

## AMENDMENTS TO HOUSE BILL NO. 683

Sponsor: SENATOR ARGALL

Printer's No. 1427

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

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30 Section 1504. Severability.

31 Section 1505. Repeals.

32 Section 1506. Applicability.

33 Section 1507. Effective date.

34 Amend Bill, page 1, lines 15 through 20; page 2, lines 1

35 through 30; page 3, lines 1 through 22; by striking out all of

36 said lines on said pages and inserting

37 CHAPTER 1

38 PRELIMINARY PROVISIONS

39 Section 101. Short title.

40 This act shall be known and may be cited as the Property Tax

41 Independence Act.

42 Section 102. Definitions.

43 The following words and phrases when used in this act shall

44 have the meanings given to them in this section unless the

45 context clearly indicates otherwise:

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

47 "Education Stabilization Fund." The Education Stabilization

48 Fund established in section 1302.

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

4 "Governing body." The board of school directors of a school  
5 district, except that the term shall mean the city council of a  
6 city of the first class for purposes of the levy and collection  
7 of any tax in a school district of the first class.

8 "Internal Revenue Code of 1986." The Internal Revenue Code  
9 of 1986 (Public Law 99-514, 26 U.S.C. § 166).

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

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

14 "School district." A school district of the first class,  
15 first class A, second class, third class or fourth class,  
16 including any independent school district. For purposes of the  
17 levy, assessment and collection of any tax in a school district  
18 of the first class, the term shall include the City Council.

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

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

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

#### 25 CHAPTER 3

#### 26 Taxation by School Districts

27 Section 301. Scope.

28 This chapter authorizes school districts to levy, assess and  
29 collect a tax on personal income or a tax on earned income and  
30 net profits as a means of abolishing property taxation by the  
31 school district.

32 Section 302. Definitions.

33 The words and phrases used in this chapter shall have the  
34 same meanings given to them in the Tax Reform Code of 1971 or  
35 The Local Tax Enabling Act unless the context clearly indicates  
36 otherwise.

37 Section 303. Limitation.

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

40 Section 304. Preemption.

41 No act of the General Assembly shall vacate or preempt any  
42 resolution passed or adopted under the authority of this  
43 chapter, or any other act, providing authority for the  
44 imposition of a tax by a school district, unless the act of the  
45 General Assembly expressly vacates or preempts the authority to  
46 pass or adopt resolutions.

47 Section 305. General tax authorization.

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

1 (b) Personal income tax.--

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

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

7 (3) If a board of school directors seeks to impose a  
8 personal income tax under this subsection and the referendum  
9 under section 306 is approved by the electorate, the board of  
10 school directors shall have no authority to impose an earned  
11 income and net profits tax under subsection (c) or any other  
12 act.

13 (4) A personal income tax imposed under the authority of  
14 this section shall be levied by the school district on each  
15 of the classes of income specified in section 303 of the Tax  
16 Reform Code of 1971 and regulations under that section,  
17 provisions of which are incorporated by reference into this  
18 chapter.

19 (i) Notwithstanding the provisions of section 353(f)  
20 of the Tax Reform Code of 1971, the Department of Revenue  
21 may permit the proper officer or an authorized agent of a  
22 school district imposing a personal income tax pursuant  
23 to this chapter to inspect the tax returns of any  
24 taxpayer of the school district or may furnish to the  
25 officer or an authorized agent an abstract of the return  
26 of income of any current or former resident of the school  
27 district or supply information concerning any item of  
28 income contained in any tax return. The officer or  
29 authorized agent of the school district imposing a tax  
30 under this chapter shall be furnished the requested  
31 information upon payment to the Department of Revenue of  
32 the actual cost of providing the requested information.

33 (ii) (A) Except for official purposes or as  
34 provided by law, it shall be unlawful for any officer  
35 or authorized agent of a school district to do any of  
36 the following:

37 (I) Disclose to any other individual or  
38 entity the amount or source of income, profits,  
39 losses, expenditures or any particular  
40 information concerning income, profits, losses or  
41 expenditures contained in any return.

42 (II) Permit any other individual or entity  
43 to view or examine any return or copy of a return  
44 or any book containing any abstract or  
45 particulars.

46 (III) Print, publish or publicize in any  
47 manner any return; any particular information  
48 contained in or concerning the return; any amount  
49 or source of income, profits, losses or  
50 expenditures in or concerning the return; or any  
51 particular information concerning income,

1 profits, losses or expenditures contained in or  
2 relating to any return.

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

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

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

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

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

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

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

22 Section 306. Referendum.

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

27 (b) Approved by electorate.--

28 (1) Subject to notice and public hearing requirements of  
29 subsection (g), a governing body may levy the personal income  
30 tax or earned income and net profits tax under this chapter  
31 only by obtaining the approval of the electorate of the  
32 affected school district in a public referendum at only the  
33 primary election preceding the fiscal year when the personal  
34 income tax or earned income and net profits tax will be  
35 initially imposed or the rate increased.

36 (2) The referendum question must state the initial rate  
37 of the proposed personal income tax or earned income and net  
38 profits tax, the purpose of the tax, the duration of the tax  
39 and the amount of revenue to be generated by the  
40 implementation of the tax.

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

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

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

50 (4) A nonlegal interpretative statement must accompany  
51 the question in accordance with section 201.1 of the act of

1 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania  
2 Election Code, that includes the following:

3 (i) the initial rate of the personal income or  
4 earned income and net profits tax imposed under this  
5 chapter; and

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

8 (c) School district located in more than one county.--In the  
9 event a school district is located in more than one county,  
10 petitions under this section shall be filed with the election  
11 officials of the county in which the administrative offices of  
12 the school district are located.

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

17 (e) Notification.--

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

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

29 (f) Certification of results.--Election officials from each  
30 county involved shall independently certify the results from  
31 their county to the governing body.

32 (g) Adoption of resolution.--

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

36 (2) Prior to adopting a resolution imposing the tax  
37 authorized by this section, the governing body shall give  
38 public notice of its intent to adopt the resolution in the  
39 manner provided by The Local Tax Enabling Act and shall  
40 conduct at least two public hearings regarding the proposed  
41 adoption of the resolution. One public hearing shall be  
42 conducted during normal business hours and one public hearing  
43 shall be conducted during evening hours or on a weekend.

44 Section 307. Continuity of tax.

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

49 Section 308. Collections.

50 Any income tax imposed under this chapter shall be subject to  
51 the provisions for collection and delinquency found in The Local



1 Tax Enabling Act.

2 Section 309. Credits.

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

7 (b) Limitation.--Payment of any tax on income to any state  
8 other than Pennsylvania or to any political subdivision located  
9 outside the boundaries of this Commonwealth by a resident of a  
10 school district located in this Commonwealth shall not be  
11 credited to and allowed as a deduction from the liability of  
12 such person for any income tax imposed by the school district of  
13 residence pursuant to this chapter.

14 Section 310. Exemption and special provisions.

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

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

22 Section 311. Regulations.

23 A school district that imposes:

24 (1) an earned income and net profits tax authorized  
25 under section 305(c) shall be subject to the provisions of  
26 The Local Tax Enabling Act and may adopt procedures for the  
27 processing of claims for credits and exemptions under section  
28 309 and 310; or

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

#### 33 CHAPTER 4

#### 34 EDUCATION TAX

35 Section 401. Education tax.

36 (a) General rule.--In addition to the tax collected under  
37 section 302 of the Tax Reform Code of 1971, the Commonwealth  
38 shall impose and administer the tax set forth in subsection (b)  
39 in the same manner as the tax under Article III of the Tax  
40 Reform Code of 1971.

41 (b) Imposition of tax.--

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

48 (2) Every nonresident individual, estate or trust shall  
49 be subject to, and shall pay for the privilege of receiving  
50 each of the classes of income enumerated in section 303 of  
51 the Tax Reform Code of 1971 from sources within this

1 Commonwealth, a tax upon each dollar of income received by  
2 that nonresident during that nonresident's taxable year at  
3 the rate of 1.88%.

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

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

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

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

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

## 18 CHAPTER 7

### 19 SALES AND USE TAX FOR THE 20 STABILIZATION OF EDUCATION FUNDING

#### 21 SUBCHAPTER A

#### 22 PRELIMINARY PROVISIONS

23 Section 700. Scope.

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

29 Section 701. Definitions.

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

33 (a) "Soft drinks."

34 (1) All nonalcoholic beverages, whether carbonated or  
35 not, such as soda water, ginger ale, Coca Cola, lime cola,  
36 Pepsi Cola, Dr Pepper, fruit juice when plain or carbonated  
37 water, flavoring or syrup is added, carbonated water,  
38 orangeade, lemonade, root beer or any and all preparations,  
39 commonly referred to as soft drinks, of whatsoever kind, and  
40 are further described as including any and all beverages,  
41 commonly referred to as soft drinks, which are made with or  
42 without the use of any syrup.

43 (2) The term does not include natural fruit or vegetable  
44 juices or their concentrates, or noncarbonated fruit juice  
45 drinks containing not less than 25% by volume of natural  
46 fruit juices or of fruit juice which has been reconstituted  
47 to its original state, or natural concentrated fruit or  
48 vegetable juices reconstituted to their original state,  
49 whether any of the natural juices are frozen or unfrozen,  
50 sweetened or unsweetened, seasoned with salt or spice or  
51 unseasoned. The term also does not include coffee, coffee

1 substitutes, tea, cocoa, natural fluid milk or noncarbonated  
2 drinks made from milk derivatives.

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

4 (1) Having, maintaining or using within this  
5 Commonwealth, either directly or through a subsidiary,  
6 representative or an agent, an office, distribution house,  
7 sales house, warehouse, service enterprise or other place of  
8 business; or any agent of general or restricted authority, or  
9 representative, irrespective of whether the place of  
10 business, representative or agent is located in this  
11 Commonwealth, permanently or temporarily, or whether the  
12 person or subsidiary maintaining the place of business,  
13 representative or agent is authorized to do business within  
14 this Commonwealth.

15 (1.1) Providing taxable services.

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

30 (3) Regularly or substantially soliciting orders within  
31 this Commonwealth in connection with the lease, sale or  
32 delivery of tangible personal property to or the performance  
33 thereon of services or in connection with the sale or  
34 delivery of the services described in subclauses (11) through  
35 (18) of clause (k) of this section for residents of this  
36 Commonwealth by means of catalogs or other advertising,  
37 whether the orders are accepted within or without this  
38 Commonwealth.

39 (3.1) Entering this Commonwealth by any person to  
40 provide assembly, service or repair of tangible personal  
41 property, either directly or through a subsidiary,  
42 representative or an agent.

43 (3.2) Delivering tangible personal property to locations  
44 within this Commonwealth if the delivery includes the  
45 unpacking, positioning, placing or assembling of the tangible  
46 personal property.

47 (3.3) Having any contact within this Commonwealth which  
48 would allow the Commonwealth to require a person to collect  
49 and remit tax under the Constitution of the United States.

50 (3.4) Providing a customer's mobile telecommunications  
51 service deemed to be provided by the customer's home service

1 provider under the Mobile Telecommunications Sourcing Act (4  
2 U.S.C. § 116). For purposes of this clause, words and phrases  
3 used in this clause shall have the meanings given to them in  
4 the Mobile Telecommunications Sourcing Act.

5 (4) The term does not include:

6 (i) Owning or leasing of tangible or intangible  
7 property by a person who has contracted with an  
8 unaffiliated commercial printer for printing, provided  
9 that:

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

12 (B) the property is located at the Pennsylvania  
13 premises of the commercial printer.

14 (ii) Visits by a person's employees or agents to the  
15 premises in this Commonwealth of an unaffiliated  
16 commercial printer with whom the person has contracted  
17 for printing in connection with said contract.

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

24 (1) Every operation commencing with the first production  
25 stage and ending with the completion of tangible personal  
26 property having the physical qualities, including packaging,  
27 if any, passing to the ultimate consumer, which it has when  
28 transferred by the manufacturer to another. For purposes of  
29 this definition, "operation" includes clean rooms and their  
30 component systems, including: environmental control systems,  
31 antistatic vertical walls and manufacturing platforms and  
32 floors which are independent of the real estate; process  
33 piping systems; specialized lighting systems; deionized water  
34 systems; process vacuum and compressed air systems; process  
35 and specialty gases; and alarm or warning devices  
36 specifically designed to warn of threats to the integrity of  
37 the product or people. For purposes of this definition, a  
38 "clean room" is a location with a self-contained, sealed  
39 environment with a controlled, closed air system independent  
40 from the facility's general environmental control system.

41 (2) The publishing of books, newspapers, magazines and  
42 other periodicals and printing.

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

47 (4) Building, rebuilding, repairing and making additions  
48 to, or replacements in or upon vessels designed for  
49 commercial use of registered tonnage of 50 tons or more when  
50 produced on special order of the purchaser, or when rebuilt,  
51 repaired or enlarged, or when replacements are made upon

1 order of or for the account of the owner.

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

4 (i) product or utility service; or

5 (ii) method of producing a product or utility  
6 service,

7 but in either case not including market research or research  
8 having as its objective the improvement of administrative  
9 efficiency.

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

17 (7) Remanufacture or retrofit by a manufacturer or  
18 remanufacturer of aircraft, armored vehicles, other defense-  
19 related vehicles having a finished value of at least \$50,000.  
20 Remanufacture or retrofit involves the disassembly of such  
21 aircraft, vehicles, parts or components, including electric  
22 or electronic components, the integration of those parts and  
23 components with other used or new parts or components,  
24 including the salvaging, recycling or reclaiming of the used  
25 parts or components and the assembly of the new or used  
26 aircraft, vehicles, parts or components. For purposes of this  
27 clause, the following terms or phrases have the following  
28 meanings:

29 (i) "aircraft" means fixed-wing aircraft,  
30 helicopters, powered aircraft, tilt-rotor or tilt-wing  
31 aircraft, unmanned aircraft and gliders;

32 (ii) "armored vehicles" means tanks, armed personnel  
33 carriers and all other armed track or semitrack vehicles;  
34 and

35 (iii) "other defense-related vehicles" means trucks,  
36 truck-tractors, trailers, jeeps and other utility  
37 vehicles, including any unmanned vehicles.

38 (8) Remanufacture by a remanufacturer of locomotive  
39 parts from used parts acquired in bulk by the remanufacturer  
40 using an assembly line process which involves the complete  
41 disassembly of such parts and integration of the components  
42 of such parts with other used or new components of parts,  
43 including the salvaging, recycling or reclaiming of used  
44 parts by the remanufacturer.

45 The term does not include constructing, altering, servicing,  
46 repairing or improving real estate or repairing, servicing or  
47 installing tangible personal property, nor the producing of a  
48 commercial motion picture, nor the cooking, freezing or baking  
49 of fruits, vegetables, mushrooms, fish, seafood, meats, poultry  
50 or bakery products.

51 (c.1) "Blasting." The use of any combustible or explosive

1 composition in the removal of material resources, minerals and  
2 mineral aggregates from the earth including the separation of  
3 the dirt, waste and refuse in which they are found.

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

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

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

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

22 (3) The electroplating, galvanizing, enameling,  
23 anodizing, coloring, finishing, impregnating or heat treating  
24 of metals or plastics for sale or in the process of  
25 manufacturing.

26 (3.1) The blanking, shearing, leveling, slitting or  
27 burning of metals for sale to or use by a manufacturer or  
28 processor.

29 (4) The rolling, drawing or extruding of ferrous and  
30 nonferrous metals.

