer and any other competitive sport
25 formally recognized as a sport by the United States
26 Olympic Committee as specified by and under the
27 jurisdiction of the Amateur Sports Act of 1978 (Public
28 Law 95-606, 36 U.S.C. Ch. 2205), the Amateur Athletic
29 Union or the National Collegiate Athletic Association.

30 The term shall be limited to a program or that portion of

1 a program that is organized for recreational purposes and
2 whose activities are substantially for such purposes and
3 which is primarily for participants who are 18 years of
4 age or younger or whose 19th birthday occurs during the
5 year of participation or the competitive season,
6 whichever is longer. There shall, however, be no age
7 limitation for programs operated for persons with
8 physical handicaps or persons with mental retardation.

9 "Support." The funds raised from sales are used to
10 pay the expenses of a sports program or the nonprofit
11 association sells the food and beverages at a location
12 where a sports program is being conducted under this
13 chapter or the Tax Reform Code of 1971.

14 (50) (Reserved).

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

23 (52) (Reserved).

24 (53) (Reserved).

25 (54) (Reserved).

26 (55) (Reserved).

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

1 (i) The equipment or devices are used by a person
2 who, by virtue of a physical disability, is unable to
3 ascend or descend stairs without the aid of such
4 equipment or device.

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

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

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

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

20 (ii) transferred to the United States or the
21 Commonwealth or its instrumentalities or political
22 subdivisions.

23 (58) (Reserved).

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

28 (60) (Reserved).

29 (61) (Reserved).

30 (62) The sale at retail or use of tangible personal

1 property or services which are directly used in farming,
2 dairying or agriculture when engaged in as a business
3 enterprise, regardless of whether the sale is made to the
4 person directly engaged in the business enterprise or to a
5 person contracting with the person directly engaged in the
6 business enterprise for the production of food.

7 (63) (Reserved).

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

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

18 (ii) takes place during the period when there is a
19 declaration of disaster emergency under 35 Pa.C.S. §
20 7301(c) (relating to general authority of Governor).

21 (65) (Reserved).

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

26 (i) "court" includes:

27 (A) an appellate court as defined in 42 Pa.C.S.
28 § 102 (relating to definitions);

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

1 (C) the minor judiciary as defined in 42 Pa.C.S.
2 § 102;

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

6 (iii) "official document" means a record as defined
7 in section 102 of the Right-to-Know Law. The term shall
8 include notes of court testimony, deposition transcripts,
9 driving records, accident reports, birth and death
10 certificates, deeds, divorce decrees and other similar
11 documents.

12 (67) The sale at retail or use of repair or replacement
13 parts, including the installation of those parts, exclusively
14 for use in helicopters and similar rotorcraft or in
15 overhauling or rebuilding of helicopters and similar
16 rotorcraft or helicopters and similar rotorcraft components.

17 (68) The sale at retail or use of helicopters and
18 similar rotorcraft.

19 (69) The sale at retail or use of aircraft parts,
20 services to aircraft and aircraft components. For purposes of
21 this paragraph, the term "aircraft" shall include a fixed-
22 wing aircraft, powered aircraft, tilt-rotor or tilt-wing
23 aircraft, glider or unmanned aircraft.

24 (70) (Reserved).

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

26 (72) But for the services as defined in section 701(w),
27 (x), (y), (z), (aa), (bb), (cc), (jj) and (kk), the sale at
28 retail or use of any of the following business, professional
29 or technical services performed by a business and rendered to
30 another business:

- 1 (i) Legal services as defined by NAICS industry
2 5411.
- 3 (ii) Architectural, engineering and related services
4 as defined by NAICS code 5413.
- 5 (iii) Accounting, auditing and bookkeeping services
6 as defined by NAICS code 5412.
- 7 (iv) Specialized design services as defined by NAICS
8 code 5414.
- 9 (v) Advertising, public relations and related
10 services as defined by NAICS code 5418.
- 11 (vi) Services to buildings and dwellings as defined
12 by NAICS code 5617.
- 13 (vii) Scientific, environmental and technical
14 consulting services as defined by NAICS code 5416.
- 15 (viii) Scientific research and development services
16 as defined by NAICS codes 5417 and 5419.
- 17 (ix) Information services as defined by NAICS
18 subsector 519.
- 19 (x) Administrative services as defined by NAICS
20 codes 5611, 5612, 5613, 5614, 5615 and 5619.
- 21 (xi) Custom programming, design and data processing
22 services as defined by NAICS code 5415.
- 23 (xii) Parking lot and garage services as defined by
24 NAICS code 8129.
- 25 (73) The sale at retail or use of legal services
26 relating to family law or criminal law.
- 27 (74) The sale at retail, or the use of motion picture
28 film rented or licensed from a distributor for the purpose of
29 commercial exhibition.
- 30 (75) The sale at retail or use of services performed by

1 minors under 18 years of age and not on behalf of another
2 person.

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

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

9 Section 705. Alternate imposition of tax.

10 (a) General rule.--If any person actively and principally
11 engaged in the business of selling new or used motor vehicles,
12 trailers or semitrailers, and registered with the department in
13 the "dealer's class," acquires a motor vehicle, trailer or
14 semitrailer for the purpose of resale, and prior to such resale,
15 uses the motor vehicle, trailer or semitrailer for a taxable use
16 under this chapter or the Tax Reform Code of 1971, the person
17 may pay a tax equal to 7% of the fair rental value of the motor
18 vehicle, trailer or semitrailer during use.

19 (b) Aircraft.--A commercial aircraft operator who acquires
20 an aircraft for the purpose of resale, or lease, or is entitled
21 to claim another valid exemption at the time of purchase, and
22 subsequent to the purchase, periodically uses the same aircraft
23 for a taxable use under this chapter or the Tax Reform Code of
24 1971, may elect to pay a tax equal to 7% of the fair rental
25 value of the aircraft during such use.

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

29 Section 706. Credit against tax.

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

1 (1) A credit against the tax imposed by section 702
2 shall be granted with respect to tangible personal property
3 or services purchased for use outside the Commonwealth equal
4 to the tax paid to another state by reason of the imposition
5 by such other state of a tax similar to the tax imposed by
6 this chapter.

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

11 (b) (Reserved).

12 SUBCHAPTER D

13 LICENSES

14 Section 708. Licenses.

15 (a) Duty to obtain license.--Every person maintaining a
16 place of business in this Commonwealth, selling or leasing
17 services or tangible personal property, the sale or use of which
18 is subject to tax and who has not obtained a license from the
19 department, shall, prior to the beginning of business, make
20 application to the department, on a form prescribed by the
21 department, for a license. If such person maintains more than
22 one place of business in this Commonwealth, the license shall be
23 issued for the principal place of business in this Commonwealth.

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

25 (1) The department shall, after the receipt of an
26 application, issue the license applied for under subsection
27 (a) if the applicant filed all required State tax reports and
28 paid any State taxes not subject to a timely perfected
29 administrative or judicial appeal or subject to a duly
30 authorized deferred payment plan. The license shall be

1 nonassignable.

2 (2) All licenses in effect on the effective date of this
3 section under former Article III of the Tax Reform Code of
4 1971 and all licenses issued or renewed on or after the
5 effective date of this section shall be valid for a period of
6 five years.

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

8 (1) If an applicant for a license or any person holding
9 a license has not filed all required State tax reports and
10 paid any State taxes not subject to a timely perfected
11 administrative or judicial appeal or subject to a duly
12 authorized deferred payment plan, the department may refuse
13 to issue, may suspend or may revoke said license.

14 (2) The department shall notify the applicant or
15 licensee of any refusal, suspension or revocation. The notice
16 shall contain a statement that the refusal, suspension or
17 revocation may be made public. The notice shall be made by
18 first class mail.

19 (3) An applicant or licensee aggrieved by the
20 determination of the department may file an appeal pursuant
21 to the provisions for administrative appeals in this chapter,
22 except that the appeal must be filed within 30 days of the
23 date of the notice. In the case of a suspension or revocation
24 which is appealed, the license shall remain valid pending a
25 final outcome of the appeals process.

26 (4) Notwithstanding section 774 or sections 353(f),
27 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform Code of
28 1971, or any other provision of law to the contrary, if no
29 appeal is taken or if an appeal is taken and denied at the
30 conclusion of the appeal process, the department may

1 disclose, by publication or otherwise, the identity of a
2 person and the fact that the person's license has been
3 refused, suspended or revoked under this subsection.

4 Disclosure may include the basis for refusal, suspension or
5 revocation.

6 (c) Penalties.--

7 (1) A person that maintains a place of business in this
8 Commonwealth for the purpose of selling or leasing services
9 or tangible personal property, the sale or use of which is
10 subject to tax, without having a valid license at the time of
11 the sale or lease shall be guilty of a summary offense and,
12 upon conviction thereof, be sentenced to pay a fine of not
13 less than \$300 nor more than \$1,500 and, in default thereof,
14 a term of imprisonment of not less than five days nor more
15 than 30 days.

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

18 (3) For purposes of this subsection, the offering for
19 sale or lease of any service or tangible personal property,
20 the sale or use of which is subject to tax, during any
21 calendar day shall constitute a separate violation.

22 (4) The secretary may designate employees of the
23 department to enforce the provisions of this subsection. The
24 employees shall exhibit proof of and be within the scope of
25 the designation when instituting proceedings as provided by
26 the Pennsylvania Rules of Criminal Procedure.

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

30 SUBCHAPTER E

HOTEL OCCUPANCY TAX

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Section 709. Definitions.

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

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

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

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

"Operator." Any person who operates a hotel.

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

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

(b) Other definitions.--The following words and phrases,

1 when used in Subchapters D and F, shall, in addition to the
2 meaning ascribed to them by section 701, have the meaning
3 ascribed to them in this subsection, except where the context
4 clearly indicates a different meaning:

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

6 Being the operator of a hotel in this Commonwealth.

7 "Purchase at retail." Occupancy.

8 "Purchase price." Rent.

9 "Purchaser." Occupant.

10 "Sale at retail." The providing of occupancy to an occupant
11 by an operator.

12 "Services." Occupancy.

13 "Tangible personal property." Occupancy.

14 "Use." Occupancy.

15 "Vendor." Operator.

16 Section 710. Imposition of tax.

17 There is hereby imposed an excise tax of 7% of the rent on
18 every occupancy of a room or rooms in a hotel in this
19 Commonwealth, which tax shall be collected by the operator from
20 the occupant and paid over to the Commonwealth as provided in
21 this act.