31 (5) The fabrication for sale of ornamental or structural  
32 metal or of metal stairs, staircases, gratings, fire escapes  
33 or railings, not including fabrication work done at the  
34 construction site.

35 (6) The preparation of animal feed or poultry feed for  
36 sale.

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

39 (8) The operation of a saw mill or planing mill for the  
40 production of lumber or lumber products for sale. The  
41 operation of a saw mill or planing mill begins with the  
42 unloading by the operator of the saw mill or planing mill of  
43 logs, timber, pulpwood or other forms of wood material to be  
44 used in the saw mill or planing mill.

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

46 (9.1) The aging, stripping, conditioning, crushing and  
47 blending of tobacco leaves for use as cigar filler or as  
48 components of smokeless tobacco products for sale to  
49 manufacturers of tobacco products.

50 (10) The slaughtering and dressing of animals for meat  
51 to be sold or to be used in preparing meat products for sale,

1 and the preparation of meat products including lard, tallow,  
2 grease, cooking and inedible oils for wholesale distribution.

3 (11) The processing of used lubricating oils.

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

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

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

17 (15) The preparation of dry or liquid fertilizer for  
18 sale.

19 (16) The production, processing and packaging of ice for  
20 wholesale distribution.

21 (17) The producing of mobile telecommunications  
22 services.

23 (18) The collection, washing, sorting, inspecting and  
24 packaging of eggs.

25 (e) "Person." Any natural person, association, fiduciary,  
26 partnership, corporation or other entity, including the  
27 Commonwealth of Pennsylvania, its political subdivisions and  
28 instrumentalities and public authorities. Whenever used in  
29 prescribing and imposing a penalty or imposing a fine or  
30 imprisonment, or both, the term as applied to an association,  
31 includes the members of the association and, as applied to a  
32 corporation, the officers of the corporation.

33 (f) "Purchase at retail."

34 (1) The acquisition for a consideration of the  
35 ownership, custody or possession of tangible personal  
36 property other than for resale by the person acquiring the  
37 same when the acquisition is made for the purpose of  
38 consumption or use, whether the acquisition is absolute or  
39 conditional, and by any means it is effected.

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

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

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

51 (5) The obtaining for a consideration of those services

1 described in subclauses (11) through (18) of clause (k) of  
2 this section.

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

18 (g) "Purchase price."

19 (1) The total value of anything paid or delivered, or  
20 promised to be paid or delivered, whether money or otherwise,  
21 in complete performance of a sale at retail or purchase at  
22 retail, without any deduction on account of the cost or value  
23 of the property sold, cost or value of transportation, cost  
24 or value of labor or service, interest or discount paid or  
25 allowed after the sale is consummated, any other taxes  
26 imposed by the Commonwealth or any other expense except that  
27 there shall be excluded any gratuity or separately stated  
28 deposit charge for returnable containers.

29 (2) The value of any tangible personal property actually  
30 taken in trade or exchange in lieu of the whole or any part  
31 of the purchase price shall be deducted from the purchase  
32 price. For the purpose of this clause, the amount allowed by  
33 reason of tangible personal property actually taken in trade  
34 or exchange shall be considered the value of such property.

35 (3) (i) In determining the purchase price on the sale  
36 or use of taxable tangible personal property or a service  
37 where, because of affiliation of interests between the  
38 vendor and purchaser, or irrespective of any such  
39 affiliation, if for any other reason the purchase price  
40 declared by the vendor or taxpayer on the taxable sale or  
41 use of such tangible personal property or service is, in  
42 the opinion of the department, not indicative of the true  
43 value of the article or service or the fair price  
44 thereof, the department shall, pursuant to uniform and  
45 equitable rules, determine the amount of constructive  
46 purchase price on the basis of which the tax shall be  
47 computed and levied. The rules shall provide for a  
48 constructive amount of purchase price for each sale or  
49 use which would naturally and fairly be charged in an  
50 arms-length transaction in which the element of common  
51 interest between the vendor or purchaser is absent or, if



1 no common interest exists, any other element causing a  
2 distortion of the price or value is likewise absent.

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

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

30 (5) (i) With respect to the tax imposed by section  
31 702(a)(2), on any tangible personal property originally  
32 purchased by the user of the property six months or  
33 longer prior to the first taxable use of the property  
34 within this Commonwealth, the user may elect to pay tax  
35 on a substituted base determined by considering the  
36 purchase price of the property for tax purposes to be  
37 equal to the prevailing market price of similar tangible  
38 personal property at the time and place of the first use  
39 within this Commonwealth.

40 (ii) The election must be made at the time of filing  
41 a tax return with the department and reporting the tax  
42 liability and paying the proper tax due plus all accrued  
43 penalties and interest, if any, within six months of the  
44 due date of such report and payment, as provided for by  
45 section 717(a) and (c).

46 (6) The purchase price of employment agency services and  
47 help supply services shall be the service fee paid by the  
48 purchaser to the vendor or supplying entity. The term  
49 "service fee," as used in this subclause, means the total  
50 charge or fee of the vendor or supplying entity minus the  
51 costs of the supplied employee which costs are wages,

1 salaries, bonuses and commissions, employment benefits,  
2 expense reimbursements and payroll and withholding taxes, to  
3 the extent that these costs are specifically itemized or that  
4 these costs in aggregate are stated in billings from the  
5 vendor or supplying entity. To the extent that these costs  
6 are not itemized or stated on the billings, then the service  
7 fee shall be the total charge or fee of the vendor or  
8 supplying entity.

9 (7) Unless the vendor separately states that portion of  
10 the billing which applies to premium cable service as defined  
11 in clause (11), the total bill for the provision of all cable  
12 services shall be the purchase price.

13 (8) The purchase price of prebuilt housing shall be 60%  
14 of the manufacturer's selling price, provided that a  
15 manufacturer of prebuilt housing who precollects tax from a  
16 prebuilt housing builder at the time of the sale to the  
17 prebuilt housing builder shall have the option to collect tax  
18 on 60% of the selling price or on 100% of the actual cost of  
19 the supplies and materials used in the manufacture of the  
20 prebuilt housing.

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

32 (h) "Purchaser." Any person who acquires, for a  
33 consideration, the ownership, custody or possession by sale,  
34 lease or otherwise of tangible personal property, or who obtains  
35 services in exchange for a purchase price but not including an  
36 employer who obtains services from his employees in exchange for  
37 wages or salaries when such services are rendered in the  
38 ordinary scope of their employment.

39 (i) "Resale."

40 (1) Any transfer of ownership, custody or possession of  
41 tangible personal property for a consideration, including the  
42 grant of a license to use or consume and transactions where  
43 the possession of the property is transferred but where the  
44 transferor retains title only as security for payment of the  
45 selling price whether the transaction is designated as  
46 bailment lease, conditional sale or otherwise.

47 (2) The physical incorporation of tangible personal  
48 property as an ingredient or constituent into other tangible  
49 personal property, which is to be sold in the regular course  
50 of business or the performance of those services described in  
51 subclauses (2), (3) and (4) of clause (k) upon tangible

1 personal property which is to be sold in the regular course  
2 of business or where the person incorporating the property  
3 has undertaken at the time of purchase to cause it to be  
4 transported in interstate commerce to a destination outside  
5 this Commonwealth. The term includes telecommunications  
6 services purchased by a cable operator or video programmer  
7 that are used to transport or deliver cable or video  
8 programming services which are sold in the regular course of  
9 business.

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

16 (4) The term does not include any sale of malt or brewed  
17 beverages by a retail dispenser, or any sale of liquor or  
18 malt or brewed beverages by a person holding a retail liquor  
19 license within the meaning of the act of April 12, 1951  
20 (P.L.90, No.21), known as the Liquor Code.

21 (5) The physical incorporation of tangible personal  
22 property as an ingredient or constituent in the construction  
23 of foundations for machinery or equipment the sale or use of  
24 which is excluded from tax under the provisions of paragraphs  
25 (A), (B), (C) and (D) of subclause (8) of clause (k) and  
26 subparagraphs (i), (ii), (iii) and (iv) of paragraph (B) of  
27 subclause (4) of clause (o), whether the foundations at the  
28 time of construction or transfer constitute tangible personal  
29 property or real estate.

30 (6) The sale at retail or use of services performed for  
31 resale in the ordinary course of business of the purchaser or  
32 user of such services.

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

36 (j) "Resident."

37 (1) Any natural person:

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

39 (ii) who maintains a permanent place of abode within  
40 this Commonwealth and spends in the aggregate more than  
41 60 days of the year within this Commonwealth.

42 (2) Any corporation:

43 (i) incorporated under the laws of this  
44 Commonwealth;

45 (ii) authorized to do business or doing business  
46 within this Commonwealth; or

47 (iii) maintaining a place of business within this  
48 Commonwealth.

49 (3) Any association, fiduciary, partnership or other  
50 entity:

51 (i) domiciled in this Commonwealth;

1 (ii) authorized to do business or doing business  
2 within this Commonwealth; or

3 (iii) maintaining a place of business within this  
4 Commonwealth.

5 (k) "Sale at retail."

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

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

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

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

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

23 (4) The rendition for a consideration of the service of  
24 repairing, altering, mending, pressing, fitting, dyeing,  
25 laundering, drycleaning or cleaning tangible personal  
26 property other than wearing apparel or shoes, or applying or  
27 installing tangible personal property as a repair or  
28 replacement part of other tangible personal property other  
29 than wearing apparel or shoes for a consideration, regardless  
30 of whether the services are performed directly or by any  
31 means other than by coin-operated self-service laundry  
32 equipment for wearing apparel or household goods and whether  
33 or not any tangible personal property is transferred in  
34 conjunction with the activity, except such services as are  
35 rendered in the construction, reconstruction, remodeling,  
36 repair or maintenance of real estate.

37 (5) (Reserved).

38 (6) (Reserved).

39 (7) (Reserved).

40 (8) Any retention of possession, custody or a license to  
41 use or consume tangible personal property or any further  
42 obtaining of services described in subclauses (2), (3) and  
43 (4) of this clause pursuant to a rental or service contract  
44 or other arrangement (other than as security). The term does  
45 not include:

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

48 (ii) the rendition of services or the transfer of  
49 tangible personal property, including, but not limited  
50 to, machinery and equipment and their parts and supplies  
51 to be used or consumed by the purchaser directly in the

1 operations of:

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

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

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

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

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

39 (i) construction materials, supplies or equipment  
40 used to construct, reconstruct, remodel, repair or  
41 maintain facilities not used directly by the purchaser in  
42 the production, delivering or rendition of public utility  
43 service;

44 (ii) construction materials, supplies or equipment  
45 used to construct, reconstruct, remodel, repair or  
46 maintain a building, road or similar structure; or

47 (iii) tools and equipment used but not installed in  
48 the maintenance of facilities used directly in the  
49 production, delivering or rendition of a public utility  
50 service.

51 The exclusions provided in paragraphs (A), (B), (C) and (D)

1 do not apply to the services enumerated in clauses (k) (11)  
2 through (18) and (w) through (kk), except that the exclusion  
3 provided in this subclause for farming, dairying and  
4 agriculture shall apply to the service enumerated in clause  
5 (z).

6 (9) Where tangible personal property or services are  
7 utilized for purposes constituting a sale at retail and for  
8 purposes excluded from the definition of "sale at retail," it  
9 shall be presumed that the tangible personal property or  
10 services are utilized for purposes constituting a sale at  
11 retail and subject to tax unless the user proves to the  
12 department that the predominant purposes for which such  
13 tangible personal property or services are utilized do not  
14 constitute a sale at retail.

15 (10) The term, with respect to liquor and malt or brewed  
16 beverages, includes the sale of liquor by any Pennsylvania  
17 liquor store to any person for any purpose, and the sale of  
18 malt or brewed beverages by a manufacturer of malt or brewed  
19 beverages, distributor or importing distributor to any person  
20 for any purpose, except sales by a manufacturer of malt or  
21 brewed beverages to a distributor or importing distributor or  
22 sales by an importing distributor to a distributor within the  
23 meaning of the act of April 12, 1951 (P.L.90, No.21), known  
24 as the Liquor Code. The term does not include any sale of  
25 malt or brewed beverages by a retail dispenser or any sale of  
26 liquor or malt or brewed beverages by a person holding a  
27 retail liquor license within the meaning of and pursuant to  
28 the provisions of the Liquor Code, but shall include any sale  
29 of liquor or malt or brewed beverages other than pursuant to  
30 the provisions of the Liquor Code.

31 (11) The rendition for a consideration of lobbying  
32 services.

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

35 (13) The rendition for a consideration of secretarial or  
36 editing services.

37 (14) The rendition for a consideration of disinfecting  
38 or pest control services, building maintenance or cleaning  
39 services.

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

42 (16) (Reserved).

43 (17) The rendition for a consideration of lawn care  
44 service.

45 (18) The rendition for a consideration of self-storage  
46 service.

47 (19) The rendition for a consideration of a mobile  
48 telecommunications service.

49 (20) Except as otherwise provided under section 704, the  
50 rendition for a consideration of any service enumerated in  
51 clause (dd) when the primary objective of the purchaser is

1 the receipt of any benefit of the service performed, as  
2 distinguished from the receipt of property.

3 (l) "Storage." Any keeping or retention of tangible  
4 personal property within this Commonwealth for any purpose  
5 including the interim keeping, retaining or exercising any right  
6 or power over such tangible personal property. This term is in  
7 no way limited to the provision of self-storage service.

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

18 (1) Subscriber line charges and basic local telephone  
19 service for residential use.

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

26 In the case of any interstate or intrastate telecommunications  
27 service, any charge paid through a credit or payment mechanism  
28 which does not relate to a service address, such as a bank,  
29 travel, credit or debit card, but not including prepaid  
30 telecommunications, is deemed attributable to the address of  
31 origination of the telecommunications service.

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

34 (o) "Use."

35 (1) The exercise of any right or power incidental to the  
36 ownership, custody or possession of tangible personal  
37 property and includes, but is not limited to, transportation,  
38 storage or consumption.

39 (2) The obtaining by a purchaser of the service of  
40 printing or imprinting of tangible personal property when the  
41 purchaser furnishes, either directly or indirectly, the  
42 articles used in the printing or imprinting.

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

44 (i) washing, cleaning, waxing, polishing or  
45 lubricating of motor vehicles regardless of whether any  
46 tangible personal property is transferred to the  
47 purchaser in conjunction with the services; and

48 (ii) inspecting motor vehicles pursuant to the  
49 mandatory requirements of 75 Pa.C.S. (relating to  
50 vehicles).

51 (4) The obtaining by a purchaser of the service of

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

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

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

28 (i) The manufacture of tangible personal property.

29 (ii) Farming, dairying, agriculture, horticulture or  
30 floriculture when engaged in as a business enterprise.  
31 The term includes the propagation and raising of ranch-  
32 raised furbearing animals and the propagation of game  
33 birds for commercial purposes by holders of propagation  
34 permits issued under 34 Pa.C.S. (relating to game) and  
35 the propagation and raising of horses to be used  
36 exclusively for commercial racing activities.

37 (iii) The producing, delivering or rendering of a  
38 public utility service, or in constructing,  
39 reconstructing, remodeling, repairing or maintaining the  
40 facilities which are directly used in producing,  
41 delivering or rendering such service.

42 (iv) Processing as defined in subclause (d).