22 Section 711. Seasonal tax returns.

23 Notwithstanding any other provisions in this chapter or the
24 Tax Reform Code of 1971, the department may, by regulation,
25 waive the requirement for the filing of quarterly returns in the
26 case of any operator whose hotel is operated only during certain
27 seasons of the year, and may provide for the filing of returns
28 by such persons at times other than those provided by section
29 721.

30

SUBCHAPTER F

1 licensee shall, on or before the 20th day of each month, file
2 a single return consisting of all of the following:

3 (i) Either of the following:

4 (A) An amount equal to 50% of the licensee's
5 actual tax liability for the same month in the
6 preceding calendar year if the licensee was a monthly
7 filer or, if the licensee was a quarterly or
8 semiannual filer, 50% of the licensee's average
9 actual tax liability for that tax period in the
10 preceding calendar year. The average actual tax
11 liability shall be the actual tax liability for the
12 tax period divided by the number of months in that
13 tax period. For licensees that were not in business
14 during the same month in the preceding calendar year
15 or were in business for only a portion of that month,
16 the amount shall be 50% of the average actual tax
17 liability for each tax period the licensee has been
18 in business. If the licensee is filing a tax
19 liability for the first time with no preceding tax
20 periods, the amount shall be zero.

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

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

27 (4) With respect to each month by every licensee whose
28 actual tax liability for the third calendar quarter of the
29 preceding year equals or exceeds \$100,000, the licensee
30 shall, on or before the 20th day of each month, file a single

1 return consisting of the amounts under paragraph (3) (i) (A)
2 and (ii).

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

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

9 (7) The department may require the filing of the returns
10 and the payments for these types of filers by electronic
11 means approved by the department.

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

14 (9) If a licensee required to remit payments under
15 paragraph (3) or (4) fails to make a timely payment or makes
16 a payment which is less than the required amount, the
17 department may, in addition to any applicable penalties,
18 impose an additional penalty equal to 5% of the amount due
19 under paragraph (3) or (4) which was not timely paid. The
20 penalty under this paragraph shall be determined when the tax
21 return is filed for the tax period.

22 (b) Annual returns.--No annual return shall be filed, except
23 as may be required by rules and regulations of the department
24 promulgated and published at least 60 days prior to the end of
25 the year with respect to which the returns are made. Where such
26 annual returns are required, licensees shall not be required to
27 file such returns prior to the 20th day of the year succeeding
28 the year with respect to which the returns are made.

29 (c) Other returns.--Any person, other than a licensee,
30 liable to pay to the department any tax under this chapter,

1 shall file a return on or before the 20th day of the month
2 succeeding the month in which the person becomes liable for the
3 tax.

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

9 Section 718. Extension of time for filing returns.

10 The department may, on written application and for good cause
11 shown, grant a reasonable extension of time for filing any
12 return required under this subchapter. However, the time for
13 making a return shall not be extended for more than three
14 months.

15 Section 719. Place for filing returns.

16 Returns shall be filed with the department at its main office
17 or at any branch office which it may designate for filing
18 returns.

19 Section 720. Timely mailing treated as timely filing and
20 payment.

21 (a) General rule.--Notwithstanding the provisions of any
22 State tax law to the contrary, whenever a report or payment of
23 all or any portion of a State tax is required by law to be
24 received by the department or other agency of the Commonwealth
25 on or before a day certain, the taxpayer shall be deemed to have
26 complied with the law if the letter transmitting the report or
27 payment of the tax which has been received by the department is
28 postmarked by the United States Postal Service on or prior to
29 the final day on which the payment is to be received.

30 (b) Presentation of receipt.--For the purposes of this

1 chapter, presentation of a receipt indicating that the report or
2 payment was mailed by registered or certified mail on or before
3 the due date shall be evidence of timely filing and payment.

4 Section 721. Payment of tax.

5 When a return of tax is required under this subchapter, the
6 person required to make the return shall pay the tax to the
7 department.

8 Section 722. Time of payment.

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

14 (b) Annual payments.--If the amount of tax due for the
15 preceding year as shown by the annual return of a taxpayer is
16 greater than the amount already paid by the taxpayer in
17 connection with the taxpayer's monthly or quarterly returns, the
18 taxpayer shall send with the annual return a remittance for the
19 unpaid amount of tax for the year.

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

23 Section 723. Other times for payment.

24 In the event that the department authorizes a taxpayer to
25 file a return at other times than those specified in section
26 717, the tax due shall be paid at the time the return is filed.

27 Section 724. Place for payment.

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

30 Section 725. Tax held in trust for Commonwealth.

1 (a) General rule.--All taxes collected by any person from
2 purchasers in accordance with this chapter and all taxes
3 collected by any person from purchasers under color of this
4 chapter which have not been properly refunded by the person to
5 the purchaser shall constitute a trust fund for the
6 Commonwealth, and such trust shall be enforceable against such
7 person, the person's representatives and any person, other than
8 a purchaser to whom a refund has been made properly, receiving
9 any part of the fund without consideration, or knowing that the
10 taxpayer is committing a breach of trust.

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

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

19 Section 726. (Reserved).

20 Section 727. Discount.

21 (a) General rule.--Subject to the provisions of subsection
22 (b), if a return is filed by a licensee and the tax shown to be
23 due thereon less any discount is paid all within the time
24 prescribed, the licensee shall be entitled to credit and apply
25 against the tax payable by the licensee a discount of 1% of the
26 amount of the tax collected by the licensee, as compensation for
27 the expense of collecting and remitting the tax due by the
28 licensee and as consideration of the prompt payment.

29 (b) Types of periodic filers.--For returns filed on or after
30 the effective date of this section, the discount under

1 subsection (a) shall be limited to the following:

2 (1) For a monthly filer, \$25 per return.

3 (2) For a quarterly filer, \$75 per return.

4 (3) For a semiannual filer, \$150 per return.

5 Section 728. (Reserved).

6 Section 729. (Reserved).

7 Section 730. Assessment.

8 The department shall make the inquiries, determinations and
9 assessments of the tax, including interest, additions and
10 penalties, imposed by this chapter. A notice of assessment and
11 demand for payment shall be mailed to the taxpayer. The notice
12 shall set forth the basis of the assessment.

13 Section 731. Mode and time of assessment.

14 (a) Duty to examine.--

15 (1) Within a reasonable time after any return is filed,
16 the department shall examine it and, if the return shows a
17 greater tax due or collected than the amount of tax remitted
18 with the return, the department shall issue an assessment for
19 the difference, together with an addition of 3% of the
20 difference, which shall be paid to the department within ten
21 days after a notice of the assessment has been mailed to the
22 taxpayer.

23 (2) If such assessment is not paid within ten days,
24 there shall be added and paid to the department an additional
25 3% of the difference for each month during which the
26 assessment remains unpaid. The total of all additions shall
27 not exceed 18% of the difference shown on the assessment.

28 (b) Understated tax on returns.--

29 (1) If the department determines that any return or
30 returns of any taxpayer understates the amount of tax due, it

1 shall determine the proper amount and shall ascertain the
2 difference between the amount of tax shown in the return and
3 the amount determined. The difference may be referred to as
4 the deficiency.

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

7 (3) The taxpayer shall pay the deficiency to the
8 department within 30 days after a notice of the assessment
9 has been mailed to the taxpayer.

10 (c) Estimated assessments.--

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

16 (2) The taxpayer shall pay the tax within 30 days after
17 a notice of the estimated assessment has been mailed to the
18 taxpayer.

19 (d) Studies.--

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

25 (2) Any assessment based on such rates shall be prima
26 facie correct, except that the rate shall not be considered
27 where a taxpayer establishes the rate is based on a sample
28 inapplicable to the taxpayer.

29 Section 732. Reassessment.

30 Any taxpayer against whom an assessment is made may petition

1 the department for a reassessment under Article XXVII of the Tax
2 Reform Code of 1971.

3 Section 733. Assessment to recover erroneous refunds.

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

11 Section 734. (Reserved).

12 Section 735. (Reserved).

13 Section 736. Burden of proof.

14 In all cases of petitions for reassessment, review or appeal,
15 the burden of proof shall be on the petitioner or appellant, as
16 applicable.

17 Section 737. Collection of tax.

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

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

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

30 (2) (i) Every person not otherwise required to collect

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

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

17 (3) Any person required under this chapter to collect
18 tax from another person, who shall fail to collect the proper
19 amount of the tax, shall be liable for the full amount of the
20 tax which the person should have collected.

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

22 (1) If the tax does not apply to the sale or lease of
23 tangible personal property or services, the purchaser or
24 lessee shall furnish to the vendor a certificate indicating
25 that the sale is not legally subject to the tax. The
26 certificate shall be in substantially such form as the
27 department may, by regulation, prescribe.

28 (2) Where the tangible personal property or service is
29 of a type which is never subject to the tax imposed or where
30 the sale or lease of tangible personal property is in

1 interstate commerce, the certificate need not be furnished.

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

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

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

13 (6) An exemption certificate:

14 (i) accepted by a vendor from a natural person
15 domiciled within this Commonwealth or any association,
16 fiduciary, partnership, corporation or other entity,
17 either authorized to do business within this Commonwealth
18 or having an established place of business within this
19 Commonwealth, in the ordinary course of the vendor's
20 business;

21 (ii) which on its face discloses a valid basis of
22 exemption consistent with the activity of the purchaser
23 and character of the property or service being purchased
24 or which is provided to the vendor by a charitable,
25 religious, educational or volunteer firefighters'
26 organization;

27 (iii) contains the organization's charitable
28 exemption number; and

29 (iv) which, in the case of any purchase costing \$200
30 or more, is accompanied by a sworn declaration on a form

1 to be provided by the department of an intended usage of
2 the property or service which would render it nontaxable,
3 shall be presumed to be taken in good faith and the burden of
4 proving otherwise shall be on the department.

5 (d) Direct payment permits.--

6 (1) The department may authorize a purchaser or lessee
7 who acquires tangible personal property or services under
8 circumstances which make it impossible at the time of
9 acquisition to determine the manner in which the tangible
10 personal property or service will be used, to pay the tax
11 directly to the department, and waive the collection of the
12 tax by the vendor.

13 (2) No such authority shall be granted or exercised,
14 except on application to the department, and the issuance by
15 the department, in its discretion, of a direct payment
16 permit.