43 The exclusions provided in subparagraphs (i), (ii), (iii)  
44 and (iv) do not apply to any vehicle required to be  
45 registered under 75 Pa.C.S. (relating to vehicles) except  
46 those vehicles directly used by a public utility engaged  
47 in the business as a common carrier; to maintenance  
48 facilities; or to materials, supplies or equipment to be  
49 used or consumed in the construction, reconstruction,  
50 remodeling, repair or maintenance of real estate other  
51 than directly used machinery, equipment, parts or



1 foundations therefor that may be affixed to such real  
2 estate. The exclusions provided in subparagraphs (i),  
3 (ii), (iii) and this subparagraph do not apply to  
4 tangible personal property or services to be used or  
5 consumed in managerial sales or other nonoperational  
6 activities, nor to the purchase or use of tangible  
7 personal property or services by any person other than  
8 the person directly using the same in the operations  
9 described in subparagraphs (i), (ii), (iii) and this  
10 subparagraph. The exclusion provided in subparagraph  
11 (iii) does not apply to:

12 (A) construction materials, supplies or  
13 equipment used to construct, reconstruct, remodel,  
14 repair or maintain facilities not used directly by  
15 the purchaser in the production, delivering or  
16 rendition of public utility service; or

17 (B) tools and equipment used but not installed  
18 in the maintenance of facilities used directly in the  
19 production, delivering or rendition of a public  
20 utility service.

21 The exclusion provided in subparagraphs (i), (ii), (iii)  
22 and this subparagraph does not apply to the services  
23 enumerated in clauses (9) through (16) and (w) through  
24 (kk), except that the exclusion provided in subparagraph  
25 (ii) for farming, dairying and agriculture shall apply to  
26 the service enumerated in clause (z).

27 (5) Where tangible personal property or services are  
28 utilized for purposes constituting a use, and for purposes  
29 excluded from the definition of "use," it shall be presumed  
30 that the property or services are utilized for purposes  
31 constituting a sale at retail and subject to tax unless the  
32 user proves to the department that the predominant purposes  
33 for which the property or services are utilized do not  
34 constitute a sale at retail.

35 (6) The term, with respect to liquor and malt or brewed  
36 beverages, includes the purchase of liquor from any  
37 Pennsylvania Liquor Store by any person for any purpose and  
38 the purchase of malt or brewed beverages from a manufacturer  
39 of malt or brewed beverages, distributor or importing  
40 distributor by any person for any purpose, except purchases  
41 from a manufacturer of malt or brewed beverages by a  
42 distributor or importing distributor, or purchases from an  
43 importing distributor by a distributor within the meaning of  
44 the act of April 12, 1951 (P.L.90, No.21), known as the  
45 Liquor Code. The term does not include any purchase of malt  
46 or brewed beverages from a retail dispenser or any purchase  
47 of liquor or malt or brewed beverages from a person holding a  
48 retail liquor license within the meaning of and pursuant to  
49 the provisions of the Liquor Code, but includes the exercise  
50 of any right or power incidental to the ownership, custody or  
51 possession of liquor or malt or brewed beverages obtained by

1 the person exercising the right or power in any manner other  
2 than pursuant to the provisions of the Liquor Code.

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

7 (8) (Reserved).

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

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

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

13 (12) The obtaining by the purchaser of disinfecting or  
14 pest control services, building maintenance or cleaning  
15 services.

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

18 (14) (Reserved).

19 (15) The obtaining by the purchaser of lawn care  
20 service.

21 (16) The obtaining by the purchaser of self-storage  
22 service.

23 (17) The obtaining by a construction contractor of  
24 tangible personal property or services provided to tangible  
25 personal property which will be used pursuant to a  
26 construction contract regardless of whether the tangible  
27 personal property or services are transferred.

28 (18) The obtaining of mobile telecommunications service  
29 by a customer.

30 (19) Except as otherwise provided under section 704, the  
31 obtaining by the purchaser of any service enumerated in  
32 clause (dd) when the primary objective of the purchaser is  
33 the receipt of any benefit of the service performed, as  
34 distinguished from the receipt of property.

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

41 (q) "NAICS." The 2012 North American Industry  
42 Classification System developed by the Federal Office of  
43 Management and Budget and published at 76 Fed. Reg. 159 (Aug.  
44 17, 2011) or its successor revision.

45 (r) "Gratuity." Any amount paid or remitted for services  
46 performed in conjunction with any sale of food or beverages, or  
47 hotel or motel accommodations which amount is in excess of the  
48 charges and the tax for such food, beverages or accommodations  
49 regardless of the method of billing or payment.

50 (s) "Commercial aircraft operator." A person, excluding a  
51 scheduled airline who engages in any or all of the following:

1 charter of aircraft, leasing of aircraft, aircraft sales,  
2 aircraft rental, flight instruction, air freight or any other  
3 flight activities for compensation.

4 (t) "Transient vendor."

5 (1) Any person who:

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

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

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

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

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

28 (u) "Promoter." A person who either, directly or  
29 indirectly, rents, leases or otherwise operates or grants  
30 permission to any person to use space at a show for the display  
31 for sale or for the sale of tangible personal property or  
32 services subject to tax under section 702.

33 (v) "Show." An event, the primary purpose of which involves  
34 the display or exhibition of any tangible personal property or  
35 services for sale, including, but not limited to, a flea market,  
36 antique show, coin show, stamp show, comic book show, hobby  
37 show, automobile show, fair or any similar show, whether held  
38 regularly or of a temporary nature, at which more than one  
39 vendor displays for sale or sells tangible personal property or  
40 services subject to tax under section 702.

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

44 (x) "Adjustment services, collection services or credit  
45 reporting services." Providing collection or adjustments of  
46 accounts receivable or mercantile or consumer credit reporting,  
47 including, but not limited to, services of the type provided by  
48 adjustment bureaus or collection agencies, consumer or  
49 mercantile credit reporting bureaus, credit bureaus or agencies,  
50 credit clearinghouses or credit investigation services. The term  
51 does not include providing credit card service with collection

1 by a central agency, providing debt counseling or adjustment  
2 services to individuals or billing or collection services  
3 provided by local exchange telephone companies.

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

8 (z) "Disinfecting or pest control services." Providing  
9 disinfecting, termite control, insect control, rodent control or  
10 other pest control services. The term includes, but is not  
11 limited to, deodorant servicing of rest rooms, washroom  
12 sanitation service, rest room cleaning service, extermination  
13 service or fumigating service. As used in this clause, the term  
14 "fumigating service" does not include the fumigation of  
15 agricultural commodities or containers used for agricultural  
16 commodities. As used in this clause, the term "insect control"  
17 does not include the gypsy moth control spraying of trees which  
18 are harvested for commercial purposes.

19 (aa) "Building maintenance or cleaning services." Providing  
20 services which include, but are not limited to, janitorial, maid  
21 or housekeeping service, office or interior building cleaning or  
22 maintenance service, window cleaning service, floor waxing  
23 service, lighting maintenance service such as bulb replacement,  
24 cleaning, chimney cleaning service, acoustical tile cleaning  
25 service, venetian blind cleaning, cleaning and maintenance of  
26 telephone booths or cleaning and degreasing of service stations.  
27 The term does not include: repairs on buildings and other  
28 structures; the maintenance or repair of boilers, furnaces and  
29 residential air conditioning equipment or their parts; the  
30 painting, wallpapering or applying other like coverings to  
31 interior walls, ceilings or floors; or the exterior painting of  
32 buildings.

33 (bb) "Employment agency services." Providing employment  
34 services to a prospective employer or employee other than  
35 employment services provided by theatrical employment agencies  
36 and motion picture casting bureaus. The term includes, but is  
37 not limited to, services of the type provided by employment  
38 agencies, executive placing services and labor contractor  
39 employment agencies other than farm labor.

40 (cc) "Help supply services." Providing temporary or  
41 continuing help where the help supplied is on the payroll of the  
42 supplying person or entity, but is under the supervision of the  
43 individual or business to which help is furnished. The term  
44 includes, but is not limited to, service of a type provided by  
45 labor and manpower pools, employee leasing services, office help  
46 supply services, temporary help services, usher services,  
47 modeling services or fashion show model supply services. The  
48 term does not include: providing farm labor services or human  
49 health-related services, including nursing, home health care and  
50 personal care. As used in this clause, "personal care" shall  
51 include providing at least one of the following types of

1 assistance to persons with limited ability for self-care:  
2 (1) dressing, bathing or feeding;  
3 (2) supervising self-administered medication;  
4 (3) transferring a person to or from a bed or  
5 wheelchair; or  
6 (4) routine housekeeping chores when provided in  
7 conjunction with and supplied by the same provider of the  
8 assistance listed in subclause (1), (2) or (3).

9 (dd) "NAICS taxable services." Any service performed in  
10 this Commonwealth as defined in the following subsectors and  
11 industries of the revised 2012 NAICS developed by the Federal  
12 Office of Management and Budget and published at 76 Fed. Reg.  
13 159 (Aug. 17, 2011) or its successor revision:

14 481, for intrastate transport of persons  
15 482, for intrastate transport of persons  
16 483, for intrastate transport of persons  
17 4851, for intrastate transport of persons  
18 4852, for intrastate transport of persons  
19 4853, for intrastate transport of persons  
20 4855, for intrastate transport of persons  
21 4859, for intrastate transport of persons  
22 487  
23 48841  
24 5111  
25 5112  
26 5121  
27 512131  
28 512132  
29 523930  
30 541  
31 5611  
32 5612  
33 5613  
34 5614  
35 5615  
36 5619  
37 5621

38 Nontuition and non-housing-related charges imposed by the  
39 following industries: 6112, 6113, 6114, 6115 and 6116

40 6216, 6219, 6231, 6232, 6233, 6239, 6241, 6242, 6243,  
41 unless provided by a nonprofit organization  
42 6244

43 7111, unless imposed by industry 611110 or a nonprofit  
44 corporation or nonprofit unincorporated association under the  
45 laws of this Commonwealth or the United States or any entity  
46 that is authorized to do business in this Commonwealth as a  
47 nonprofit corporation or unincorporated association under the  
48 laws of this Commonwealth, including a youth or athletic,  
49 volunteer fire, ambulance, religious, charitable, fraternal,  
50 veterans or civic association or any separately chartered  
51 auxiliary of the foregoing and operated on a nonprofit basis

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

10 7113

11 7114

12 712

13 7131

14 7139

15 7212

16 7224

17 8121

18 8122

19 8123

20 8129

21 (ee) (Reserved).

22 (ff) (Reserved).

23 (gg) (Reserved).

24 (hh) (Reserved).

25 (ii) (Reserved).

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

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

34 (1) safe deposit boxes by financial institutions;

35 (2) storage in refrigerator or freezer units;

36 (3) storage in commercial warehouses;

37 (4) facilities for goods distribution; and

38 (5) lockers in airports, bus stations, museums and other  
39 public places.

40 (ll) "Cable or video programming service." Cable television  
41 services, video programming services, community antenna  
42 television services or any other distribution of television,  
43 video, audio or radio services which is transmitted with or  
44 without the use of wires to purchasers.

45 If a purchaser receives or agrees to receive cable or video  
46 programming service, then the following charges are included in  
47 the purchase price: charges for installation or repair of any  
48 cable or video programming service, upgrade to include  
49 additional premium cable or premium video programming service,  
50 downgrade to exclude all or some premium cable or premium video  
51 programming service, additional cable outlets in excess of ten

1 or any other charge or fee related to cable or video programming  
2 services. The term does not apply to: transmissions by public  
3 television, public radio services or official Federal, State or  
4 local government cable services; local origination programming  
5 which provides a variety of public service programs unique to  
6 the community, programming which provides coverage of public  
7 affairs issues which are presented without commentary or  
8 analysis, including United States Congressional proceedings, or  
9 programming which is substantially related to religious  
10 subjects; or subscriber charges for access to a video dial tone  
11 system or charges by a common carrier to a video programmer for  
12 the transport of video programming.

13 (mm) (Reserved).

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

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

22 (pp) "Building machinery and equipment." Generation  
23 equipment, storage equipment, conditioning equipment,  
24 distribution equipment and termination equipment, limited to the  
25 following:

26 (1) air conditioning limited to heating, cooling,  
27 purification, humidification, dehumidification and  
28 ventilation;

29 (2) electrical;

30 (3) plumbing;

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

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

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

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

38 (8) laboratory system;

39 (9) cathodic protection system; or

40 (10) furniture, cabinetry and kitchen equipment.

41 The term includes boilers, chillers, air cleaners, humidifiers,  
42 fans, switchgear, pumps, telephones, speakers, horns, motion  
43 detectors, dampers, actuators, grills, registers, traffic  
44 signals, sensors, card access devices, guardrails, medial  
45 devices, floor troughs and grates and laundry equipment,  
46 together with integral coverings and enclosures, regardless of  
47 whether: the item constitutes a fixture or is otherwise affixed  
48 to the real estate; damage would be done to the item or its  
49 surroundings on removal; or the item is physically located  
50 within a real estate structure. The term does not include  
51 guardrail posts, pipes, fittings, pipe supports and hangers,

1 valves, underground tanks, wire, conduit, receptacle and  
2 junction boxes, insulation, ductwork and coverings.

3 (qq) "Real estate structure." A structure or item purchased  
4 by a construction contractor pursuant to a construction contract  
5 with:

6 (1) a charitable organization, a volunteer firemen's  
7 organization, a nonprofit educational institution or a  
8 religious organization for religious purposes and which  
9 qualifies as an institution of purely public charity under  
10 the act of November 26, 1997 (P.L.508, No.55), known as the  
11 Institutions of Purely Public Charity Act;

12 (2) the United States; or

13 (3) the Commonwealth, its instrumentalities or political  
14 subdivisions.

15 The term includes building machinery and equipment; developed or  
16 undeveloped land; streets; roads; highways; parking lots;  
17 stadiums and stadium seating; recreational courts; sidewalks;  
18 foundations; structural supports; walls; floors; ceilings;  
19 roofs; doors; canopies; millwork; elevators; windows and  
20 external window coverings; outdoor advertising boards or signs;  
21 airport runways; bridges; dams; dikes; traffic control devices,  
22 including traffic signs; satellite dishes; antennas; guardrail  
23 posts; pipes; fittings; pipe supports and hangers; valves;  
24 underground tanks; wire; conduit; receptacle and junction boxes;  
25 insulation; ductwork and coverings; and any structure or item  
26 similar to any of the foregoing, regardless of whether the  
27 structure or item constitutes a fixture or is affixed to the  
28 real estate; or damage would be done to the structure or item or  
29 its surroundings on removal.

30 (rr) "Telecommunications service." Any one-way transmission  
31 or any two-way, interactive transmission of sounds, signals or  
32 other intelligence converted to like form which effects or is  
33 intended to effect meaningful communications by electronic or  
34 electromagnetic means via wire, cable, satellite, light waves,  
35 microwaves, radio waves or other transmission media. The term  
36 includes all types of telecommunication transmissions, local,  
37 toll, wide-area or any other type of telephone service; private  
38 line service; telegraph service; radio repeater service;  
39 wireless communication service; personal communications system  
40 service; cellular telecommunication service; specialized mobile  
41 radio service; stationary two-way radio service; and paging  
42 service. The term does not include any of the following:

43 (1) Subscriber charges for access to a video dial tone  
44 system.

45 (2) Charges to video programmers for the transport of  
46 video programming.

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

49 (i) The transport over the Internet or any  
50 proprietary network using the Internet protocol of  
51 telephone calls, facsimile transmissions or other



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

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

8 (4) Mobile telecommunications services.