17 (3) If a direct payment permit is granted, its use shall
18 be subject to conditions specified by the department, and the
19 payment of tax on all acquisitions pursuant to the permit
20 shall be made directly to the department by the permit
21 holder.

22 Section 738. Collection of tax on motor vehicles, trailers and
23 semitrailers.

24 (a) General rule.--Notwithstanding the provisions of section
25 737(b)(1), tax due on the sale at retail or use of a motor
26 vehicle, trailer or semitrailer, except mobile homes as defined
27 in 75 Pa.C.S. (relating to vehicles), required by law to be
28 registered with the department under the provisions of 75
29 Pa.C.S. shall be paid by the purchaser or user directly to the
30 department on application to the department for an issuance of a

1 certificate of title on the motor vehicle, trailer or
2 semitrailer.

3 (b) No issuance of certificate of title without payment of
4 tax.--

5 (1) The department shall not issue a certificate of
6 title until the tax has been paid, or evidence satisfactory
7 to the department has been given to establish that tax is not
8 due.

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

13 (c) First encumbrance.--The tax shall be considered as a
14 first encumbrance against the vehicle and the vehicle may not be
15 transferred without first payment in full of the tax and any
16 interest additions or penalties which shall accrue in accordance
17 with this chapter.

18 Section 739. Precollection of tax.

19 (a) Authorization.--

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

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

30 (b) No license required.--In any case in which a vendor has

1 been authorized to prepay the tax to the person from whom the
2 vendor purchased the tangible personal property for resale, the
3 vendor authorized to prepay the tax may, under the regulations
4 of the department, be relieved from the duty to secure a license
5 if the duty arises only by reason of the vendor's sale of the
6 tangible personal property with respect to which the vendor is,
7 under authorization of the department, to prepay the tax.

8 (c) Reimbursement.--

9 (1) The vendor, on making a sale at retail of tangible
10 personal property with respect to which the vendor has
11 prepaid the tax, must separately state at the time of resale
12 the proper amount of tax on the transaction, and reimburse
13 itself on account of the taxes which the vendor has
14 previously prepaid.

15 (2) If the vendor collects a greater amount of tax in
16 any reporting period than the vendor previously prepaid on
17 purchase of the goods with respect to which the vendor
18 prepaid the tax, the vendor must file a return and remit the
19 balance to the Commonwealth at the time at which a return
20 would otherwise be due with respect to the sales.

21 Section 740. Bulk and auction sales.

22 A person who sells or causes to be sold at auction, or who
23 sells or transfers in bulk, 51% or more of any stock, of goods,
24 wares or merchandise of any kind, fixtures, machinery,
25 equipment, buildings or real estate, involved in a business for
26 which the person is licensed or required to be licensed under
27 this chapter, or is liable for filing use tax returns in
28 accordance with this chapter, shall be subject to the provisions
29 of section 1403 of The Fiscal Code.

30 Section 741. (Reserved).

1 Section 742. Lien for taxes.

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

3 (1) If any person liable to pay any tax neglects or
4 refuses to pay the same after demand, the amount, including
5 any interest, addition or penalty, together with any costs
6 that may accrue in addition, shall be a lien in favor of the
7 Commonwealth on the property, both real and personal, of the
8 person but only after same has been entered and docketed of
9 record by the prothonotary of the county where the property
10 is situated.

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

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

18 (4) No prothonotary shall require, as a condition
19 precedent to the entry of the liens, the payment of the costs
20 incident thereto.

21 (b) Priority status.--

22 (1) The lien imposed under this section shall have
23 priority from the date of its recording, and shall be fully
24 paid and satisfied out of the proceeds of any judicial sale
25 of property before any other obligation, judgment, claim,
26 lien or estate to which the property may subsequently become
27 subject, except costs of the sale and of the writ on which
28 the sale was made, and real estate taxes and municipal claims
29 against such property, but shall be subordinate to mortgages
30 and other liens existing and duly recorded or entered of

1 record prior to the recording of the tax lien.

2 (2) In the case of a judicial sale of property, subject
3 to a lien imposed under this section, on a lien or claim over
4 which the lien imposed under this section has priority, the
5 sale shall discharge the lien imposed under this section to
6 the extent only that the proceeds are applied to its payment,
7 and the lien shall continue in full force and effect as to
8 the balance remaining unpaid.

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

12 (4) (i) The lien of the taxes, interest and penalties,
13 shall continue for five years from the date of entry, and
14 may be revived and continued in the manner now or
15 hereafter provided for renewal of judgments, or as may be
16 provided in The Fiscal Code, and a writ of execution may
17 directly issue upon the lien without the issuance and
18 prosecution to judgment of a writ of scire facias.

19 (ii) Not less than ten days before issuance of any
20 execution on the lien, notice of the filing and the
21 effect of the lien shall be sent by registered mail to
22 the taxpayer at the taxpayer's last known post office
23 address.

24 (iii) The lien shall have no effect on any stock of
25 goods, wares or merchandise regularly sold or leased in
26 the ordinary course of business by the person against
27 whom the lien has been entered, unless and until a writ
28 of execution has been issued and a levy made on the stock
29 of goods, wares and merchandise.

30 (c) Penalty.--Any willful failure of any prothonotary to

1 carry out any duty imposed on the prothonotary under this
2 section shall be a misdemeanor, and, upon conviction, the
3 prothonotary shall be sentenced to pay a fine not more than
4 \$1,000 and costs of prosecution or to a term of imprisonment not
5 exceeding one year, or both.

6 (d) Priority payment from distribution.--

7 (1) Except as otherwise provided under the law, in the
8 distribution, voluntary or compulsory, in receivership,
9 bankruptcy or otherwise, of the property or estate of any
10 person, all taxes imposed by this chapter which are due and
11 unpaid and are not collectible under section 725 shall be
12 paid from the first money available for distribution in
13 priority to all other claims and liens, except insofar as the
14 laws of the United States may give a prior claim to the
15 Federal Government.

16 (2) Any person charged with the administration or
17 distribution of the property or estate, who violates the
18 provisions of this section, shall be personally liable for
19 any taxes imposed by this chapter, which are accrued and
20 unpaid and are chargeable against the person whose property
21 or estate is being administered or distributed.

22 (e) Construction.--Subject to the limitations contained in
23 this chapter as to the assessment of taxes, nothing contained in
24 this section shall be construed to restrict, prohibit or limit
25 the use by the department in collecting taxes finally due and
26 payable of any other remedy or procedure available at law or
27 equity for the collection of debts.

28 Section 743. Suit for taxes.

29 (a) General rule.--At any time within three years after any
30 tax or any amount of tax shall be finally due and payable, the

1 department may commence an action in the courts of this
2 Commonwealth, of any state or of the United States, in the name
3 of the Commonwealth, to collect the amount of tax due together
4 with additions, interest, penalties and costs in the manner
5 provided at law or in equity for the collection of ordinary
6 debts.

7 (b) Prosecution by Attorney General.--The Attorney General
8 shall prosecute the action and, except as provided in this
9 chapter, the provisions of the Rules of Civil Procedure and the
10 provisions of the laws of this Commonwealth relating to civil
11 procedures and remedies shall, to the extent that they are
12 applicable, be available in such proceedings.

13 (c) Construction.--The provisions of this section are in
14 addition to any process, remedy or procedure for the collection
15 of taxes provided by this chapter or by the laws of this
16 Commonwealth, and this section is neither limited by nor
17 intended to limit any such process, remedy or procedure.
18 Section 744. Tax suit comity.

19 The courts of this Commonwealth shall recognize and enforce
20 liabilities for sales and use taxes, lawfully imposed by any
21 other state if the other state extends a like comity to this
22 Commonwealth.

23 Section 745. Service.

24 (a) General rule.--Any person who maintains a place of
25 business in this Commonwealth is deemed to have appointed the
26 Secretary of the Commonwealth as the person's agent for the
27 acceptance of service of process or notice in any proceedings
28 for the enforcement of the civil provisions of this chapter, and
29 any service made upon the Secretary of the Commonwealth as agent
30 shall be of the same legal force and validity as if the service

1 had been personally made on the person.

2 (b) Substitute service.--Where service cannot be made on the
3 person in the manner provided by other laws of this Commonwealth
4 relating to service of process, service may be made on the
5 Secretary of the Commonwealth and, in such case, a copy of the
6 process or notice shall also be personally served on any agent
7 or representative of the person who may be found within this
8 Commonwealth, or where no such agent or representative may be
9 found a copy of the process or notice shall be sent by
10 registered mail to the person at the last known address of the
11 person's principal place of business, home office or residence.

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

13 If any sale subject to tax under this chapter is wholly or
14 partly on credit, the vendor shall require the purchaser to pay
15 in cash at the time the sale is made, or within 30 days
16 thereafter, the total amount of tax due upon the entire purchase
17 price. The vendor shall remit the tax to the department,
18 regardless of whether payment was made by the purchaser to the
19 vendor, with the next return required to be filed under section
20 717.

21 Section 747. Prepayment of tax.

22 (a) General rule.--Whenever a vendor is prohibited by law or
23 governmental regulation to charge and collect the purchase price
24 in advance of or at the time of delivery, the vendor shall
25 prepay the tax as required by section 722, but in that case, if
26 the purchaser fails to pay to the vendor the total amount of the
27 purchase price and the tax and the amount is written off as
28 uncollectible by the vendor, the vendor shall not be liable for
29 the tax and shall be entitled to a credit or refund of the tax
30 paid.

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

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

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

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

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

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

18 (3) The bad debt has been deducted for Federal income
19 tax purposes under section 166 of the Internal Revenue Code
20 of 1986.

21 (a.1) Time for filing petition.--A petition for refund,
22 which is authorized by this section, must be filed with the
23 department within the time limitations under section 3003.1(a)
24 of the Tax Reform Code of 1971.

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

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

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

6 (3) The account has been deducted for Federal income tax
7 purposes under section 166 of the Internal Revenue Code of
8 1986 by the lender or an affiliate of the lender.

9 (a.3) Joint election.--In order to be eligible for a refund
10 under subsection (a.2), the lender and the vendor must execute
11 and file with the department a joint election, signed by both
12 parties, designating which party is entitled to claim the
13 refund. This election may not be revoked unless a written notice
14 is signed by the party that signed the election being revoked
15 and is filed with the department.

16 (b) Limitation.--

17 (1) The refund authorized by this section shall be
18 limited to the sales tax paid to the department that is
19 attributed to the bad debt, less any discount under section
20 727.