9 (ss) "Internet." The international nonproprietary computer  
10 network of both Federal and non-Federal interoperable packet  
11 switched data networks.

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

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

17 (2) Fair racing sanctioned by the State Harness Racing  
18 Commission.

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

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

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

29 (2) Industrialized housing as defined in the act of May  
30 11, 1972 (P.L.286, No.70), known as the Industrialized  
31 Housing Act.

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

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

36 (yy) "Prebuilt housing sale." A sale of prebuilt housing to  
37 a prebuilt housing purchaser, including a sale to a landlord,  
38 without regard to whether the person making the sale is  
39 responsible for installing the prebuilt housing or whether the  
40 prebuilt housing becomes a real estate structure upon  
41 installation. Temporary installation by a prebuilt housing  
42 builder for display purposes of a unit held for resale shall not  
43 be considered occupancy for residential purposes.

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

47 (aaa) "Mobile telecommunications service." Mobile  
48 telecommunications service as that term is defined in the Mobile  
49 Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C. §  
50 116 et seq.).

51 (bbb) "Fiscal Code." The act of April 9, 1929 (P.L.343,

1 No.176), known as The Fiscal Code.  
2 (ccc) "Prepaid mobile telecommunications service." Mobile  
3 telecommunications service which is paid for in advance and  
4 which enables the origination of calls using an access number,  
5 authorization code or both, regardless of whether manually or  
6 electronically dialed, if the remaining amount of units of the  
7 prepaid mobile telecommunications service is known by the  
8 service provider of the prepaid mobile telecommunications  
9 service on a continuous basis. The term does not include the  
10 advance purchase of mobile telecommunications service if the  
11 purchase is pursuant to a service contract between the service  
12 provider and customer and if the service contract requires the  
13 customer to make periodic payments to maintain the mobile  
14 telecommunications service.

15 (ddd) (Reserved).

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

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

26 (ggg) "Clothing." All vesture, wearing apparel, raiments,  
27 garments, footwear and other articles of clothing, including  
28 clothing patterns and items that are to be a component part of  
29 clothing, worn or carried on or about the human body including,  
30 but not limited to, all accessories, ornamental wear, formal day  
31 or evening apparel and articles made of fur on the hide or pelt  
32 or any material imitative of fur and articles of which such fur,  
33 real, imitation or synthetic, is the component material of chief  
34 value, but only if such value is more than three times the value  
35 of the next most valuable component material, and sporting goods  
36 and clothing not normally used or worn when not engaged in  
37 sports.

38 (hhh) "Food and beverages." All food and beverages for  
39 human consumption.

40 SUBCHAPTER B  
41 SALES AND USE TAX

42 Section 702. Imposition of tax.

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

45 (1) There is hereby imposed on each separate sale at  
46 retail of tangible personal property or services in this  
47 Commonwealth a tax of 7% of the purchase price, which tax  
48 shall be collected by the vendor from the purchaser, and  
49 shall be paid over to the Commonwealth as provided in this  
50 chapter.

51 (2) There is hereby imposed on the use in this

1 Commonwealth of tangible personal property purchased at  
2 retail and on those services purchased at retail a tax of 7%  
3 of the purchase price, which tax shall be paid to the  
4 Commonwealth by the person who makes such use as provided  
5 under this chapter, except that the tax shall not be paid to  
6 the Commonwealth by the person where the person has paid the  
7 tax imposed by paragraph (1) or has paid the tax imposed by  
8 this subsection to the vendor with respect to the use.

9 (b) General sourcing rules.--

10 (1) All sales of products shall be sourced according to  
11 this subsection by sellers obligated to collect sales and use  
12 tax under this chapter. The sourcing rules described in this  
13 subsection apply to sales of tangible personal property,  
14 digital goods and all services other than telecommunications  
15 services. This subsection only applies to determine a  
16 seller's obligation to pay or collect and remit a sales or  
17 use tax with respect to the seller's sale of a product. This  
18 subsection does not affect the obligation of a purchaser or  
19 lessee to remit tax on the use of the product to the taxing  
20 jurisdictions in which the use occurs. A seller's obligation  
21 to collect sales tax or use tax under this chapter only  
22 occurs if the sale is sourced to this State. Whether sales  
23 tax to a sale source to the Commonwealth shall be determined  
24 based on the location at which the sale is consummated by  
25 delivery or, in the case of a service, where the first use of  
26 the service occurs.

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

29 (i) When the product is received by the purchaser at  
30 a business location of the seller, the sale is sourced to  
31 that business location.

32 (ii) When the product is not received by the  
33 purchaser at a business location of the seller, the sale  
34 is sourced to the location where receipt by the purchaser  
35 or the purchaser's donee, designated such by the  
36 purchaser, occurs, including the location indicated by  
37 instructions for delivery to the purchaser or donee,  
38 known to the seller.

39 (iii) When subparagraphs (i) and (ii) do not apply,  
40 the sale is sourced to the location indicated by an  
41 address for the purchaser that is available from the  
42 business records of the seller that are maintained in the  
43 ordinary course of the seller's business when use of this  
44 address does not constitute bad faith.

45 (iv) When subparagraphs (i), (ii) and (iii) do not  
46 apply, the sale is sourced to the location indicated by  
47 an address for the purchaser obtained during the  
48 consummation of the sale, including the address of a  
49 purchaser's payment instrument, if no other address is  
50 available, when use of this address does not constitute  
51 bad faith.

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

12 (c) Telecommunications service.--

13 (1) Notwithstanding any other provisions of this  
14 chapter, the tax with respect to telecommunications service  
15 within the meaning of "tangible personal property" in section  
16 701 shall be computed at the rate of 7% on the total amount  
17 charged to customers for the services, irrespective of  
18 whether such charge is based on a flat rate or on a message  
19 unit charge.

20 (2) A telecommunications service provider shall have no  
21 responsibility or liability to the Commonwealth for billing,  
22 collecting or remitting taxes that apply to services,  
23 products or other commerce sold over telecommunications lines  
24 by third-party vendors.

25 (3) To prevent actual multistate taxation of interstate  
26 telecommunications service, any taxpayer, on proof that the  
27 taxpayer has paid a similar tax to another state on the same  
28 interstate telecommunications service, shall be allowed a  
29 credit against the tax imposed by this section on the same  
30 interstate telecommunications service to the extent of the  
31 amount of the tax properly due and paid to the other state.

32 (4) With respect to interstate telecommunications  
33 services, only services for interstate telecommunications  
34 which originate or are terminated in this Commonwealth and  
35 which are billed and charged to a service address in this  
36 Commonwealth shall be presumed to have been performed  
37 completely in this Commonwealth and shall be subject to tax  
38 under this chapter.

39 (d) Coin-operated vending machines.--Notwithstanding any  
40 other provisions of this chapter, the sale or use of food and  
41 beverages dispensed by means of coin-operated vending machines  
42 shall be taxed at the rate of 7% of the receipts collected from  
43 any coin-operated vending machine which dispenses food and  
44 beverages.

45 (e) Prepaid telecommunications.--

46 (1) Notwithstanding any provisions of this chapter, the  
47 sale or use of prepaid telecommunications evidenced by the  
48 transfer of tangible personal property shall be subject to  
49 the tax imposed by subsection (a).

50 (2) The sale or use of prepaid telecommunications not  
51 evidenced by the transfer of tangible personal property shall

1 be subject to the tax imposed by subsection (a) and shall be  
2 deemed to occur at the purchaser's billing address.

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

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

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

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

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

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

31 (ii) The service provider shall notify the  
32 department of its election and shall collect the tax on  
33 receipts of each sale until the service provider notifies  
34 the department otherwise.

35 (f) Prebuilt housing.--

36 (1) Notwithstanding any other provision of this chapter,  
37 tax with respect to sales of prebuilt housing shall be  
38 imposed on the prebuilt housing builder at the time of the  
39 prebuilt housing sale within this Commonwealth and shall be  
40 paid and reported by the prebuilt housing builder to the  
41 department in the time and manner provided in this chapter.

42 (2) A manufacturer of prebuilt housing may, at its  
43 option, precollect the tax from the prebuilt housing builder  
44 at the time of sale to the prebuilt housing builder.

45 (3) In any case where prebuilt housing is purchased and  
46 the tax is not paid by the prebuilt housing builder or  
47 precollected by the manufacturer, the prebuilt housing  
48 purchaser shall remit tax directly to the department if the  
49 prebuilt housing is used in this Commonwealth without regard  
50 to whether the prebuilt housing becomes a real estate  
51 structure.

1 (g) Home service providers.--

2 (1) Notwithstanding any other provisions of this chapter  
3 and in accordance with the Mobile Telecommunications Sourcing  
4 Act (Public Law 106-252, 4 U.S.C. § 116 et seq.), the sale or  
5 use of mobile telecommunications services which are deemed to  
6 be provided to a customer by a home service provider under 4  
7 U.S.C. § 117 (relating to sourcing rules) shall be subject to  
8 the tax of 7% of the purchase price, which tax shall be  
9 collected by the home service provider from the customer, and  
10 shall be paid over to the Commonwealth as provided in this  
11 chapter if the customer's place of primary use is located  
12 within this Commonwealth, regardless of where the mobile  
13 telecommunications services originate, terminate or pass  
14 through.

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

18 Section 703. Computation of tax.

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

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

23 (2) If the purchase price is 8¢ or more but less than  
24 22¢, 1¢ shall be collected.

25 (3) If the purchase price is 22¢ or more but less than  
26 36¢, 2¢ shall be collected.

27 (4) If the purchase price is 36¢ or more but less than  
28 50¢, 3¢ shall be collected.

29 (5) If the purchase price is 50¢ or more but less than  
30 65¢, 4¢ shall be collected.

31 (6) If the purchase price is 65¢ or more but less than  
32 79¢, 5¢ shall be collected.

33 (7) If the purchase price is 79¢ or more but less than  
34 93¢, 6¢ shall be collected.

35 (8) If the purchase price is 93¢ or more but less than  
36 \$1.07, seven percent of each dollar of purchase price plus  
37 the above tax bracket charges upon any fractional part of a  
38 dollar in excess of even dollars shall be collected.

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

#### 42 SUBCHAPTER C

#### 43 EXCLUSIONS FROM SALES AND USE TAX

44 Section 704. Exclusions from tax.

45 The tax imposed by section 702 shall not be imposed upon any  
46 of the following:

47 (1) The sale at retail or use of tangible personal  
48 property (other than motor vehicles, trailers, semi-trailers,  
49 motor boats, aircraft or other similar tangible personal  
50 property required under either Federal law or laws of this  
51 Commonwealth to be registered or licensed) or services sold

1 by or purchased from a person not a vendor in an isolated  
2 transaction or sold by or purchased from a person who is a  
3 vendor but is not a vendor with respect to the tangible  
4 personal property or services sold or purchased in such  
5 transaction, provided that inventory and stock in trade so  
6 sold or purchased shall not be excluded from the tax by the  
7 provisions of this subsection.

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

14 (3) (i) The use of tangible personal property purchased  
15 outside this Commonwealth for use outside this  
16 Commonwealth by a then nonresident natural person or a  
17 business entity not actually doing business within this  
18 Commonwealth, who later brings the tangible personal  
19 property into this Commonwealth in connection with the  
20 person's or entity's establishment of a permanent  
21 business or residence in this Commonwealth, provided that  
22 the property was purchased more than six months prior to  
23 the date it was first brought into this Commonwealth or  
24 prior to the establishment of the business or residence,  
25 whichever first occurs.

26 (ii) This paragraph shall not apply to tangible  
27 personal property temporarily brought into this  
28 Commonwealth for the performance of contracts for the  
29 construction, reconstruction, remodeling, repairing and  
30 maintenance of real estate.

31 (4) (Reserved).

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

36 (6) (Reserved).

37 (7) (Reserved).

38 (8) (Reserved).

39 (9) (Reserved).

40 (10) (i) The sale at retail to or use by any charitable  
41 organization, volunteer firefighters' organization or  
42 nonprofit educational institution or a religious  
43 organization for religious purposes of tangible personal  
44 property or services other than pursuant to a  
45 construction contract.

46 (ii) This paragraph shall not apply with respect to  
47 any tangible personal property or services used in any  
48 unrelated trade or business carried on by the  
49 organization or institution or with respect to any  
50 materials, supplies and equipment used and transferred to  
51 the organization or institution in the construction,

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

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

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

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

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

24 (13) The sale at retail, or use of wrapping paper,  
25 wrapping twine, bags, cartons, tape, rope, labels,  
26 nonreturnable containers and all other wrapping supplies,  
27 when such use is incidental to the delivery of any personal  
28 property, except that any charge for wrapping or packaging  
29 shall be subject to tax at the rate imposed by section 702.

30 (14) Sale at retail or use of vessels designed for  
31 commercial use of registered tonnage of 50 tons or more when  
32 produced by the builders thereof upon special order of the  
33 purchaser.

34 (15) Sale at retail of tangible personal property or  
35 services used or consumed in building, rebuilding, repairing  
36 and making additions to or replacements in and upon vessels  
37 designed for commercial use of registered tonnage of 50 tons  
38 or more upon special order of the purchaser, or when rebuilt,  
39 repaired or enlarged, or when replacements are made upon  
40 order of or for the account of the owner.

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

47 (17) The sale at retail or use of prescription  
48 medicines, drugs or medical supplies, crutches and  
49 wheelchairs for the use of persons with disabilities and  
50 invalids, artificial limbs, artificial eyes and artificial  
51 hearing devices when designed to be worn on the person of the



1 purchaser or user, false teeth and materials used by a  
2 dentist in dental treatment, eyeglasses when especially  
3 designed or prescribed by an ophthalmologist, oculist or  
4 optometrist for the personal use of the owner or purchaser  
5 and artificial braces and supports designed solely for the  
6 use of persons with disabilities or any other therapeutic,  
7 prosthetic or artificial device designed for the use of a  
8 particular individual to correct or alleviate a physical  
9 incapacity, including, but not limited to, hospital beds,  
10 iron lungs and kidney machines.

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

12 (19) (Reserved).

13 (20) (Reserved).

14 (21) (Reserved).

15 (22) (Reserved).

16 (23) (Reserved).

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

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

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

26 (27) (Reserved).

27 (28) (Reserved).

28 (29) The sale at retail or use of food and beverages  
29 authorized for the Women, Infants and Children Program under  
30 section 17 of the Child Nutrition Act of 1966 (Public Law 89-  
31 642, 42 U.S.C. § 1786) as administered by the Department of  
32 Health.

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

35 (31) (Reserved).

36 (32) (Reserved).

37 (33) (Reserved).

38 (34) (Reserved).

39 (35) (Reserved).

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

42 (37) (Reserved).

43 (38) (Reserved).

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

47 (40) The sale at retail of supplies and materials to  
48 tourist promotion agencies, which receive grants from the  
49 Commonwealth, for distribution to the public as promotional  
50 material or the use of such supplies and materials by said  
51 agencies for said purposes.

1 (41) (Reserved).

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

5 (43) The sale at retail or use of buses to be used  
6 exclusively for the transportation of children for school  
7 purposes.

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

14 (45) (Reserved).

15 (46) The sale at retail or use of tangible personal  
16 property purchased in accordance with the Food Stamp Act of  
17 1977, as amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029).

18 (47) (Reserved).

19 (48) (Reserved).

20 (49) (i) The sale at retail or use of food and  
21 beverages by nonprofit associations which support sports  
22 programs.

23 (ii) The following words and phrases when used in  
24 this paragraph shall have the meanings given to them in  
25 this subparagraph unless the context clearly indicates  
26 otherwise:

27 "Nonprofit association." An entity which is  
28 organized as a nonprofit corporation or nonprofit  
29 unincorporated association under the laws of this  
30 Commonwealth or the United States or any entity which is  
31 authorized to do business in this Commonwealth as a  
32 nonprofit corporation or unincorporated association under  
33 the laws of this Commonwealth, including, but not limited  
34 to, youth or athletic associations, volunteer fire,  
35 ambulance, religious, charitable, fraternal, veterans,  
36 civic, or any separately chartered auxiliary of the  
37 foregoing, if organized and operated on a nonprofit  
38 basis.

39 "Sports program." Baseball, softball, football,  
40 basketball, soccer and any other competitive sport  
41 formally recognized as a sport by the United States  
42 Olympic Committee as specified by and under the  
43 jurisdiction of the Amateur Sports Act of 1978 (Public  
44 Law 95-606, 36 U.S.C. Ch. 2205), the Amateur Athletic  
45 Union or the National Collegiate Athletic Association.  
46 The term shall be limited to a program or that portion of  
47 a program that is organized for recreational purposes and  
48 whose activities are substantially for such purposes and  
49 which is primarily for participants who are 18 years of  
50 age or younger or whose 19th birthday occurs during the  
51 year of participation or the competitive season,

1           whichever is longer. There shall, however, be no age  
2           limitation for programs operated for persons with  
3           physical handicaps or persons with mental retardation.

4           "Support." The funds raised from sales are used to  
5           pay the expenses of a sports program or the nonprofit  
6           association sells the food and beverages at a location  
7           where a sports program is being conducted under this  
8           chapter or the Tax Reform Code of 1971.

9           (50) (Reserved).

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

18          (52) (Reserved).

19          (53) (Reserved).

20          (54) (Reserved).

21          (55) (Reserved).

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

26               (i) The equipment or devices are used by a person  
27               who, by virtue of a physical disability, is unable to  
28               ascend or descend stairs without the aid of such  
29               equipment or device.

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

32               (iii) A physician has certified the physical  
33               disability of the person in whose residence the equipment  
34               or device is installed or used.

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

38               (i) transferred pursuant to a construction contract  
39               for any charitable organization, volunteer firemen's  
40               organization, nonprofit educational institution or  
41               religious organization for religious purposes, provided  
42               that the building machinery and equipment and services  
43               thereto are not used in any unrelated trade or business;  
44               or

45               (ii) transferred to the United States or the  
46               Commonwealth or its instrumentalities or political  
47               subdivisions.

48          (58) (Reserved).

49          (59) The sale at retail or use of molds and related mold  
50          equipment used directly and predominantly in the manufacture  
51          of products, regardless of whether the person that holds

1 title to the equipment manufactures a product.

2 (60) (Reserved).

3 (61) (Reserved).

4 (62) The sale at retail or use of tangible personal  
5 property or services which are directly used in farming,  
6 dairying or agriculture when engaged in as a business  
7 enterprise, regardless of whether the sale is made to the  
8 person directly engaged in the business enterprise or to a  
9 person contracting with the person directly engaged in the  
10 business enterprise for the production of food.

11 (63) (Reserved).

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

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

22 (ii) takes place during the period when there is a  
23 declaration of disaster emergency under 35 Pa.C.S. §  
24 7301(c) (relating to general authority of Governor).

25 (65) (Reserved).

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

30 (i) "court" includes:

31 (A) an appellate court as defined in 42 Pa.C.S.  
32 § 102 (relating to definitions);

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

35 (C) the minor judiciary as defined in 42 Pa.C.S.  
36 § 102;

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

40 (iii) "official document" means a record as defined  
41 in section 102 of the Right-to-Know Law. The term shall  
42 include notes of court testimony, deposition transcripts,  
43 driving records, accident reports, birth and death  
44 certificates, deeds, divorce decrees and other similar  
45 documents.

46 (67) The sale at retail or use of repair or replacement  
47 parts, including the installation of those parts, exclusively  
48 for use in helicopters and similar rotorcraft or in  
49 overhauling or rebuilding of helicopters and similar  
50 rotorcraft or helicopters and similar rotorcraft components.

51 (68) The sale at retail or use of helicopters and

1 similar rotorcraft.

2 (69) The sale at retail or use of aircraft parts,  
3 services to aircraft and aircraft components. For purposes of  
4 this paragraph, the term "aircraft" shall include a fixed-  
5 wing aircraft, powered aircraft, tilt-rotor or tilt-wing  
6 aircraft, glider or unmanned aircraft.

7 (70) (Reserved).

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

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

14 (i) Legal services as defined by NAICS industry  
15 5411.

16 (ii) Architectural, engineering and related services  
17 as defined by NAICS industry 5413.

18 (iii) Accounting, auditing and bookkeeping services  
19 as defined by NAICS industry 5412.

20 (iv) Specialized design services as defined by NAICS  
21 industry 5414.

22 (v) Advertising, public relations and related  
23 services as defined by NAICS industry 5418.

24 (vi) Services to buildings and dwellings as defined  
25 by NAICS industry 5617.

26 (vii) Scientific, environmental and technical  
27 consulting services as defined by NAICS industry 5416.

28 (viii) Scientific research and development services  
29 as defined by NAICS industries 5417 and 5419.

30 (ix) Information services as defined by NAICS  
31 subsector 519.

32 (x) Administrative services as defined by NAICS  
33 industries 5611, 5612, 5613, 5614, 5615 and 5619.

34 (xi) Custom programming, design and data processing  
35 services as defined by NAICS industry 5415.

36 (xii) Parking lot and garage services as defined by  
37 NAICS industry 8129.

38 (73) The sale at retail or use of legal services  
39 relating to family law or criminal law.

40 (74) The sale at retail, or the use of motion picture  
41 film rented or licensed from a distributor for the purpose of  
42 commercial exhibition.

43 (75) The sale at retail or use of services performed by  
44 minors under 18 years of age and not on behalf of another  
45 person.

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

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

1 Section 705. Alternate imposition of tax.

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

11 (b) Aircraft.--A commercial aircraft operator who acquires  
12 an aircraft for the purpose of resale, or lease, or is entitled  
13 to claim another valid exemption at the time of purchase, and  
14 subsequent to the purchase, periodically uses the same aircraft  
15 for a taxable use under this chapter or the Tax Reform Code of  
16 1971, may elect to pay a tax equal to 7% of the fair rental  
17 value of the aircraft during such use.

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

21 Section 706. Credit against tax.

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

23 (1) A credit against the tax imposed by section 702  
24 shall be granted with respect to tangible personal property  
25 or services purchased for use outside the Commonwealth equal  
26 to the tax paid to another state by reason of the imposition  
27 by such other state of a tax similar to the tax imposed by  
28 this chapter.

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

33 (b) (Reserved).

#### 34 SUBCHAPTER D

#### 35 LICENSES

36 Section 708. Licenses.

37 (a) Duty to obtain license.--Every person maintaining a  
38 place of business in this Commonwealth, selling or leasing  
39 services or tangible personal property, the sale or use of which  
40 is subject to tax and who has not obtained a license from the  
41 department, shall, prior to the beginning of business, make  
42 application to the department, on a form prescribed by the  
43 department, for a license. If such person maintains more than  
44 one place of business in this Commonwealth, the license shall be  
45 issued for the principal place of business in this Commonwealth.

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

47 (1) The department shall, after the receipt of an  
48 application, issue the license applied for under subsection

49 (a) if the applicant filed all required State tax reports and  
50 paid any State taxes not subject to a timely perfected  
51 administrative or judicial appeal or subject to a duly

1 authorized deferred payment plan. The license shall be  
2 nonassignable.

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

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

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

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

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

27 (4) Notwithstanding section 774 or sections 353(f),  
28 408(b), 603, 702, 802, 904 and 1102 of the Tax Reform Code of  
29 1971, or any other provision of law to the contrary, if no  
30 appeal is taken or if an appeal is taken and denied at the  
31 conclusion of the appeal process, the department may  
32 disclose, by publication or otherwise, the identity of a  
33 person and the fact that the person's license has been  
34 refused, suspended or revoked under this subsection.  
35 Disclosure may include the basis for refusal, suspension or  
36 revocation.

37 (c) Penalties.--

38 (1) A person that maintains a place of business in this  
39 Commonwealth for the purpose of selling or leasing services  
40 or tangible personal property, the sale or use of which is  
41 subject to tax, without having a valid license at the time of  
42 the sale or lease shall be guilty of a summary offense and,  
43 upon conviction thereof, be sentenced to pay a fine of not  
44 less than \$300 nor more than \$1,500 and, in default thereof,  
45 a term of imprisonment of not less than five days nor more  
46 than 30 days.

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

49 (3) For purposes of this subsection, the offering for  
50 sale or lease of any service or tangible personal property,  
51 the sale or use of which is subject to tax, during any

1 calendar day shall constitute a separate violation.

2 (4) The secretary may designate employees of the  
3 department to enforce the provisions of this subsection. The  
4 employees shall exhibit proof of and be within the scope of  
5 the designation when instituting proceedings as provided by  
6 the Pennsylvania Rules of Criminal Procedure.

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

10 SUBCHAPTER E

11 HOTEL OCCUPANCY TAX

12 Section 709. Definitions.

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

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

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

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

30 "Operator." Any person who operates a hotel.

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

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

40 (b) Other definitions.--The following words and phrases,  
41 when used in Subchapters D and F, shall, in addition to the  
42 meaning ascribed to them by section 701, have the meaning  
43 ascribed to them in this subsection, except where the context  
44 clearly indicates a different meaning:

45 "Maintaining a place of business in this Commonwealth."  
46 Being the operator of a hotel in this Commonwealth.

47 "Purchase at retail." Occupancy.

48 "Purchase price." Rent.

49 "Purchaser." Occupant.

50 "Sale at retail." The providing of occupancy to an occupant  
51 by an operator.



1 "Services." Occupancy.  
2 "Tangible personal property." Occupancy.  
3 "Use." Occupancy.  
4 "Vendor." Operator.

5 Section 710. Imposition of tax.

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

11 Section 711. Seasonal tax returns.

12 Notwithstanding any other provisions in this chapter or the  
13 Tax Reform Code of 1971, the department may, by regulation,  
14 waive the requirement for the filing of quarterly returns in the  
15 case of any operator whose hotel is operated only during certain  
16 seasons of the year, and may provide for the filing of returns  
17 by such persons at times other than those provided by section  
18 721.

#### 19 SUBCHAPTER F

#### 20 PROCEDURE AND ADMINISTRATION

21 Section 715. Persons required to make returns.

22 Every person required to pay tax to the department or collect  
23 and remit tax to the department shall file returns with respect  
24 to the tax.

25 Section 716. Form of returns.

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

30 Section 717. Time for filing returns.

31 (a) Quarterly and monthly returns.--

32 (1) For the year in which this chapter becomes  
33 effective, and in each year thereafter, a return shall be  
34 filed quarterly by every licensee on or before the 20th day  
35 of April, July, October and January for the three months  
36 ending the last day of March, June, September and December.

37 (2) For the year in which this chapter becomes  
38 effective, and in each year thereafter, a return shall be  
39 filed monthly with respect to each month by every licensee  
40 whose actual tax liability for the third calendar quarter of  
41 the preceding year equals or exceeds \$600 and is less than  
42 \$25,000. Such returns shall be filed on or before the 20th  
43 day of the next succeeding month with respect to which the  
44 return is made. Any licensee required to file monthly returns  
45 under this act shall be relieved from filing quarterly  
46 returns.

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

1 (i) Either of the following:

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

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

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

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

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

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

37 (7) The department may require the filing of the returns  
38 and the payments for these types of filers by electronic  
39 means approved by the department.

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

42 (9) If a licensee required to remit payments under  
43 paragraph (3) or (4) fails to make a timely payment or makes  
44 a payment which is less than the required amount, the  
45 department may, in addition to any applicable penalties,  
46 impose an additional penalty equal to 5% of the amount due  
47 under paragraph (3) or (4) which was not timely paid. The  
48 penalty under this paragraph shall be determined when the tax  
49 return is filed for the tax period.

50 (b) Annual returns.--No annual return shall be filed, except  
51 as may be required by rules and regulations of the department

1 promulgated and published at least 60 days prior to the end of  
2 the year with respect to which the returns are made. Where such  
3 annual returns are required, licensees shall not be required to  
4 file such returns prior to the 20th day of the year succeeding  
5 the year with respect to which the returns are made.

6 (c) Other returns.--Any person, other than a licensee,  
7 liable to pay to the department any tax under this chapter,  
8 shall file a return on or before the 20th day of the month  
9 succeeding the month in which the person becomes liable for the  
10 tax.

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

16 Section 718. Extension of time for filing returns.

17 The department may, on written application and for good cause  
18 shown, grant a reasonable extension of time for filing any  
19 return required under this subchapter. However, the time for  
20 making a return shall not be extended for more than three  
21 months.

22 Section 719. Place for filing returns.

23 Returns shall be filed with the department at its main office  
24 or at any branch office which it may designate for filing  
25 returns.

26 Section 720. Timely mailing treated as timely filing and  
27 payment.

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

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

41 Section 721. Payment of tax.

42 When a return of tax is required under this subchapter, the  
43 person required to make the return shall pay the tax to the  
44 department.

45 Section 722. Time of payment.

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

51 (b) Annual payments.--If the amount of tax due for the

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

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

9 Section 723. Other times for payment.

10 In the event that the department authorizes a taxpayer to  
11 file a return at other times than those specified in section  
12 717, the tax due shall be paid at the time the return is filed.  
13 Section 724. Place for payment.

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

16 Section 725. Tax held in trust for Commonwealth.

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

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

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

35 Section 726. (Reserved).

36 Section 727. Discount.

37 (a) General rule.--Subject to the provisions of subsection  
38 (b), if a return is filed by a licensee and the tax shown to be  
39 due thereon less any discount is paid all within the time  
40 prescribed, the licensee shall be entitled to credit and apply  
41 against the tax payable by the licensee a discount of 1% of the  
42 amount of the tax collected by the licensee, as compensation for  
43 the expense of collecting and remitting the tax due by the  
44 licensee and as consideration of the prompt payment.

45 (b) Types of periodic filers.--For returns filed on or after  
46 the effective date of this section, the discount under  
47 subsection (a) shall be limited to the following:

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

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

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

51 Section 728. (Reserved).

1 Section 729. (Reserved).

2 Section 730. Assessment.

3 The department shall make the inquiries, determinations and  
4 assessments of the tax, including interest, additions and  
5 penalties, imposed by this chapter. A notice of assessment and  
6 demand for payment shall be mailed to the taxpayer. The notice  
7 shall set forth the basis of the assessment.

8 Section 731. Mode and time of assessment.

9 (a) Duty to examine.--

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

18 (2) If such assessment is not paid within ten days,  
19 there shall be added and paid to the department an additional  
20 3% of the difference for each month during which the  
21 assessment remains unpaid. The total of all additions shall  
22 not exceed 18% of the difference shown on the assessment.

23 (b) Understated tax on returns.--

24 (1) If the department determines that any return or  
25 returns of any taxpayer understates the amount of tax due, it  
26 shall determine the proper amount and shall ascertain the  
27 difference between the amount of tax shown in the return and  
28 the amount determined. The difference may be referred to as  
29 the deficiency.

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

32 (3) The taxpayer shall pay the deficiency to the  
33 department within 30 days after a notice of the assessment  
34 has been mailed to the taxpayer.