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

24 (3) Payments made on any transaction which includes both
25 taxable and nontaxable components shall be allocated
26 proportionally between the taxable and nontaxable components.

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

30 (d) Items not refundable.--No refund shall be granted under

1 this section for interest, finance charges or expenses incurred
2 in attempting to collect any amount receivable.

3 (e) Documentation.--Documentation requirements are as
4 follows:

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

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

10 (ii) Name and address of purchaser.

11 (iii) Amount that the purchaser paid or agreed to
12 pay.

13 (iv) Taxable and nontaxable charges.

14 (v) Amount on which the retailer reported and paid
15 sales tax.

16 (vi) All payments or other credits applied to the
17 account of the purchaser.

18 (vii) Evidence that the uncollected amount has been
19 designated as a bad debt in the books and records of the
20 vendor or lender, as appropriate, and that the amount has
21 been claimed as a bad debt deduction for Federal income
22 tax purposes.

23 (viii) The county in which any local sales tax was
24 incurred.

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

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

29 (xi) Any other information required by the
30 department.

1 (2) A person claiming a refund under this section may
2 provide alternative forms of documentation acceptable to the
3 department if appropriate in light of the volume and
4 character of uncollectible accounts. This includes the
5 following:

6 (i) If a vendor remits sales or use tax to the
7 Commonwealth and to another state, the entity claiming a
8 refund under this section may use an apportionment method
9 to substantiate the amount of Pennsylvania tax included
10 in the bad debts to which the refund applies.

11 (ii) The apportionment method must use the vendor's
12 Pennsylvania and non-Pennsylvania sales, the vendor's
13 taxable and nontaxable sales and the amount of tax the
14 vendor remitted to Pennsylvania.

15 (f) Subsequent collection.--

16 (1) If the purchase price that is attributed to a prior
17 bad debt refund is collected in whole or in part by the
18 vendor or lender, or an affiliate of the vendor or lender,
19 the entity claiming the refund shall remit the proportional
20 tax to the department with the first return filed after the
21 collection. If the entity is not required to file periodic
22 returns, the entity shall remit the proportional tax to the
23 department with another return pursuant to section 717(c).

24 (2) Any consideration received for the assignment, sale
25 or other transfer of a bad debt with respect to which a
26 refund has been granted shall be deemed to be a collection of
27 a prior bad debt. This paragraph shall not apply to a
28 transfer to an entity that is part of the same affiliated
29 group, as defined by section 1504 of the Internal Revenue
30 Code of 1986.

1 (3) A person that collects, in whole or in part, the
2 purchase price attributed to a prior bad debt refund is
3 required to maintain adequate books, records or other
4 documentation to allow the department to determine whether
5 the purchase price attributed to a prior bad debt refund has
6 been collected. Information under this paragraph includes the
7 pertinent facts required by subsection (e).

8 (4) If it is determined by the department that a prior
9 bad debt has been collected, in whole or in part, and the
10 proportional tax has not been properly reported and paid to
11 the department, the person that claimed the refund on the
12 transaction shall report and pay the proportional tax to the
13 department plus applicable interest and penalty under this
14 chapter.

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

19 (h) Administration.--

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

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

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

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

1 "Affiliate." A person that is:

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

4 (2) A person described in paragraph (1) or (2) of the
5 definition of "lender" that would be an affiliated entity,
6 under section 1504 of the Internal Revenue Code of 1986, of a
7 vendor but for the fact the person is not a corporation, an
8 assignee or another transferee of a person described in
9 paragraph (1) or (2) of the definition of "lender".

10 "Lender." Any of the following:

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

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

17 (3) A person that is:

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

19 (1) or (2); or

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

22 "Private-label credit card." Any charge card, credit card or
23 other instrument serving similar purpose which carries, refers
24 to or is branded with the name or logo of a vendor and which can
25 be used for purchases from the vendor. The term does not include
26 a card or instrument which may also be used to make purchases
27 from persons other than the vendor whose name or logo appears on
28 the card or instrument or that vendor's affiliates. Nothing in
29 this definition shall be construed to authorize a refund with
30 respect to bad debts attributable to sales by unrelated persons

1 referred to in this definition.

2 Section 748. Registration of transient vendors.

3 (a) General rule.--Prior to conducting business or otherwise
4 commencing operations in this Commonwealth, a transient vendor
5 shall register with the department. The application for
6 registration shall be in such form and contain such information
7 as the department, by regulation, shall prescribe and shall set
8 forth truthfully and accurately the information desired by the
9 department. This registration shall be renewed and updated
10 annually.

11 (b) Certificate to be issued.--After registration and the
12 posting of the bond required by section 748.1, the department
13 shall issue to the transient vendor a certificate valid for one
14 year. On renewal of registration, the department shall issue a
15 new certificate valid for one year, if the department is
16 satisfied that the transient vendor has complied with the
17 provisions of this chapter.

18 (c) Possession and exhibition of certificate.--The transient
19 vendor shall possess the certificate at all times when
20 conducting business within this Commonwealth and shall exhibit
21 the certificate upon demand by authorized employees of the
22 department or any law enforcement officer.

23 (d) Contents of certificate.--The certificate issued by the
24 department shall state that the transient vendor named in the
25 certificate has registered with the department and shall provide
26 notice to the transient vendor that:

27 (1) The transient vendor must notify the department in
28 writing before it enters this Commonwealth to conduct
29 business, of the location or locations where it intends to
30 conduct business and the date or dates on which it intends to

1 conduct business.

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

5 (3) Conducting business in this Commonwealth after a
6 certificate has been suspended or revoked may result in
7 criminal conviction and the imposition of fines or other
8 penalties.

9 Section 748.1. Bond.

10 (a) General rule.--Upon registration with the department, a
11 transient vendor shall also post a bond with the department in
12 the amount of \$500 as surety for compliance with the provisions
13 of this chapter. After a period of demonstrated compliance with
14 these provisions or, if the transient vendor provides the
15 license number of a promoter who has notified the department of
16 a show, in accordance with the provisions of section 748.6(a),
17 the department may reduce the amount of bond required of a
18 transient vendor or may eliminate the bond entirely.

19 (b) Voluntary suspension of certificate.--A transient vendor
20 may file a request for voluntary suspension of certificate with
21 the department. If the department is satisfied that the
22 provisions of this chapter have been complied with and has
23 possession of the transient vendor's certificate, it shall
24 return the bond posted to the transient vendor.

25 Section 748.2. Notification to department.

26 (a) General rule.--Prior to entering this Commonwealth to
27 conduct business, a transient vendor shall notify the department
28 in writing of the location or locations where it intends to
29 conduct business and the date or dates on which it intends to
30 conduct business.

1 (b) Inspection of records.--While conducting business in
2 this Commonwealth, the transient vendor shall permit authorized
3 employees of the department to inspect its sales records,
4 including, but not limited to, sales receipts and inventory or
5 price lists and to permit inspection of the tangible personal
6 property offered for sale at retail.

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

10 (1) fails to notify the department as required by
11 subsection (a);

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

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

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

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

20 Section 748.3. Seizure of property.

21 (a) General rule.--If a transient vendor conducting business
22 in this Commonwealth fails to exhibit a valid certificate on
23 demand by authorized employees of the department, those
24 authorized employees shall seize, without warrant, the tangible
25 personal property and the automobile, truck or other means of
26 transportation used to transport or carry that property. All
27 property seized shall be deemed contraband and shall be subject
28 to immediate forfeiture proceedings instituted by the department
29 pursuant to procedures adopted by regulation, except as
30 otherwise provided by this section.

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

3 (1) presentation of a valid certificate to authorized
4 employees of the department; or

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

9 Section 748.4. Fines.

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

15 Section 748.5. Transient vendors subject to chapter.

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

19 Section 748.6. Promoters.

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

26 (b) License.--

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

1 (2) If application for a license under this section has
2 been timely filed and if the license has not been received by
3 the promoter prior to the opening of the show, the
4 authorization contained in this section with respect to the
5 obtaining of a promoter's license shall be deemed to have
6 been complied with, unless or until the promoter receives
7 notice from the department denying the application for a
8 promoter's license.

9 (c) Compliance.--Any promoter who is a vendor under the
10 provisions of section 701 shall comply with all the provisions
11 of this chapter applicable to vendors and with the provisions of
12 this section applicable to promoters.

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

18 (e) Penalties.--

19 (1) Any licensed promoter who:

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

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

25 (iii) knowingly maintains false records or fails to
26 comply with any provision contained in this section or
27 any regulation promulgated by the department pertaining
28 to shows,

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

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

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

9 Section 749. (Reserved).

10 Section 750. (Reserved).

11 Section 751. (Reserved).

12 Section 752. Refunds.

13 (a) General rule.--Subject to the provisions of subsection
14 (b), the department shall, pursuant to the provisions of Article
15 XXVII of the Tax Reform Code of 1971, refund all taxes, interest
16 and penalties paid to the Commonwealth under the provisions of
17 this chapter and to which the Commonwealth is not rightfully
18 entitled. The refunds shall be made to the person, the person's
19 heirs, successors, assigns or other personal representatives,
20 who actually paid the tax.

21 (b) Exception.--No refund shall be made under this section
22 with respect to any payment made by reason of an assessment with
23 respect to which a taxpayer has filed a petition for
24 reassessment pursuant to section 2702 of the Tax Reform Code of
25 1971 to the extent that the petition has been determined
26 adversely to the taxpayer by a decision which is no longer
27 subject to further review or appeal.

28 (c) Construction.--Nothing contained in this section shall
29 be deemed to prohibit a taxpayer who has filed a timely petition
30 for reassessment from amending it to a petition for refund where

1 the petitioner has paid the tax assessed.

2 Section 753. Refund petition.

3 (a) General rule.--Except as provided for in subsection (b)
4 and section 756, the refund or credit of tax, interest or
5 penalty provided for by section 752 shall be made only where the
6 person who has actually paid the tax files a petition for refund
7 with the department under Article XXVII of the Tax Reform Code
8 of 1971, within the limits of section 3003.1 of the Tax Reform
9 Code of 1971.

10 (b) Assessments.--A refund or credit of tax, interest or
11 penalty paid as a result of an assessment made by the department
12 under section 731 shall be made only where the person who has
13 actually paid the tax files with the department a petition for a
14 refund with the department under Article XXVII of the Tax Reform
15 Code of 1971 within the time limits of section 3003.1 of the Tax
16 Reform Code of 1971. The filing of a petition for refund under
17 the provisions of this subsection shall not affect the abatement
18 of interest, additions or penalties to which the person may be
19 entitled by reason of the person's payment of the assessment.

20 Section 754. (Reserved).

21 Section 755. (Reserved).

22 Section 756. Extended time for filing special petition for
23 refund.

24 (a) General rule.--Any party to a transaction who has paid
25 tax by reason of a transaction with respect to which the
26 department is assessing tax against another person may, within
27 six months after the filing by the department of the assessment
28 against the other person, file a special petition for refund,
29 notwithstanding the person's failure to timely file a petition
30 pursuant to section 3003.1 of the Tax Reform Code of 1971. The

1 provisions of Article XXVII of the Tax Reform Code of 1971 shall
2 be applicable to the special petition for refund, except that
3 the department need not act on the petition until there is a
4 final determination as to the propriety of the assessment filed
5 against the other party to the transaction. Where a petition is
6 filed under this provision in order to take advantage of the
7 extended period of limitations, overpayments by the petitioner
8 shall be refunded but only to the extent of the actual tax,
9 without consideration of interest and penalties, paid by the
10 other party to the transaction.

11 (b) Purpose.--The purpose of this section is to avoid
12 duplicate payment of tax where a determination is made by the
13 department that one party to a transaction is subject to tax,
14 and another party to the transaction has previously paid tax
15 with respect to the transaction and, as such, this section shall
16 be construed as extending right beyond that provided for by
17 section 753, and not to limit the other section.

18 Section 757. (Reserved).

19 Section 758. Limitation on assessment and collection.

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

24 Any assessment may be made at any time during the period
25 notwithstanding that the department may have made one or more
26 previous assessments against the taxpayer for the year in
27 question, or for any part of the year. In any case, no credit
28 shall be given for any penalty previously assessed or paid.

29 Section 759. Failure to file return.

30 Where no return is filed, the amount of the tax due may be

1 assessed and collected at any time as to taxable transactions
2 not reported.

3 Section 760. False or fraudulent return.

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

7 Section 761. Extension of limitation period.

8 Notwithstanding any other provisions of this subchapter
9 where, before the expiration of the period prescribed in that
10 other provision for the assessment of a tax, a taxpayer has
11 consented in writing that the period be extended, the amount of
12 tax due may be assessed at any time within the extended period.
13 The period so extended may be extended further by subsequent
14 consents in writing made before the expiration of the extended
15 period.

16 Section 762. (Reserved).

17 Section 763. (Reserved).

18 Section 764. (Reserved).

19 Section 765. (Reserved).

20 Section 766. Additions to tax.

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

1 (b) Addition for understatement.--There shall be added to
2 every assessment under section 731(b) an addition equal to 5% of
3 the amount of the understatement and no addition to the tax
4 shall be paid under section 731(a).

5 Section 767. Penalties.

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

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

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

27 Section 768. Criminal offenses.

28 (a) False returns.--Any person who with intent to defraud
29 the Commonwealth willfully makes, or causes to be made, any
30 return required by this chapter which is false commits a

1 misdemeanor and, upon conviction, shall be sentenced to pay a
2 fine of not more than \$2,000 or to imprisonment not exceeding
3 three years, or both.

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

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

17 (2) sells or leases tangible personal property or the
18 services, the sale or use of which by the purchaser is
19 subject to tax under this chapter, and willfully fails to
20 collect the tax from the purchaser and timely remit the same
21 to the department;

22 (3) willfully fails or neglects to timely file any
23 return or report required by this chapter or, as a taxpayer,
24 refuses to timely pay any tax, penalty or interest imposed or
25 provided for by this chapter, or willfully fails to preserve
26 the person's books, papers and records as directed by the
27 department;

28 (4) refuses to permit the department or any of its
29 authorized agents to examine the person's books, records or
30 papers, or who knowingly makes any incomplete, false or

1 fraudulent return or report;

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

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

8 (7) makes, utters or issues a false or fraudulent
9 exemption certificate;

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

13 (c) Exceptions.--

14 (1) Any person who maintains a place of business outside
15 this Commonwealth may absorb the tax with respect to taxable
16 sales made in the normal course of business to customers
17 present at that place of business without being subject to
18 the penalty and fines.

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

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

27 Section 769. Abatement of additions or penalties.

28 On the filing of a petition for reassessment or a petition
29 for refund as provided under this chapter by a taxpayer,
30 additions or penalties imposed on the taxpayer by this chapter

1 may be waived or abated, in whole or in part, where the
2 petitioner has established that the petitioner has acted in good
3 faith, without negligence and with no intent to defraud.

4 Section 770. Rules and regulations.

5 (a) General rule.--The department shall enforce the
6 provisions of this chapter and shall prescribe, adopt,
7 promulgate and enforce rules and regulations not inconsistent
8 with the provisions of this chapter, relating to any matter or
9 thing pertaining to the administration and enforcement of the
10 provisions of this chapter, and the collection of taxes,
11 penalties and interest imposed by this chapter. The department
12 may prescribe the extent, if any, to which any of the rules and
13 regulations shall be applied without retroactive effect.

14 (b) Determination of purchase price.--

15 (1) In determining the purchase price of taxable sales
16 where, because of affiliation of interests between the vendor
17 and the purchaser or irrespective of any such affiliation, if
18 for any other reason, the purchase price of the sale is in
19 the opinion of the department not indicative of the true
20 value of the article or the fair price of the article, the
21 department shall, pursuant to uniform and equitable rules,
22 determine the amount of constructive purchase price on the
23 basis of which the tax shall be computed and levied.

24 (2) The rules shall provide for a constructive amount of
25 a purchase price for each sale, which price shall equal a
26 price for the article which would naturally and fairly be
27 charged in an arm's-length transaction in which the element
28 of common interests between vendor and purchaser or, if no
29 common interest exists, any other element causing a
30 distortion of the price or value is absent.

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

6 Section 771. Keeping of records.

7 (a) Persons liable for taxes.--Every person liable for any
8 tax imposed by this chapter, or for the collection of the tax,
9 shall keep the records, render such statements, make the returns
10 and comply with the rules and regulations as the department may,
11 from time to time, prescribe regarding matters pertinent to the
12 person's business. Whenever in the judgment of the department it
13 is necessary, it may require any person, by notice served on the
14 person, or by regulations, to make the returns, render the
15 statements or keep the records as the department deems
16 sufficient to show whether the person is liable to pay or
17 collect tax under this chapter.

18 (b) Persons collecting taxes.--Any person liable to collect
19 tax from another person under the provisions of this chapter
20 shall file reports, keep records, make payments and be subject
21 to interest and penalties as provided for under this chapter, in
22 the same manner as if the person were directly subject to the
23 tax.

24 (c) Nonresidents.--

25 (1) A nonresident who does business in this Commonwealth
26 as a retail dealer shall keep adequate records of the
27 business and of the tax due with respect to the business,
28 which records shall at all times be retained within this
29 Commonwealth unless retention outside this Commonwealth is
30 authorized by the department.

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

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

7 (d) Retail dealers.--

8 (1) Any person doing business as a retail dealer who at
9 the same time is engaged in another business which does not
10 involve the making of sales taxable under this chapter shall
11 keep separate books and records of the person's businesses so
12 as to show the sales taxable under this chapter separately
13 from the sales not taxable under this chapter.

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

18 (e) Segregation of taxes required.--

19 (1) In those instances where a vendor gives no sales
20 memoranda or uses registers showing only total sales, the
21 vendor shall adopt some method of segregating tax from sales
22 receipts and keep records showing the segregation, all in
23 accordance with proper accounting and business practices.

24 (2) A vendor may apply to the department for permission
25 to use a collection and recording procedure which will show
26 the information as the law requires with reasonable accuracy
27 and simplicity. The application must contain a detailed
28 description of the procedure to be adopted.

29 (3) Permission to use the proposed procedure is not to
30 be construed as relieving the vendor from remitting the full

1 amount of tax collected.

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

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

8 Section 771.1. Reports and records of promoters.

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

22 Section 772. Examinations.

23 (a) Power of department.--The department or any of its
24 authorized agents may examine the books, papers and records of
25 any taxpayer in order to verify the accuracy and completeness of
26 any return made or if no return was made, to ascertain and
27 assess the tax imposed by this chapter. The department may
28 require the preservation of all such books, papers and records
29 for any period deemed proper by it but not to exceed three years
30 from the end of the calendar year to which the records relate.

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

4 (c) Other powers of department.--

5 (1) The department is further authorized to examine any
6 person, under oath, concerning taxable sales or use by any
7 taxpayer or concerning any other matter relating to the
8 enforcement or administration of this chapter, and to this
9 end may compel the production of books, papers and records
10 and the attendance of all persons whether as parties or
11 witnesses whom it believes to have knowledge of such matters.

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

15 Section 773. Records and examinations of delivery agents.

16 Every agent for the purpose of delivery of goods shipped into
17 this Commonwealth by a nonresident, including, but not limited
18 to, a common carrier, shall maintain adequate records of such
19 deliveries pursuant to rules and regulations adopted by the
20 department and shall make the records available to the
21 department upon request after due notice.

22 Section 774. Unauthorized disclosure.

23 Any information gained by the department as a result of any
24 return, examination, investigation, hearing or verification
25 required or authorized by this chapter shall be confidential,
26 except for official purposes and except in accordance with
27 proper judicial order or as otherwise provided by law, and any
28 person unlawfully divulging such information commits a
29 misdemeanor and, upon conviction, shall be sentenced to pay a
30 fine of not more than \$1,000 and costs of prosecution or to

1 imprisonment for not more than one year, or both.

2 Section 775. Cooperation with other governments.

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

17 Section 776. Interstate compacts.

18 (a) General rule.--The Governor, or the Governor's
19 authorized representative, may confer with the Governor and the
20 authorized representatives of other states with respect to
21 reciprocal use tax collection between the Commonwealth and such
22 other states.

23 (b) Other powers.--The Governor, or the Governor's
24 authorized representative, may join with the authorities of
25 other states to conduct joint investigations, to exchange
26 information, hold joint hearings and enter into compacts or
27 interstate agreements with such other states to accomplish
28 uniform reciprocal use tax collections between those states who
29 are parties to any compact or interstate agreement and the
30 Commonwealth.