35 (c) Estimated assessments.--

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

41 (2) The taxpayer shall pay the tax within 30 days after  
42 a notice of the estimated assessment has been mailed to the  
43 taxpayer.

44 (d) Studies.--

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

50 (2) Any assessment based on such rates shall be prima  
51 facie correct, except that the rate shall not be considered

1 where a taxpayer establishes the rate is based on a sample  
2 inapplicable to the taxpayer.

3 Section 732. Reassessment.

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

7 Section 733. Assessment to recover erroneous refunds.

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

15 Section 734. (Reserved).

16 Section 735. (Reserved).

17 Section 736. Burden of proof.

18 In all cases of petitions for reassessment, review or appeal,  
19 the burden of proof shall be on the petitioner or appellant, as  
20 applicable.

21 Section 737. Collection of tax.

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

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

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

34 (2) (i) Every person not otherwise required to collect  
35 tax that delivers tangible personal property to a  
36 location within this Commonwealth and that unpacks,  
37 positions, places or assembles the tangible personal  
38 property shall collect the tax from the purchaser at the  
39 time of delivery and shall remit the tax to the  
40 department if the person delivering the tangible personal  
41 property is responsible for collecting any portion of the  
42 purchase price of the tangible personal property  
43 delivered and the purchaser has not provided the person  
44 with proof that the tax imposed by this chapter has been  
45 or will be collected by the seller or that the purchaser  
46 provided the seller with a valid exemption certificate.

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

51 (3) Any person required under this chapter to collect

1 tax from another person, who shall fail to collect the proper  
2 amount of the tax, shall be liable for the full amount of the  
3 tax which the person should have collected.

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

5 (1) If the tax does not apply to the sale or lease of  
6 tangible personal property or services, the purchaser or  
7 lessee shall furnish to the vendor a certificate indicating  
8 that the sale is not legally subject to the tax. The  
9 certificate shall be in substantially such form as the  
10 department may, by regulation, prescribe.

11 (2) Where the tangible personal property or service is  
12 of a type which is never subject to the tax imposed or where  
13 the sale or lease of tangible personal property is in  
14 interstate commerce, the certificate need not be furnished.

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

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

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

26 (6) An exemption certificate:

27 (i) accepted by a vendor from a natural person  
28 domiciled within this Commonwealth or any association,  
29 fiduciary, partnership, corporation or other entity,  
30 either authorized to do business within this Commonwealth  
31 or having an established place of business within this  
32 Commonwealth, in the ordinary course of the vendor's  
33 business;

34 (ii) which on its face discloses a valid basis of  
35 exemption consistent with the activity of the purchaser  
36 and character of the property or service being purchased  
37 or which is provided to the vendor by a charitable,  
38 religious, educational or volunteer firefighters'  
39 organization;

40 (iii) contains the organization's charitable  
41 exemption number; and

42 (iv) which, in the case of any purchase costing \$200  
43 or more, is accompanied by a sworn declaration on a form  
44 to be provided by the department of an intended usage of  
45 the property or service which would render it nontaxable,  
46 shall be presumed to be taken in good faith and the burden of  
47 proving otherwise shall be on the department.

48 (d) Direct payment permits.--

49 (1) The department may authorize a purchaser or lessee  
50 who acquires tangible personal property or services under  
51 circumstances which make it impossible at the time of

1 acquisition to determine the manner in which the tangible  
2 personal property or service will be used, to pay the tax  
3 directly to the department, and waive the collection of the  
4 tax by the vendor.

5 (2) No such authority shall be granted or exercised,  
6 except on application to the department, and the issuance by  
7 the department, in its discretion, of a direct payment  
8 permit.

9 (3) If a direct payment permit is granted, its use shall  
10 be subject to conditions specified by the department, and the  
11 payment of tax on all acquisitions pursuant to the permit  
12 shall be made directly to the department by the permit  
13 holder.

14 Section 738. Collection of tax on motor vehicles, trailers and  
15 semitrailers.

16 (a) General rule.--Notwithstanding the provisions of section  
17 737(b)(1), tax due on the sale at retail or use of a motor  
18 vehicle, trailer or semitrailer, except mobile homes as defined  
19 in 75 Pa.C.S. (relating to vehicles), required by law to be  
20 registered with the department under the provisions of 75  
21 Pa.C.S. shall be paid by the purchaser or user directly to the  
22 department on application to the department for an issuance of a  
23 certificate of title on the motor vehicle, trailer or  
24 semitrailer.

25 (b) No issuance of certificate of title without payment of  
26 tax.--

27 (1) The department shall not issue a certificate of  
28 title until the tax has been paid, or evidence satisfactory  
29 to the department has been given to establish that tax is not  
30 due.

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

35 (c) First encumbrance.--The tax shall be considered as a  
36 first encumbrance against the vehicle and the vehicle may not be  
37 transferred without first payment in full of the tax and any  
38 interest additions or penalties which shall accrue in accordance  
39 with this chapter.

40 Section 739. Precollection of tax.

41 (a) Authorization.--

42 (1) Except as otherwise provided under paragraph (2),  
43 the department may, by regulation, authorize or require  
44 particular categories of vendors selling tangible personal  
45 property for resale to precollect from the purchaser the tax  
46 which the purchaser will collect on making a sale at retail  
47 of the tangible personal property.

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



1 (b) No license required.--In any case in which a vendor has  
2 been authorized to prepay the tax to the person from whom the  
3 vendor purchased the tangible personal property for resale, the  
4 vendor authorized to prepay the tax may, under the regulations  
5 of the department, be relieved from the duty to secure a license  
6 if the duty arises only by reason of the vendor's sale of the  
7 tangible personal property with respect to which the vendor is,  
8 under authorization of the department, to prepay the tax.

9 (c) Reimbursement.--

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

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

22 Section 740. Bulk and auction sales.

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

31 Section 741. (Reserved).

32 Section 742. Lien for taxes.

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

34 (1) If any person liable to pay any tax neglects or  
35 refuses to pay the same after demand, the amount, including  
36 any interest, addition or penalty, together with any costs  
37 that may accrue in addition, shall be a lien in favor of the  
38 Commonwealth on the property, both real and personal, of the  
39 person but only after same has been entered and docketed of  
40 record by the prothonotary of the county where the property  
41 is situated.

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

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

49 (4) No prothonotary shall require, as a condition  
50 precedent to the entry of the liens, the payment of the costs  
51 incident thereto.

1 (b) Priority status.--

2 (1) The lien imposed under this section shall have  
3 priority from the date of its recording, and shall be fully  
4 paid and satisfied out of the proceeds of any judicial sale  
5 of property before any other obligation, judgment, claim,  
6 lien or estate to which the property may subsequently become  
7 subject, except costs of the sale and of the writ on which  
8 the sale was made, and real estate taxes and municipal claims  
9 against such property, but shall be subordinate to mortgages  
10 and other liens existing and duly recorded or entered of  
11 record prior to the recording of the tax lien.

12 (2) In the case of a judicial sale of property, subject  
13 to a lien imposed under this section, on a lien or claim over  
14 which the lien imposed under this section has priority, the  
15 sale shall discharge the lien imposed under this section to  
16 the extent only that the proceeds are applied to its payment,  
17 and the lien shall continue in full force and effect as to  
18 the balance remaining unpaid.

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

22 (4) (i) The lien of the taxes, interest and penalties,  
23 shall continue for five years from the date of entry, and  
24 may be revived and continued in the manner now or  
25 hereafter provided for renewal of judgments, or as may be  
26 provided in The Fiscal Code, and a writ of execution may  
27 directly issue upon the lien without the issuance and  
28 prosecution to judgment of a writ of scire facias.

29 (ii) Not less than ten days before issuance of any  
30 execution on the lien, notice of the filing and the  
31 effect of the lien shall be sent by registered mail to  
32 the taxpayer at the taxpayer's last known post office  
33 address.

34 (iii) The lien shall have no effect on any stock of  
35 goods, wares or merchandise regularly sold or leased in  
36 the ordinary course of business by the person against  
37 whom the lien has been entered, unless and until a writ  
38 of execution has been issued and a levy made on the stock  
39 of goods, wares and merchandise.

40 (c) Penalty.--Any willful failure of any prothonotary to  
41 carry out any duty imposed on the prothonotary under this  
42 section shall be a misdemeanor, and, upon conviction, the  
43 prothonotary shall be sentenced to pay a fine not more than  
44 \$1,000 and costs of prosecution or to a term of imprisonment not  
45 exceeding one year, or both.

46 (d) Priority payment from distribution.--

47 (1) Except as otherwise provided under the law, in the  
48 distribution, voluntary or compulsory, in receivership,  
49 bankruptcy or otherwise, of the property or estate of any  
50 person, all taxes imposed by this chapter which are due and  
51 unpaid and are not collectible under section 725 shall be

1 paid from the first money available for distribution in  
2 priority to all other claims and liens, except insofar as the  
3 laws of the United States may give a prior claim to the  
4 Federal Government.

5 (2) Any person charged with the administration or  
6 distribution of the property or estate, who violates the  
7 provisions of this section, shall be personally liable for  
8 any taxes imposed by this chapter, which are accrued and  
9 unpaid and are chargeable against the person whose property  
10 or estate is being administered or distributed.

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

17 Section 743. Suit for taxes.

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

26 (b) Prosecution by Attorney General.--The Attorney General  
27 shall prosecute the action and, except as provided in this  
28 chapter, the provisions of the Rules of Civil Procedure and the  
29 provisions of the laws of this Commonwealth relating to civil  
30 procedures and remedies shall, to the extent that they are  
31 applicable, be available in such proceedings.

32 (c) Construction.--The provisions of this section are in  
33 addition to any process, remedy or procedure for the collection  
34 of taxes provided by this chapter or by the laws of this  
35 Commonwealth, and this section is neither limited by nor  
36 intended to limit any such process, remedy or procedure.

37 Section 744. Tax suit comity.

38 The courts of this Commonwealth shall recognize and enforce  
39 liabilities for sales and use taxes, lawfully imposed by any  
40 other state if the other state extends a like comity to this  
41 Commonwealth.

42 Section 745. Service.

43 (a) General rule.--Any person who maintains a place of  
44 business in this Commonwealth is deemed to have appointed the  
45 Secretary of the Commonwealth as the person's agent for the  
46 acceptance of service of process or notice in any proceedings  
47 for the enforcement of the civil provisions of this chapter, and  
48 any service made upon the Secretary of the Commonwealth as agent  
49 shall be of the same legal force and validity as if the service  
50 had been personally made on the person.

51 (b) Substitute service.--Where service cannot be made on the

1 person in the manner provided by other laws of this Commonwealth  
2 relating to service of process, service may be made on the  
3 Secretary of the Commonwealth and, in such case, a copy of the  
4 process or notice shall also be personally served on any agent  
5 or representative of the person who may be found within this  
6 Commonwealth, or where no such agent or representative may be  
7 found a copy of the process or notice shall be sent by  
8 registered mail to the person at the last known address of the  
9 person's principal place of business, home office or residence.  
10 Section 746. Collection and payment of tax on credit sales.

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

19 Section 747. Prepayment of tax.

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

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

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

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

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

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

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

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

49 (a.1) Time for filing petition.--A petition for refund,  
50 which is authorized by this section, must be filed with the  
51 department within the time limitations under section 3003.1(a).

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

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

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

12 (3) The account has been deducted for Federal income tax  
13 purposes under section 166 of the Internal Revenue Code of  
14 1986 (Public Law 99-514, 26 U.S.C. § 166) by the lender or an  
15 affiliate of the lender.

16 (a.3) Joint election.--In order to be eligible for a refund  
17 under subsection (a.2), the lender and the vendor must execute  
18 and file with the department a joint election, signed by both  
19 parties, designating which party is entitled to claim the  
20 refund. This election may not be revoked unless a written notice  
21 is signed by the party that signed the election being revoked  
22 and is filed with the department.

23 (b) Limitation.--

24 (1) The refund authorized by this section shall be  
25 limited to the sales tax paid to the department that is  
26 attributed to the bad debt, less any discount under section  
27 727.

28 (2) Partial payments by the purchaser shall be prorated  
29 between the original purchase price and the sales tax due on  
30 the sale.

31 (3) Payments made on any transaction which includes both  
32 taxable and nontaxable components shall be allocated  
33 proportionally between the taxable and nontaxable components.

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

37 (d) Items not refundable.--No refund shall be granted under  
38 this section for interest, finance charges or expenses incurred  
39 in attempting to collect any amount receivable.

40 (e) Documentation.--Documentation requirements are as  
41 follows:

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

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

47 (ii) Name and address of purchaser.

48 (iii) Amount that the purchaser paid or agreed to  
49 pay.

50 (iv) Taxable and nontaxable charges.

51 (v) Amount on which the retailer reported and paid

1 sales tax.

2 (vi) All payments or other credits applied to the  
3 account of the purchaser.

4 (vii) Evidence that the uncollected amount has been  
5 designated as a bad debt in the books and records of the  
6 vendor or lender, as appropriate, and that the amount has  
7 been claimed as a bad debt deduction for Federal income  
8 tax purposes.

9 (viii) The county in which any local sales tax was  
10 incurred.

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

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

15 (xi) Any other information required by the  
16 department.

17 (2) A person claiming a refund under this section may  
18 provide alternative forms of documentation acceptable to the  
19 department if appropriate in light of the volume and  
20 character of uncollectible accounts. This includes the  
21 following:

22 (i) If a vendor remits sales or use tax to the  
23 Commonwealth and to another state, the entity claiming a  
24 refund under this section may use an apportionment method  
25 to substantiate the amount of Pennsylvania tax included  
26 in the bad debts to which the refund applies.

27 (ii) The apportionment method must use the vendor's  
28 Pennsylvania and non-Pennsylvania sales, the vendor's  
29 taxable and nontaxable sales and the amount of tax the  
30 vendor remitted to Pennsylvania.

31 (f) Subsequent collection.--

32 (1) If the purchase price that is attributed to a prior  
33 bad debt refund is collected in whole or in part by the  
34 vendor or lender, or an affiliate of the vendor or lender,  
35 the entity claiming the refund shall remit the proportional  
36 tax to the department with the first return filed after the  
37 collection. If the entity is not required to file periodic  
38 returns, the entity shall remit the proportional tax to the  
39 department with another return pursuant to section 717(c).

40 (2) Any consideration received for the assignment, sale  
41 or other transfer of a bad debt with respect to which a  
42 refund has been granted shall be deemed to be a collection of  
43 a prior bad debt. This paragraph shall not apply to a  
44 transfer to an entity that is part of the same affiliated  
45 group, as defined by section 1504 of the Internal Revenue  
46 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1504).

47 (3) A person that collects, in whole or in part, the  
48 purchase price attributed to a prior bad debt refund is  
49 required to maintain adequate books, records or other  
50 documentation to allow the department to determine whether  
51 the purchase price attributed to a prior bad debt refund has

1 been collected. Information under this paragraph includes the  
2 pertinent facts required by subsection (e).

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

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

14 (h) Administration.--

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

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

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

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

26 "Affiliate." A person that is:

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

29 (2) A person described in paragraph (1) or (2) of the  
30 definition of "lender" that would be an affiliated entity,  
31 under section 1504 of the Internal Revenue Code of 1986, of a  
32 vendor but for the fact the person is not a corporation, an  
33 assignee or another transferee of a person described in  
34 paragraph (1) or (2) of the definition of "lender".