1 Section 777. Bonds.

2 (a) Procedure.--

3 (1) Whenever the department, in its discretion, deems it
4 necessary to protect the revenues to be obtained under the
5 provisions of this chapter, it may require any nonresident
6 natural person or any foreign corporation, association,
7 fiduciary, partnership or other entity, not authorized to do
8 in this Commonwealth or not having an established place of
9 business in this Commonwealth and subject to the tax imposed
10 by 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 such amounts as it may fix, to secure the
14 payment of any tax or penalties due, or which may become due,
15 from a natural person or corporation.

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

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

10 (ii) If the department determines that a taxpayer is
11 to file a bond, the department shall give notice to the
12 taxpayer to that effect, specifying the amount of the
13 bond required.

14 (iii) The taxpayer shall file a bond within five
15 days after the giving of the notice by the department
16 unless, within the five-day period, the taxpayer requests
17 in writing a hearing before the secretary or the
18 secretary's representative at which hearing the
19 necessity, propriety and amount of the bond shall be
20 determined by the secretary or a representative. The
21 determination shall be final and shall be complied within
22 15 days after notice is mailed to the taxpayer.

23 (b) Alternative security.--

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

27 (2) Such securities or cash shall be kept in the custody
28 of the department, who may, at any time, without notice to
29 the depositor, apply them to any tax and/or interest or
30 penalties due, and for that purpose the securities may be

1 sold by the department, at public or private sale, on five
2 days' written notice to the depositor.

3 (c) Lien may be filed.--

4 (1) The department may file a lien pursuant to section
5 742 against any taxpayer who fails to file a bond when
6 required to do so under this section.

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

11 Section 778. Remote sales reports.

12 (a) Duty to submit.--Within 90 days of the publication of
13 the notice under subsection (b), the Independent Fiscal Office,
14 in conjunction with the department, shall submit a detailed
15 report to the chairperson and minority chairperson of the
16 Appropriations Committee of the Senate, the chairperson and
17 minority chairperson of the Finance Committee of the Senate, the
18 chairperson and minority chairperson of the Appropriations
19 Committee of the House of Representatives and the chairperson
20 and minority chairperson of the Finance Committee of the House
21 of Representatives outlining the plans concerning the
22 implementation of the legislation published under subsection (b)
23 or other substantially similar Federal legislation, which would
24 grant the Commonwealth the authority to impose and collect the
25 tax under this chapter due on sales from remote sellers. The
26 report shall include all of the following:

27 (1) The amount of State funds necessary to implement the
28 legislation published under subsection (b) or other
29 substantially similar legislation. The amount needed shall be
30 itemized and all costs, including personnel, office expenses

1 and other related costs, shall be included.

2 (2) The amount of State tax revenue expected to result
3 from the implementation of the legislation published under
4 subsection (b) or other substantially similar legislation for
5 the fiscal year and for five fiscal years thereafter.

6 (3) The source of funds which will be utilized to pay
7 for the legislation published under subsection (b) or other
8 substantially similar legislation implementation program.

9 (4) The legal and practical issues concerning the
10 propriety of collecting and enforcing the tax imposed under
11 this chapter from remote sellers.

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

14 (6) Proposed draft legislation concerning the
15 implementation of the legislation referenced in subsection
16 (b) or other substantially similar legislation.

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

19 (b) Notice in the Pennsylvania Bulletin.--The secretary
20 shall publish notice in the Pennsylvania Bulletin that Federal
21 legislation relating to remote sellers has been enacted.

22 SUBCHAPTER G

23 FUNDING PROVISIONS

24 Section 780. (Reserved).

25 Section 781. Appropriation for refunds.

26 So much of the proceeds of the tax imposed by this chapter as
27 shall be necessary for the payment of refunds, enforcement or
28 administration under this chapter is hereby appropriated for
29 those purposes.

30 Section 781.1. Construction.

1 To the extent that the language of this chapter is identical
2 to that of equivalent provisions in the former act of March 6,
3 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for
4 Education, or Article II of the Tax Reform Code of 1971, that
5 language shall be deemed a reenactment of that identical
6 provisions.

7 Section 782. Transfers to Education Stabilization Fund.

8 (a) Deposit of sales and use tax and hotel occupancy tax
9 collected.--The secretary shall deposit into the Education
10 Stabilization Fund revenues received on or after January 1,
11 2016, regardless of the transaction date, that equal the portion
12 of the tax imposed by this chapter as follows:

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

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

20 (b) (Reserved).

21 Section 783. Transfers to Public Transportation Assistance
22 Fund.

23 (a) General rule.--All revenues received on or after July 1,
24 1992, from the imposition of tax on periodicals shall be
25 transferred to the Public Transportation Assistance Fund
26 according to the formula set forth in subsection (b).

27 (b) Transfer.--Within 30 days of the close of any calendar
28 month, 0.596% of the taxes received in the previous month under
29 this chapter shall be transferred to the Public Transportation
30 Assistance Fund.

1 (c) Revenue.--Commencing February 20, 2016, and
2 notwithstanding the provisions of 74 Pa.C.S. § 1506(c)(1)
3 (relating to fund) to the contrary, the revenues deposited into
4 the Public Transportation Trust Fund under 74 Pa.C.S. § 1506(c)
5 (1) shall be 2.769% of the amount collected under this chapter.

6 CHAPTER 9

7 (RESERVED)

8 CHAPTER 11

9 LIMIT ON SCHOOL DISTRICT TAXATION

10 AND EXPIRATION OF DEBT AUTHORITY

11 Section 1101. Definitions.

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

15 "School district debt." All debt which a school district is
16 obligated to pay.

17 Section 1102. Coordination of school district fiscal years.

18 (a) General rule.--By July 1, 2016, a school district which
19 operates under a fiscal year other than the period beginning
20 July 1 of each calendar year and ending June 30 of the calendar
21 year next succeeding shall adopt a fiscal year which is the
22 period beginning July 1 of each calendar year and ending June 30
23 of the calendar year next succeeding.

24 (b) Duties of department.--The Department of Education shall
25 provide technical assistance and guidance to school districts
26 subject to assist school districts adopting a different fiscal
27 year under subsection (a).

28 Section 1103. Transition period.

29 Beginning with the effective date of this section and ending
30 July 1, 2016, a school district which levies a tax on real

1 property may not increase the rate of tax on real property above
2 the rate levied as of the effective date of this section.

3 Section 1104. School district debt and budgeting.

4 (a) General rule.--Beginning on the effective date of this
5 section, a school district may not incur any additional school
6 district debt except debt which is authorized by a referendum
7 under Chapter 3.

8 (b) Certification.--By April 1, 2016, and by April 1 of each
9 year after, a school district shall certify and report to the
10 Department of Education all of the following:

11 (1) The amount of all outstanding school district debt.

12 (2) The repayment status of all outstanding school
13 district debt.

14 (3) The repayment terms of all outstanding school
15 district debt.

16 (4) The amount of annual debt service which must be paid
17 by the school district on the outstanding school district
18 debt.

19 (5) Any other information requested by the Department of
20 Education.

21 (c) Confirmation of information.--The Department of
22 Education may examine the books and records of a school district
23 in order to confirm the data submitted under subsection (b).

24 (d) Department responsibilities.--By July 1, 2016, and by
25 January 1 each year after, the Department of Education shall do
26 all of the following:

27 (1) Certify to the State Treasurer and the Office of the
28 Budget the amount of annual debt service payments necessary
29 for each school district to continue to repay its existing
30 outstanding school district debt.

1 the department under section 1104(a).

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

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

6 (2) the average of the percentage increase in sales and
7 use tax collected under section 702 and the tax upon each
8 dollar income collected under section 401(b)(1) and the
9 percentage increase of the hotel occupancy tax collected
10 under section 710 from the previous calendar year.

11 "Department." The Department of Education of the
12 Commonwealth.

13 "Fund." The Education Stabilization Fund established in
14 section 1302.

15 Section 1302. Education Stabilization Fund.

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

18 (b) Use.--The department shall use the fund to make
19 disbursements under section 1303.

20 (c) Continuing appropriation.--The money of the fund is
21 hereby continuously appropriated to the department as provided
22 in this act. This appropriation shall not lapse at the end of
23 any fiscal year.

24 Section 1302.1. Sources and transfers.

25 (a) Deposit.--The following shall be deposited into the
26 fund:

27 (1) Money remaining in the Property Tax Relief Fund
28 following utilization of funds to provide tax relief in
29 cities of the first class under Chapters 5 and 7 of the act
30 of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the

1 Taxpayer Relief Act, and for property tax and rent rebates
2 under Chapter 14.

3 (2) Money collected by the department under section 401.

4 (3) Money collected by the department under Chapter 7.

5 (4) Appropriations.

6 (5) Return on money in the fund.

7 (b) Transfer from the fund.--

8 (1) No later than June 30, 2017, and each June 30
9 thereafter, an amount equal to the refund reimbursement
10 factor multiplied by the amount of refunds issued under
11 Article III of the Tax Reform Code of 1971 for tax years in
12 which the tax imposed under Chapter 4 is applicable, shall be
13 transferred from the Education Stabilization Fund to the
14 General Fund.

15 (2) For the purpose of this subsection, "refund
16 reimbursement factor" means a fraction equal to the rate of
17 tax imposed under Chapter 4 divided by the sum of the rate of
18 tax imposed under Chapter 4 plus the rate of tax imposed
19 under Article III of the Tax Reform Code of 1971.

20 Section 1303. Standard disbursements to school districts from
21 Education Stabilization Fund.

22 (a) General rule.--In fiscal year 2017-2018, the department
23 shall disburse to each school district an amount equal to the
24 sum of the following:

25 (1) the school district's base revenues, plus

26 (2) the school district's base revenue multiplied by the
27 cost-of-living factor.

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

1 property taxes or rent were due and payable; or

2 (3) was a permanently disabled person 18 years of age or
3 older during a calendar year or part thereof in which the
4 real property taxes or rent were due and payable.

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

6 "Homestead." A dwelling, whether owned or rented, and so
7 much of the land surrounding it, as is reasonably necessary for
8 the use of the dwelling as a home, occupied by a claimant. The
9 term includes, but is not limited to:

10 (1) Premises occupied by reason of ownership or lease in
11 a cooperative housing corporation.

12 (2) Mobile homes which are assessed as realty for local
13 property tax purposes and the land, if owned or rented by the
14 claimant, upon which the mobile home is situated, and other
15 similar living accommodations.

16 (3) A part of a multidwelling or multipurpose building
17 and a part of the land upon which it is built.

18 (4) Premises occupied by reason of the claimant's
19 ownership or rental of a dwelling located on land owned by a
20 nonprofit incorporated association, of which the claimant is
21 a member, if the claimant is required to pay a pro rata share
22 of the property taxes levied against the association's land.

23 (5) Premises occupied by a claimant if the claimant is
24 required by law to pay a property tax by reason of the
25 claimant's ownership or rental, including a possessory
26 interest, in the dwelling, the land or both. An owner
27 includes a person in possession under a contract of sale,
28 deed of trust, life estate, joint tenancy or tenancy in
29 common or by reason of statutes of descent and distribution.

30 "Household income." All income received by a claimant and

1 the claimant's spouse while residing in the homestead during the
2 calendar year for which a rebate is claimed.

3 "Income." All income from whatever source derived,
4 including, but not limited to:

5 (1) Salaries, wages, bonuses, commissions, income from
6 self-employment, alimony, support money, cash public
7 assistance and relief.

8 (2) The gross amount of any pensions or annuities,
9 including railroad retirement benefits for calendar years
10 prior to 1999 and 50% of railroad retirement benefits for
11 calendar years 1999 and thereafter.

12 (3) (i) All benefits received under the Social Security
13 Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), except
14 Medicare benefits, for calendar years prior to 1999, and
15 50% of all benefits received under the Social Security
16 Act, except Medicare benefits, for calendar years 1999
17 and thereafter.

18 (ii) Notwithstanding any other provision of this act
19 to the contrary, persons who, as of December 31, 2012,
20 are eligible for the property tax or rent rebate shall
21 remain eligible if the household income limit is exceeded
22 due solely to a Social Security cost-of-living
23 adjustment.

24 (iii) Eligibility in the property tax and rent
25 rebate program pursuant to subparagraph (ii) shall expire
26 on December 31, 2016.

27 (4) All benefits received under State unemployment
28 insurance laws.

29 (5) All interest received from the Federal or any state
30 government or any instrumentality or political subdivision

1 thereof.

2 (6) Realized capital gains and rentals.

3 (7) Workers' compensation.

4 (8) The gross amount of loss of time insurance benefits,
5 life insurance benefits and proceeds, except the first \$5,000
6 of the total of death benefit payments.

7 (9) Gifts of cash or property, other than transfers by
8 gift between members of a household, in excess of a total
9 value of \$300.

10 The term does not include surplus food or other relief in kind
11 supplied by a governmental agency, property tax or rent rebate,
12 inflation dividend dividend, Federal veterans' disability
13 payments or State veterans' benefit.

14 "Permanently disabled person." A person who is unable to
15 engage in any substantial gainful activity by reason of any
16 medically determinable physical or mental impairment which can
17 be expected to continue indefinitely, except as provided in
18 section 1404(b) (3) and (c).

19 "Real property taxes." All taxes on a homestead, exclusive
20 of municipal assessments, delinquent charges and interest, due
21 and payable during a calendar year.

22 "Rent rebate in lieu of property taxes." Twenty percent of
23 the gross amount actually paid in cash or its equivalent in any
24 calendar year to a landlord in connection with the occupancy of
25 a homestead by a claimant, irrespective of whether such amount
26 constitutes payment solely for the right of occupancy or
27 otherwise.

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

29 "State veterans' benefits." Service-connected compensation
30 or benefits of any kind provided to a veteran or an unmarried

1 surviving spouse of a veteran by a Commonwealth agency or
2 authorized under the laws of this Commonwealth.

3 "Taxpayer Relief Act." The act of June 27, 2006 (1st
4 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

5 "Widow" or "widower." The surviving wife or the surviving
6 husband, as the case may be, of a deceased individual and who
7 has not remarried except as provided in section 1404(b) (3) and
8 (c).

9 Section 1404. Property tax; and rent rebate.

10 (a) Schedule of rebates.--

11 (1) The amount of any claim for property tax rebate or
12 rent rebate in lieu of property taxes for real property taxes
13 or rent due and payable during calendar years 1985 through
14 2005 shall be determined in accordance with the following
15 schedule:

	Percentage of Real Property Taxes or Rent Rebate in Lieu of Property Taxes Allowed as Rebate
16 Household Income	
17 \$ 0 - \$ 4,999	100%
18 5,000 - 5,499	100
19 5,500 - 5,999	90
20 6,000 - 6,499	80
21 6,500 - 6,999	70
22 7,000 - 7,499	60
23 7,500 - 7,999	50
24 8,000 - 8,499	40
25 8,500 - 8,999	35
26 9,000 - 9,999	25
27 10,000 - 11,999	20
28 12,000 - 12,999	15

1 13,000 - 15,000 10

2 (2) The following apply:

3 (i) The base amount of any claim for property tax
4 rebate for real property taxes due and payable during
5 calendar year 2006 and thereafter shall be determined in
6 accordance with the following schedule:

		Amount of Real Property Taxes
Household Income	Allowed as Rebate	
9 \$ 0 - \$ 8,000	\$650	
10 8,001 - 15,000	500	
11 15,001 - 18,000	300	
12 18,001 - 35,000	250	

13 (ii) The supplemental amount for a claimant with a
14 household income equal to or less than \$30,000 and an
15 eligible claim for property tax rebate for real property
16 taxes due and payable during the calendar year preceding
17 the first year in which a payment under section 505(b) of
18 the Taxpayer Relief Act is made and each year thereafter
19 and whose real property taxes exceed 15% of the
20 claimant's household income shall be equal to 50% of the
21 base amount determined under subparagraph (i). A claimant
22 who is a resident of a city of the first class, a city of
23 the second class A or a school district of the first
24 class A shall be ineligible for the supplemental amount
25 under this subparagraph.

26 (3) The amount of any claim for rent rebate in lieu of
27 property taxes for rent due and payable during calendar year
28 2006 and thereafter shall be determined in accordance with
29 the following:

30 Amount of Rent Rebate in

Lieu of Property Taxes

Household Income	Allowed as Rebate
\$ 0 - \$ 8,000	\$650
8,001 - 15,000	500

(b) Limitations on claims.--

(1) No claim through calendar year 2005 shall be allowed if the amount of property tax or rent rebate computed in accordance with this section is less than \$10, and the maximum amount of property tax or rent rebate payable shall not exceed \$500.

(2) For calendar year 2006 and thereafter, the maximum amount of property tax or rent rebate in lieu of property taxes payable shall not exceed the lesser of:

(i) the amount of a claim under subsection (a) (2) or (3);

(ii) the amount of real property taxes actually paid; or

(iii) 20% of gross rent actually paid.

(3) No claim shall be allowed if the claimant is a tenant of an owner of real property exempt from real property taxes.

(c) Apportionment and public assistance.--

(1) If any of the following exist relating to a claim:

(i) a homestead is owned or rented and occupied for only a portion of a year or is owned or rented in part by a person who does not meet the qualifications for a claimant, exclusive of any interest owned or leased by a claimant's spouse;

(ii) the claimant is a widow or widower who remarries; or

1 (iii) the claimant is a formerly disabled person who
2 is no longer disabled,
3 the department shall apportion the real property taxes or
4 rent in accordance with the period or degree of ownership or
5 leasehold or eligibility of the claimant in determining the
6 amount of rebate for which a claimant is eligible.

7 (2) A claimant who receives public assistance from the
8 Department of Public Welfare shall not be eligible for rent
9 rebate in lieu of property taxes during those months within
10 which the claimant receives public assistance.

11 (d) Government subsidies.--Rent shall not include subsidies
12 provided by or through a governmental agency.

13 Section 1405. Filing of claim.

14 (a) General rule.--Except as otherwise provided in
15 subsection (b), a claim for property tax or rent rebate shall be
16 filed with the department on or before the 30th day of June of
17 the year next succeeding the end of the calendar year in which
18 real property taxes or rent was due and payable.

19 (b) Exception.--A claim filed after the June 30 deadline
20 until December 31 of such calendar year shall be accepted by the
21 secretary as long as funds are available to pay the benefits to
22 the late filing claimant.

23 (c) Payments from State Lottery Fund.--No reimbursement on a
24 claim shall be made from the State Lottery Fund earlier than the
25 day following the 30th day of June provided in this chapter on
26 which that claim may be filed with the department.

27 (d) Eligibility of claimants.--

28 (1) Only one claimant from a homestead each year shall
29 be entitled to the property tax or rent rebate.

30 (2) If two or more persons are able to meet the

1 qualifications for a claimant, they may determine who the
2 claimant shall be.

3 (3) If they are unable to agree, the department shall
4 determine to whom the rebate is to be paid.

5 Section 1406. Proof of claim.

6 (a) Contents.--Each claim shall include:

7 (1) Reasonable proof of household income.

8 (2) The size and nature of the property claimed as a
9 homestead.

10 (3) The rent, tax receipt or other proof that the real
11 property taxes on the homestead have been paid or rent in
12 connection with the occupancy of a homestead has been paid.

13 (4) If the claimant is a widow or widower, a declaration
14 of such status in such manner as prescribed by the secretary.

15 (b) Proof of disability.--

16 (1) Proof that a claimant is eligible to receive
17 disability benefits under the Social Security Act (49 Stat.
18 620, 42 U.S.C. § 301 et seq.) shall constitute proof of
19 disability under this chapter.

20 (2) No person who has been found not to be disabled by
21 the Social Security Administration shall be granted a rebate
22 under this chapter.

23 (3) A claimant not covered under the Social Security Act
24 shall be examined by a physician designated by the department
25 and such status determined using the same standards used by
26 the Social Security Administration.

27 (c) Direct payment of taxes or rent not required.--It shall
28 not be necessary that such taxes or rent were paid directly by
29 the claimant if the rent or taxes have been paid when the claim
30 is filed.

1 (d) Proof of age on first claim.--The first claim filed
2 shall include proof that the claimant or the claimant's spouse
3 was at least 65 years of age, or at least 50 years of age in the
4 case of a widow or widower during the calendar year in which
5 real property taxes or rent were due and payable.

6 Section 1407. Incorrect claim.

7 Whenever on audit of a claim the department finds the claim
8 to have been incorrectly determined, it shall redetermine the
9 correct amount of the claim and notify the claimant of the
10 reason for the redetermination and the amount of the corrected
11 claim.

12 Section 1408. Funds for payment of claims.

13 (a) Payment.--Approved claims shall be paid from the State
14 Lottery Fund established by the act of August 26, 1971 (P.L.351,
15 No.91), known as the State Lottery Law.