35 "Lender." Any of the following:

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

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

42 (3) A person that is:

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

44 (1) or (2); or

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

47 "Private-label credit card." Any charge card, credit card or  
48 other instrument serving similar purpose which carries, refers  
49 to or is branded with the name or logo of a vendor and which can  
50 be used for purchases from the vendor. The term does not include  
51 a card or instrument which may also be used to make purchases

1 from persons other than the vendor whose name or logo appears on  
2 the card or instrument or that vendor's affiliates. Nothing in  
3 this definition shall be construed to authorize a refund with  
4 respect to bad debts attributable to sales by unrelated persons  
5 referred to in this definition.

6 Section 748. Registration of transient vendors.

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

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

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

27 (d) Contents of certificate.--The certificate issued by the  
28 department shall state that the transient vendor named in the  
29 certificate has registered with the department and shall provide  
30 notice to the transient vendor that:

31 (1) The transient vendor must notify the department in  
32 writing before it enters this Commonwealth to conduct  
33 business, of the location or locations where it intends to  
34 conduct business and the date or dates on which it intends to  
35 conduct business.

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

39 (3) Conducting business in this Commonwealth after a  
40 certificate has been suspended or revoked may result in  
41 criminal conviction and the imposition of fines or other  
42 penalties.

43 Section 748.1. Bond.

44 (a) General rule.--Upon registration with the department, a  
45 transient vendor shall also post a bond with the department in  
46 the amount of \$500 as surety for compliance with the provisions  
47 of this chapter. After a period of demonstrated compliance with  
48 these provisions or, if the transient vendor provides the  
49 license number of a promoter who has notified the department of  
50 a show, in accordance with the provisions of section 748.6(a),  
51 the department may reduce the amount of bond required of a



1 transient vendor or may eliminate the bond entirely.

2 (b) Voluntary suspension of certificate.--A transient vendor  
3 may file a request for voluntary suspension of certificate with  
4 the department. If the department is satisfied that the  
5 provisions of this chapter have been complied with and has  
6 possession of the transient vendor's certificate, it shall  
7 return the bond posted to the transient vendor.

8 Section 748.2. Notification to department.

9 (a) General rule.--Prior to entering this Commonwealth to  
10 conduct business, a transient vendor shall notify the department  
11 in writing of the location or locations where it intends to  
12 conduct business and the date or dates on which it intends to  
13 conduct business.

14 (b) Inspection of records.--While conducting business in  
15 this Commonwealth, the transient vendor shall permit authorized  
16 employees of the department to inspect its sales records,  
17 including, but not limited to, sales receipts and inventory or  
18 price lists and to permit inspection of the tangible personal  
19 property offered for sale at retail.

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

23 (1) fails to notify the department as required by  
24 subsection (a);

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

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

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

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

33 Section 748.3. Seizure of property.

34 (a) General rule.--If a transient vendor conducting business  
35 in this Commonwealth fails to exhibit a valid certificate on  
36 demand by authorized employees of the department, those  
37 authorized employees shall seize, without warrant, the tangible  
38 personal property and the automobile, truck or other means of  
39 transportation used to transport or carry that property. All  
40 property seized shall be deemed contraband and shall be subject  
41 to immediate forfeiture proceedings instituted by the department  
42 pursuant to procedures adopted by regulation, except as  
43 otherwise provided by this section.

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

46 (1) presentation of a valid certificate to authorized  
47 employees of the department; or

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

1 Section 748.4. Fines.

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

7 Section 748.5. Transient vendors subject to chapter.

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

11 Section 748.6. Promoters.

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

18 (b) License.--

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

23 (2) If application for a license under this section has  
24 been timely filed and if the license has not been received by  
25 the promoter prior to the opening of the show, the  
26 authorization contained in this section with respect to the  
27 obtaining of a promoter's license shall be deemed to have  
28 been complied with, unless or until the promoter receives  
29 notice from the department denying the application for a  
30 promoter's license.

31 (c) Compliance.--Any promoter who is a vendor under the  
32 provisions of section 701 shall comply with all the provisions  
33 of this chapter applicable to vendors and with the provisions of  
34 this section applicable to promoters.

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

40 (e) Penalties.--

41 (1) Any licensed promoter who:

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

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

47 (iii) knowingly maintains false records or fails to  
48 comply with any provision contained in this section or  
49 any regulation promulgated by the department pertaining  
50 to shows,

51 shall be subject to denial of a license or the revocation of

1 any existing license issued pursuant to this section.

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

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

10 Section 749. (Reserved).

11 Section 750. (Reserved).

12 Section 751. (Reserved).

13 Section 752. Refunds.

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

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

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

33 Section 753. Refund petition.

34 (a) General rule.--Except as provided for in subsection (b)  
35 and section 756, the refund or credit of tax, interest or  
36 penalty provided for by section 752 shall be made only where the  
37 person who has actually paid the tax files a petition for refund  
38 with the department under Article XXVII of the Tax Reform Code  
39 of 1971, within the limits of section 3003.1 of the Tax Reform  
40 Code of 1971.

41 (b) Assessments.--A refund or credit of tax, interest or  
42 penalty paid as a result of an assessment made by the department  
43 under section 731 shall be made only where the person who has  
44 actually paid the tax files with the department a petition for a  
45 refund with the department under Article XXVII of the Tax Reform  
46 Code of 1971 within the time limits of section 3003.1 of the Tax  
47 Reform Code of 1971. The filing of a petition for refund under  
48 the provisions of this subsection shall not affect the abatement  
49 of interest, additions or penalties to which the person may be  
50 entitled by reason of the person's payment of the assessment.

51 Section 754. (Reserved).

1 Section 755. (Reserved).

2 Section 756. Extended time for filing special petition for  
3 refund.

4 (a) General rule.--Any party to a transaction who has paid  
5 tax by reason of a transaction with respect to which the  
6 department is assessing tax against another person may, within  
7 six months after the filing by the department of the assessment  
8 against the other person, file a special petition for refund,  
9 notwithstanding the person's failure to timely file a petition  
10 pursuant to section 3003.1 of the Tax Reform Code of 1971. The  
11 provisions of Article XXVII of the Tax Reform Code of 1971 shall  
12 be applicable to the special petition for refund, except that  
13 the department need not act on the petition until there is a  
14 final determination as to the propriety of the assessment filed  
15 against the other party to the transaction. Where a petition is  
16 filed under this provision in order to take advantage of the  
17 extended period of limitations, overpayments by the petitioner  
18 shall be refunded but only to the extent of the actual tax,  
19 without consideration of interest and penalties, paid by the  
20 other party to the transaction.

21 (b) Purpose.--The purpose of this section is to avoid  
22 duplicate payment of tax where a determination is made by the  
23 department that one party to a transaction is subject to tax,  
24 and another party to the transaction has previously paid tax  
25 with respect to the transaction and, as such, this section shall  
26 be construed as extending right beyond that provided for by  
27 section 753, and not to limit the other section.

28 Section 757. (Reserved).

29 Section 758. Limitation on assessment and collection.

30 The amount of the tax imposed by this chapter shall be  
31 assessed within three years after the date when the return  
32 provided for by section 717(a) or (c) is filed or the end of the  
33 year in which the tax liability arises, whichever occurs later.  
34 Any assessment may be made at any time during the period  
35 notwithstanding that the department may have made one or more  
36 previous assessments against the taxpayer for the year in  
37 question, or for any part of the year. In any case, no credit  
38 shall be given for any penalty previously assessed or paid.

39 Section 759. Failure to file return.

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

43 Section 760. False or fraudulent return.

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

47 Section 761. Extension of limitation period.

48 Notwithstanding any other provisions of this subchapter  
49 where, before the expiration of the period prescribed in that  
50 other provision for the assessment of a tax, a taxpayer has  
51 consented in writing that the period be extended, the amount of

1 tax due may be assessed at any time within the extended period.  
2 The period so extended may be extended further by subsequent  
3 consents in writing made before the expiration of the extended  
4 period.

5 Section 762. (Reserved).

6 Section 763. (Reserved).

7 Section 764. (Reserved).

8 Section 765. (Reserved).

9 Section 766. Additions to tax.

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

20 (b) Addition for understatement.--There shall be added to  
21 every assessment under section 731(b) an addition equal to 5% of  
22 the amount of the understatement and no addition to the tax  
23 shall be paid under section 731(a).

24 Section 767. Penalties.

25 (a) General rule.--The penalties, additions, interest and  
26 liabilities provided by this chapter shall be paid on notice and  
27 demand by the department, and shall be assessed and collected in  
28 the same manner as taxes. Except as otherwise provided, any  
29 reference in this chapter to tax imposed by this chapter shall  
30 be deemed also to refer to the penalties, additions, interest  
31 and liabilities provided by this chapter.

32 (b) Monetary penalty.--Any person who willfully attempts, in  
33 any manner, to evade or defeat the tax imposed by this chapter,  
34 or the payment thereof, or to assist any other person to evade  
35 or defeat the tax imposed by this chapter, or the payment  
36 thereof, or to receive a refund improperly shall, in addition to  
37 other penalties provided by law, be liable for a penalty equal  
38 to one-half of the total amount of the tax evaded.

39 (c) Burden of proof.--In any direct proceeding arising out  
40 of a petition for reassessment or refund as provided in this  
41 chapter, in which an issue of fact is raised with respect to  
42 whether a return is fraudulent or with respect to the propriety  
43 of the imposition by the department of the penalty prescribed in  
44 subsection (b), the burden of proof with respect to the issue  
45 shall be on the department.

46 Section 768. Criminal offenses.

47 (a) False returns.--Any person who with intent to defraud  
48 the Commonwealth willfully makes, or causes to be made, any  
49 return required by this chapter which is false commits a  
50 misdemeanor and, upon conviction, shall be sentenced to pay a  
51 fine of not more than \$2,000 or to imprisonment not exceeding

1 three years, or both.

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

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

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

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

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

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

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

36 (7) makes, utters or issues a false or fraudulent  
37 exemption certificate;

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

41 (c) Exceptions.--

42 (1) Any person who maintains a place of business outside  
43 this Commonwealth may absorb the tax with respect to taxable  
44 sales made in the normal course of business to customers  
45 present at that place of business without being subject to  
46 the penalty and fines.

47 (2) Advertising tax-included prices shall be  
48 permissible, if the prepaid services are sold by the service  
49 provider, for prepaid telecommunications services not  
50 evidenced by the transfer of tangible personal property or  
51 for prepaid mobile telecommunications services.

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

4 Section 769. Abatement of additions or penalties.

5 On the filing of a petition for reassessment or a petition  
6 for refund as provided under this chapter by a taxpayer,  
7 additions or penalties imposed on the taxpayer by this chapter  
8 may be waived or abated, in whole or in part, where the  
9 petitioner has established that the petitioner has acted in good  
10 faith, without negligence and with no intent to defraud.

11 Section 770. Rules and regulations.

12 (a) General rule.--The department shall enforce the  
13 provisions of this chapter and shall prescribe, adopt,  
14 promulgate and enforce rules and regulations not inconsistent  
15 with the provisions of this chapter, relating to any matter or  
16 thing pertaining to the administration and enforcement of the  
17 provisions of this chapter, and the collection of taxes,  
18 penalties and interest imposed by this chapter. The department  
19 may prescribe the extent, if any, to which any of the rules and  
20 regulations shall be applied without retroactive effect.

21 (b) Determination of purchase price.--

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

31 (2) The rules shall provide for a constructive amount of  
32 a purchase price for each sale, which price shall equal a  
33 price for the article which would naturally and fairly be  
34 charged in an arm's-length transaction in which the element  
35 of common interests between vendor and purchaser or, if no  
36 common interest exists, any other element causing a  
37 distortion of the price or value is absent.

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

43 Section 771. Keeping of records.

44 (a) Persons liable for taxes.--Every person liable for any  
45 tax imposed by this chapter, or for the collection of the tax,  
46 shall keep the records, render such statements, make the returns  
47 and comply with the rules and regulations as the department may,  
48 from time to time, prescribe regarding matters pertinent to the  
49 person's business. Whenever in the judgment of the department it  
50 is necessary, it may require any person, by notice served on the  
51 person, or by regulations, to make the returns, render the

1 statements or keep the records as the department deems  
2 sufficient to show whether the person is liable to pay or  
3 collect tax under this chapter.

4 (b) Persons collecting taxes.--Any person liable to collect  
5 tax from another person under the provisions of this chapter  
6 shall file reports, keep records, make payments and be subject  
7 to interest and penalties as provided for under this chapter, in  
8 the same manner as if the person were directly subject to the  
9 tax.

10 (c) Nonresidents.--

11 (1) A nonresident who does business in this Commonwealth  
12 as a retail dealer shall keep adequate records of the  
13 business and of the tax due with respect to the business,  
14 which records shall at all times be retained within this  
15 Commonwealth unless retention outside this Commonwealth is  
16 authorized by the department.

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

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

23 (d) Retail dealers.--

24 (1) Any person doing business as a retail dealer who at  
25 the same time is engaged in another business which does not  
26 involve the making of sales taxable under this chapter shall  
27 keep separate books and records of the person's businesses so  
28 as to show the sales taxable under this chapter separately  
29 from the sales not taxable under this chapter.

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

34 (e) Segregation of taxes required.--

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

40 (2) A vendor may apply to the department for permission  
41 to use a collection and recording procedure which will show  
42 the information as the law requires with reasonable accuracy  
43 and simplicity. The application must contain a detailed  
44 description of the procedure to be adopted.

45 (3) Permission to use the proposed procedure is not to  
46 be construed as relieving the vendor from remitting the full  
47 amount of tax collected.

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

50 (5) Refusal of the department to grant permission in  
51 advance to use the procedure shall not be construed to



1 invalidate a procedure which on examination shows the  
2 information as the law requires.

3 Section 771.1. Reports and records of promoters.

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

17 Section 772. Examinations.

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

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

29 (c) Other powers of department.--

30 (1) The department is further authorized to examine any  
31 person, under oath, concerning taxable sales or use by any  
32 taxpayer or concerning any other matter relating to the  
33 enforcement or administration of this chapter, and to this  
34 end may compel the production of books, papers and records  
35 and the attendance of all persons whether as parties or  
36 witnesses whom it believes to have knowledge of such matters.

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

40 Section 773. Records and examinations of delivery agents.

41 Every agent for the purpose of delivery of goods shipped into  
42 this Commonwealth by a nonresident, including, but not limited  
43 to, a common carrier, shall maintain adequate records of such  
44 deliveries pursuant to rules and regulations adopted by the  
45 department and shall make the records available to the  
46 department upon request after due notice.

47 Section 774. Unauthorized disclosure.

48 Any information gained by the department as a result of any  
49 return, examination, investigation, hearing or verification  
50 required or authorized by this chapter shall be confidential,  
51 except for official purposes and except in accordance with

1 proper judicial order or as otherwise provided by law, and any  
2 person unlawfully divulging such information commits a  
3 misdemeanor and, upon conviction, shall be sentenced to pay a  
4 fine of not more than \$1,000 and costs of prosecution or to  
5 imprisonment for not more than one year, or both.  
6 Section 775. Cooperation with other governments.

7 Notwithstanding the provisions of section 774, the department  
8 may permit the Commissioner of Internal Revenue of the United  
9 States, or the proper officer of any state, or the authorized  
10 representative of either such officer, to inspect the tax  
11 returns of any taxpayer, or may furnish to the officer or to the  
12 officer's authorized representative an abstract of the return of  
13 any taxpayer, or supply the officer or the authorized  
14 representative with information concerning any item contained in  
15 any return or disclosed by the report of any examination or  
16 investigation of the return of any taxpayer. This permission  
17 shall be granted only if the statutes of the United States or of  
18 such other state, as the case may be, grant substantially  
19 similar privileges to the proper officer of the Commonwealth  
20 charged with the administration of this chapter.  
21 Section 776. Interstate compacts.