16 (b) Transfers.--The Secretary of the Budget shall transfer
17 the following amounts from the Property Tax Relief Fund to the
18 State Lottery:

19 (1) Notwithstanding any other provision of law, an
20 amount equal to \$100,000,000 of the total slot machine
21 license fees paid by successful applicants for a Category 1
22 slot machine license under 4 Pa.C.S. § 1209 (relating to slot
23 machine license fee). The transfer under this paragraph shall
24 occur upon deposit in the Property Tax Relief Fund of moneys
25 derived from the fee from the fourth successful applicant for
26 a Category 1 slot machine license.

27 (2) Notwithstanding any other provision of law, an
28 amount equal to \$100,000,000 of the total slot machine
29 license fees paid by successful applicants for a Category 2
30 slot machine license under 4 Pa.C.S. § 1209. The transfer

1 under this paragraph shall occur upon deposit in the Property
2 Tax Relief Fund of moneys derived from the fee from the third
3 successful applicant for a Category 2 slot machine license.

4 (3) For fiscal years 2007-2008 and 2008-2009, an amount
5 equal to the sum of approved claims to be paid in each of
6 those fiscal years under sections 704 of the Taxpayer Relief
7 Act and 1404(a)(2)(ii), if any.

8 (4) For fiscal year 2009-2010 and each fiscal year
9 thereafter, all of the following:

10 (i) The difference between the sum of the amount of
11 approved claims to be paid in the next fiscal year under
12 section 1404(a)(2)(i) and (3) and the amount of approved
13 claims paid in fiscal year 2006-2007 under section
14 1404(a)(1).

15 (ii) The sum of the amount of approved claims to be
16 paid in the next fiscal year under sections 704 of the
17 Taxpayer Relief Act and 1404(a)(2)(ii), if any.

18 (5) Beginning in fiscal year 2009-2010 and until the
19 difference between the sum of subparagraphs (i) and (ii) and
20 \$200,000,000 is paid, an amount of not less than \$40,000,000
21 annually or the amount of the difference, whichever is less.
22 All transfers under this paragraph shall be completed no
23 later than four years after the transfer required by
24 paragraph (2).

25 (i) The difference between the sum of the amount of
26 approved claims to be paid in fiscal year 2007-2008 under
27 section 1404(a)(2)(i) and (3) and the amount of approved
28 claims paid in fiscal year 2006-2007 under section
29 1404(a)(1).

30 (ii) The difference between the sum of the amount of

1 approved claims to be paid in fiscal year 2008-2009 under
2 section 1404(a)(2)(i) and (3) and the amount of approved
3 claims paid in fiscal year 2006-2007 under section
4 1404(a)(1).

5 Section 1409. Claim forms and rules and regulations.

6 (a) General rule.--Necessary rules and regulations shall be
7 prescribed by a committee consisting of the Secretary of Aging,
8 the Secretary of Revenue and the Secretary of Community and
9 Economic Development. The Secretary of Aging shall serve as the
10 chairman of the committee. The department shall receive all
11 applications, determine the eligibility of claimants, hear
12 appeals, disburse payments and make available suitable forms for
13 the filing of claims.

14 (b) Report to General Assembly.--In addition to any rules
15 and regulations prescribed under subsection (a), the department
16 shall collect the following information and issue a report
17 including such information to the chairman and minority chairman
18 of the Appropriations Committee of the Senate and the chairman
19 and minority chairman of the Appropriations Committee of the
20 House of Representatives by September 30, 2006, and September 30
21 of each year thereafter.

22 (1) The total number of claims which will be paid in the
23 fiscal year in which the report is issued with the
24 information provided by school district, by county and for
25 each household income level under section 1404(a)(2)(i).

26 (2) The total amount of rebates paid in the fiscal year
27 in which the report is issued with the information provided
28 by school district, by county and for each household income
29 level under section 1404(a)(2)(i).

30 Section 1410. Fraudulent claims and conveyances to obtain

1 benefits.

2 (a) Civil penalty.--In any case in which a claim is
3 excessive and was filed with fraudulent intent, the claim shall
4 be disallowed in full, and a penalty of 25% of the amount
5 claimed shall be imposed. The penalty and the amount of the
6 disallowed claim, if the claim has been paid, shall bear
7 interest at the rate of 1.5% per month from the date of the
8 claim until repaid.

9 (b) Criminal penalty.--The claimant and any person who
10 assisted in the preparation or filing of a fraudulent claim
11 commits a misdemeanor of the third degree and, upon conviction
12 thereof, shall be sentenced to pay a fine not exceeding \$1,000
13 or to imprisonment not exceeding one year, or both.

14 (c) Disallowance for receipt of title.--A claim shall be
15 disallowed if the claimant received title to the homestead
16 primarily for the purpose of receiving property tax rebate.
17 Section 1411. Petition for redetermination.

18 (a) Right to file.--A claimant whose claim is either denied,
19 corrected or otherwise adversely affected by the department may
20 file with the department a petition for redetermination on forms
21 supplied by the department within 90 days after the date of
22 mailing of written notice by the department of such action.

23 (b) Contents.--The petition shall set forth the grounds upon
24 which the claimant alleges that such departmental action is
25 erroneous or unlawful, in whole or part, and shall contain an
26 affidavit or affirmation that the facts contained in the
27 petition are true and correct.

28 (c) Extension of time for filing.--

29 (1) An extension of time for filing the petition may be
30 allowed for cause but may not exceed 120 days.

1 (2) The department shall hold such hearings as may be
2 necessary for the purpose of redetermination, and each
3 claimant who has duly filed such petition for redetermination
4 shall be notified by the department of the time when and the
5 place where such hearing in the claimant's case will be held.

6 (d) Time period for decision.--The department shall, within
7 six months after receiving a filed petition for redetermination,
8 dispose of the matters raised by such petition and shall mail
9 notice of the department's decision to the claimant.

10 Section 1412. Review by Board of Finance and Revenue.

11 (a) Right to review.--Within 90 days after the date of
12 official receipt by the claimant of notice mailed by the
13 department of its decision on a petition for redetermination
14 filed with it, the claimant who is adversely affected by the
15 decision may by petition request the board to review such
16 action.

17 (b) Effect of no decision from department.--The failure of
18 the department to officially notify the claimant of a decision
19 within the six-month period provided for by section 1411 shall
20 act as a denial of the petition, and a petition for review may
21 be filed with the board within 120 days after written notice is
22 officially received by the claimant that the department has
23 failed to dispose of the petition within the six-month period.

24 (c) Contents of petition for redetermination.--A petition
25 for redetermination filed shall state the reasons upon which the
26 claimant relies or shall incorporate by reference the petition
27 for redetermination in which such reasons were stated. The
28 petition shall be supported by affidavit that the facts set
29 forth therein are correct and true.

30 (d) Time period for decision.--The board shall act in

1 disposition of petitions filed with it within six months after
2 they have been received, and, in the event of failure of the
3 board to dispose of any petition within six months, the action
4 taken by the department upon the petition for redetermination
5 shall be deemed sustained.

6 (e) Relief authorized by board.--The board may sustain the
7 action taken by the department on the petition for
8 redetermination or it may take such other action as it shall
9 deem necessary and consistent with provisions of this chapter.

10 (f) Form of notice.--Notice of the action of the board shall
11 be given by mail to the department and to the claimant.

12 Section 1413. Appeal.

13 A claimant aggrieved by a decision of the board may appeal
14 from the decision of the board in the manner provided by law for
15 appeals from decisions of the board in tax cases.

16 CHAPTER 15

17 MISCELLANEOUS PROVISIONS

18 Section 1501. Transitional provision.

19 (a) Sales and use tax.--Notwithstanding the repeal specified
20 under section 1505(b)(6), the department shall have the
21 authority to enforce the collection of taxes imposed for
22 transactions that occur prior to the effective date of this
23 section under former Article II of the Tax Reform Code of 1971.
24 The taxes collected on or after January 1, 2016, regardless of
25 the transaction date, shall be deposited as provided in section
26 782.

27 (b) Other taxes.--Notwithstanding the repeal specified under
28 section 1505(b)(2), a governing body shall have the authority to
29 enforce, after the effective date of the repeal, the collection
30 of taxes levied and assessed under the former provision prior to

1 the effective date of section 1505(b) (2).

2 Section 1502. Regulations.

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

6 Section 1503. Construction.

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

11 Section 1504. Severability.

12 The provisions of this act are severable as follows:

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

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

24 Section 1505. Repeals.

25 (a) Intent.--The General Assembly declares that the repeals
26 under subsection (b) are necessary to effectuate this act.

27 (b) Provisions.--The following acts and parts of acts are
28 repealed to the extent specified:

29 (1) Section 631 of the act of March 10, 1949 (P.L.30,
30 No.14), known as the Public School Code of 1949, is repealed.

1 (2) Any provision of the Public School Code of 1949 and
2 of any other law relating to the authority of any school
3 district to levy, assess and collect any tax on real property
4 and the power of any city of the first class to levy, assess
5 and collect any tax real property for school purposes is
6 repealed upon the expiration of the respective schedule
7 prescribed in sections 1101 and 1102.

8 (3) Any provision of the act of the Public School Code
9 of 1949 and any other law relating to debt is repealed to the
10 extent that it is inconsistent with this act.

11 (4) Any provision of the Public School Code of 1949 and
12 any home rule charter adopted pursuant thereto is repealed
13 insofar as it is inconsistent with this act.

14 (5) Any provision of the act of August 9, 1963 (P.L.643,
15 No.341), known as the First Class City Public Education Home
16 Rule Act, and any home rule school district charter adopted
17 pursuant thereto is repealed insofar as it is inconsistent
18 with this act.

19 (6) Article II of the act of March 4, 1971 (P.L.6,
20 No.2), known as the Tax Reform Code of 1971, is repealed.

21 (7) Subchapters C and D of Chapter 3 and Chapter 13 of
22 the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1),
23 known as the Taxpayer Relief Act, are repealed.

24 (8) All acts and parts of acts that are inconsistent
25 with this act are repealed to the extent of such
26 inconsistency.

27 Section 1506. Applicability.

28 Chapter 7 and section 1505(b)(6) shall apply January 1, 2017.

29 Section 1507. Effective date.

30 This act shall take effect as follows:

1 (1) Chapters 3 and 4 and section 1505(b)(2) shall take
2 effect June 30, 2017.

3 (2) The remainder of this act shall take effect
4 immediately.