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

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

35 Section 777. Bonds.

36 (a) Procedure.--

37 (1) Whenever the department, in its discretion, deems it  
38 necessary to protect the revenues to be obtained under the  
39 provisions of this chapter, it may require any nonresident  
40 natural person or any foreign corporation, association,  
41 fiduciary, partnership or other entity, not authorized to do  
42 in this Commonwealth or not having an established place of  
43 business in this Commonwealth and subject to the tax imposed  
44 by section 702, to file a bond issued by a surety company  
45 authorized to do business in this Commonwealth and approved  
46 by the Insurance Commissioner as to solvency and  
47 responsibility, in such amounts as it may fix, to secure the  
48 payment of any tax or penalties due, or which may become due,  
49 from a natural person or corporation.

50 (2) In order to protect the revenues to be obtained  
51 under the provisions of this chapter, the department shall

1 require any nonresident natural person or any foreign  
2 corporation, association, fiduciary, partnership or entity,  
3 who or which is a building contractor, or who or which is a  
4 supplier delivering building materials for work in this  
5 Commonwealth and is not authorized to do business in this  
6 Commonwealth or does not have an established place of  
7 business in this Commonwealth and is subject to the tax  
8 imposed by section 702, to file a bond issued by a surety  
9 company authorized to do business in this Commonwealth and  
10 approved by the Insurance Commissioner as to solvency and  
11 responsibility, in the amounts as it may fix, to secure the  
12 payments of any tax or penalties due, or which may become  
13 due, from a natural person, corporation or other entity.

14 (3) The department may also require a bond of any person  
15 petitioning the department for reassessment, in the case of  
16 any assessment over \$500 or where it is of the opinion that  
17 the ultimate collection is in jeopardy.

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

23 (ii) If the department determines that a taxpayer is  
24 to file a bond, the department shall give notice to the  
25 taxpayer to that effect, specifying the amount of the  
26 bond required.

27 (iii) The taxpayer shall file a bond within five  
28 days after the giving of the notice by the department  
29 unless, within the five-day period, the taxpayer requests  
30 in writing a hearing before the secretary or the  
31 secretary's representative at which hearing the  
32 necessity, propriety and amount of the bond shall be  
33 determined by the secretary or a representative. The  
34 determination shall be final and shall be complied within  
35 15 days after notice is mailed to the taxpayer.

36 (b) Alternative security.--

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

40 (2) Such securities or cash shall be kept in the custody  
41 of the department, who may, at any time, without notice to  
42 the depositor, apply them to any tax and/or interest or  
43 penalties due, and for that purpose the securities may be  
44 sold by the department, at public or private sale, on five  
45 days' written notice to the depositor.

46 (c) Lien may be filed.--

47 (1) The department may file a lien pursuant to section  
48 742 against any taxpayer who fails to file a bond when  
49 required to do so under this section.

50 (2) All funds received on execution of the judgment on  
51 the lien shall be refunded to the taxpayer with 3% interest

1 should a final determination be made that the taxpayer does  
2 not owe any payment to the department.

3 Section 778. Remote sales reports.

4 (a) Duty to submit.--Within 90 days of the publication of  
5 the notice under subsection (b), the Independent Fiscal Office,  
6 in conjunction with the department, shall submit a detailed  
7 report to the chairman and minority chairman of the  
8 Appropriations Committee of the Senate, the chairman and  
9 minority chairman of the Finance Committee of the Senate, the  
10 chairman and minority chairman of the Appropriations Committee  
11 of the House of Representatives and the chairman and minority  
12 chairman of the Finance Committee of the House of  
13 Representatives outlining the plans concerning the  
14 implementation of the legislation referenced in subsection (b)  
15 or other substantially similar Federal legislation, which would  
16 grant the Commonwealth the authority to impose and collect the  
17 tax under this chapter due on sales from remote sellers. The  
18 report shall include all of the following:

19 (1) The amount of State funds necessary to implement the  
20 legislation referenced in subsection (b) or other  
21 substantially similar legislation. The amount needed shall be  
22 itemized and all costs, including personnel, office expenses  
23 and other related costs, shall be included.

24 (2) The amount of State tax revenue expected to result  
25 from the implementation of the legislation referenced in  
26 subsection (b) or other substantially similar legislation for  
27 the fiscal year and for five fiscal years thereafter.

28 (3) The source of funds which will be utilized to pay  
29 for the legislation referenced in subsection (b) or other  
30 substantially similar legislation implementation program.

31 (4) The legal and practical issues concerning the  
32 propriety of collecting and enforcing the tax imposed under  
33 this chapter from remote sellers.

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

36 (6) Proposed draft legislation concerning the  
37 implementation of the legislation referenced in subsection  
38 (b) or other substantially similar legislation.

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

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

#### 44 SUBCHAPTER G

#### 45 FUNDING PROVISIONS

46 Section 780. (Reserved).

47 Section 781. Appropriation for refunds.

48 So much of the proceeds of the tax imposed by this chapter as  
49 shall be necessary for the payment of refunds, enforcement or  
50 administration under this chapter is hereby appropriated for  
51 those purposes.

1 Section 781.1. Construction.

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

8 Section 782. Transfers to Education Stabilization Fund.

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

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

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

21 (b) (Reserved).

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

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

28 (b) Transfer.--Within 30 days of the close of any calendar  
29 month, 0.596% of the taxes received in the previous month under  
30 this chapter, less any amounts collected in that previous  
31 calendar month under former 74 Pa.C.S. § 1314(d) (relating to  
32 Public Assistance Transportation Fund), shall be transferred to  
33 the Public Transportation Assistance Fund.

34 (c) Deposit.--In fiscal year 1991-1992, the Secretary of  
35 Revenue shall ensure that \$10,000,000 is deposited into the  
36 Public Assistance Transportation Fund from the combination of  
37 revenues received under former 74 Pa.C.S. § 1314(d) and  
38 transfers of periodical taxes received under this chapter.

39 (d) Revenue.--Commencing February 20, 2016, and  
40 notwithstanding the provisions of 74 Pa.C.S. § 1506(c) (1)  
41 (relating to fund) to the contrary, the revenues deposited into  
42 the Public Transportation Trust Fund under 74 Pa.C.S. § 1506(c)  
43 (1) shall be 2.769% of the amount collected under this chapter.  
44 The amounts required to be deposited into the Public  
45 Transportation Trust Fund under this subsection are estimated to  
46 be equivalent to the revenue that would be deposited into the  
47 Public Transportation Trust Fund under 74 Pa.C.S. § 1506(c) (1)  
48 if the amendments to section 702 were not enacted.

49 CHAPTER 9  
50 (RESERVED)  
51 CHAPTER 11

1                   LIMIT ON SCHOOL DISTRICT TAXATION  
2                   AND EXPIRATION OF DEBT AUTHORITY

3 Section 1101. Definitions.

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

7       "School district debt." All debt which a school district is  
8 obligated to pay.

9 Section 1102. Coordination of school district fiscal years.

10       (a) General rule.--By July 1, 2016, a school district which  
11 operates under a fiscal year other than the period beginning  
12 July 1 of each calendar year and ending June 30 of the calendar  
13 year next succeeding shall adopt a fiscal year which is the  
14 period beginning July 1 of each calendar year and ending June 30  
15 of the calendar year next succeeding.

16       (b) Duties of department.--The Department of Education shall  
17 provide technical assistance and guidance to school districts  
18 subject to assist school districts adopting a different fiscal  
19 year under subsection (a).

20 Section 1103. Transition period.

21       Beginning with the effective date of this section and ending  
22 July 1, 2016, a school district which levies a tax on real  
23 property may not increase the rate of tax on real property above  
24 the rate levied as of the effective date of this section.

25 Section 1104. School district debt and budgeting.

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

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

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

34           (2) The repayment status of all outstanding school  
35 district debt.

36           (3) The repayment terms of all outstanding school  
37 district debt.

38           (4) The amount of annual debt service which must be paid  
39 by the school district on the outstanding school district  
40 debt.

41           (5) Any other information requested by the Department of  
42 Education.

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

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

49           (1) Certify to the State Treasurer and the Office of the  
50 Budget the amount of annual debt service payments necessary  
51 for each school district to continue to repay its existing

1 outstanding school district debt.

2 (2) Notify each school district of the amount of its  
3 annual debt service payments that the Department of Education  
4 has certified as necessary for the school district to  
5 continue to repay its existing outstanding school district  
6 debt.

7 (e) School district responsibilities.--A school district  
8 shall do all of the following:

9 (1) Adopt a preliminary budget proposal under section  
10 311 of the Taxpayer Relief Act which reflects proposed tax  
11 rates on real property that complies with section 1105.

12 (2) Adopt an annual budget under section 312 of the  
13 Taxpayer Relief Act which reflects proposed tax rates on real  
14 property that complies with section 1105.

15 Section 1105. Expiration of certain authority to levy, assess  
16 and collect real property taxes.

17 Except as necessary to service outstanding school district  
18 debt, the authority of a school district to levy, assess and  
19 collect a tax on real property shall expire July 1, 2016.

## 20 CHAPTER 13

### 21 FUNDING PROVISIONS

22 Section 1301. Definitions.

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

26 "Base revenue." The money a school district receives from  
27 school property taxes and the State property tax reduction  
28 allocation received under section 505 of act of June 27, 2006  
29 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief  
30 Act, during fiscal year 2015-2016 less the amount certified by  
31 the department under section 1104(a).

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

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

36 (2) the average of the percentage increase in sales and  
37 use tax collected under section 702 and the tax upon each  
38 dollar income collected under section 401(b)(1) and the  
39 percentage increase of the hotel occupancy tax collected  
40 under section 710 from the previous calendar year.

41 "Department." The Department of Education of the  
42 Commonwealth.

43 "Fund." The Education Stabilization Fund established in  
44 section 1302.

45 Section 1302. Education Stabilization Fund.

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

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

50 (c) Continuing appropriation.--The money of the fund is  
51 hereby continuously appropriated to the department as provided

1 in this act. This appropriation shall not lapse at the end of  
2 any fiscal year.

3 Section 1302.1. Sources and transfers.

4 (a) Deposit.--The following shall be deposited into the  
5 fund:

6 (1) Money remaining in the Property Tax Relief Fund  
7 following utilization of funds to provide tax relief in  
8 cities of the first class under Chapters 5 and 7 of the act  
9 of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the  
10 Taxpayer Relief Act, and for property tax and rent rebates  
11 under Chapter 14.

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

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

14 (4) Appropriations.

15 (5) Return on money in the fund.

16 (b) Transfer from the fund.--

17 (1) No later than June 30, 2017, and each June 30  
18 thereafter, an amount equal to the refund reimbursement  
19 factor multiplied by the amount of refunds issued under  
20 Article III of the Tax Reform Code of 1971 for tax years in  
21 which the tax imposed under Chapter 4 is applicable, shall be  
22 transferred from the Education Stabilization Fund to the  
23 General Fund.

24 (2) For the purpose of this subsection, "refund  
25 reimbursement factor" means a fraction equal to the rate of  
26 tax imposed under Chapter 4 divided by the sum of the rate of  
27 tax imposed under Chapter 4 plus the rate of tax imposed  
28 under Article III of the Tax Reform Code of 1971.

29 Section 1303. Standard disbursements to school districts from  
30 Education Stabilization Fund.

31 (a) General rule.--In fiscal year 2016-2017, the department  
32 shall disburse to each school district an amount equal to the  
33 sum of the following:

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

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

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

40 (1) The amount received by the school district in the  
41 prior fiscal year under this section.

42 (2) The amount received by the school district in the  
43 prior fiscal year under this section multiplied by the cost-  
44 of-living factor.

45 (c) Distributions.--Disbursements under subsections (a) and  
46 (b) shall be made at a time and in a manner determined by the  
47 Department of Education in consultation with the Department of  
48 Revenue.

49 CHAPTER 14  
50 SENIOR CITIZENS PROPERTY TAX AND  
51 RENT REBATE ASSISTANCE



1 Section 1401. Scope of chapter.

2 This chapter provides senior citizens with assistance in the  
3 form of property tax and rent rebates.

4 Section 1402. (Reserved).

5 Section 1403. Definitions.

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

9 "Board." The Board of Finance and Revenue of the  
10 Commonwealth.

11 "Claimant." A person who files a claim for property tax  
12 rebate or rent rebate in lieu of property taxes and:

13 (1) was at least 65 years of age or whose spouse, if a  
14 member of the household, was at least 65 years of age during  
15 a calendar year in which real property taxes or rent were due  
16 and payable;

17 (2) was a widow or widower and was at least 50 years of  
18 age during a calendar year or part thereof in which real  
19 property taxes or rent were due and payable; or

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

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

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

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

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

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

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

41 (5) Premises occupied by a claimant if the claimant is  
42 required by law to pay a property tax by reason of the  
43 claimant's ownership or rental, including a possessory  
44 interest, in the dwelling, the land or both. An owner  
45 includes a person in possession under a contract of sale,  
46 deed of trust, life estate, joint tenancy or tenancy in  
47 common or by reason of statutes of descent and distribution.

48 "Household income." All income received by a claimant and  
49 the claimant's spouse while residing in the homestead during the  
50 calendar year for which a rebate is claimed.

51 "Income." All income from whatever source derived,

1 including, but not limited to:

2 (1) Salaries, wages, bonuses, commissions, income from  
3 self-employment, alimony, support money, cash public  
4 assistance and relief.

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

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

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

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

24 (4) All benefits received under State unemployment  
25 insurance laws.

26 (5) All interest received from the Federal or any state  
27 government or any instrumentality or political subdivision  
28 thereof.

29 (6) Realized capital gains and rentals.

30 (7) Workers' compensation.

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

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

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

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

46 "Real property taxes." All taxes on a homestead, exclusive  
47 of municipal assessments, delinquent charges and interest, due  
48 and payable during a calendar year.

49 "Rent rebate in lieu of property taxes." Twenty percent of  
50 the gross amount actually paid in cash or its equivalent in any  
51 calendar year to a landlord in connection with the occupancy of

1 a homestead by a claimant, irrespective of whether such amount  
2 constitutes payment solely for the right of occupancy or  
3 otherwise.

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

5 "State veterans' benefits." Service-connected compensation  
6 or benefits of any kind provided to a veteran or an unmarried  
7 surviving spouse of a veteran by a Commonwealth agency or  
8 authorized under the laws of this Commonwealth.

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

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

15 Section 1404. Property tax; and rent rebate.

16 (a) Schedule of rebates.--

17 (1) The amount of any claim for property tax rebate or  
18 rent rebate in lieu of property taxes for real property taxes  
19 or rent due and payable during calendar years 1985 through  
20 2005 shall be determined in accordance with the following  
21 schedule:

Household Income	Percentage of Real Property Taxes or Rent Rebate in Lieu of Property Taxes Allowed as Rebate
\$ 0 - \$ 4,999	100%
5,000 - 5,499	100
5,500 - 5,999	90
6,000 - 6,499	80
6,500 - 6,999	70
7,000 - 7,499	60
7,500 - 7,999	50
8,000 - 8,499	40
8,500 - 8,999	35
9,000 - 9,999	25
10,000 - 11,999	20
12,000 - 12,999	15
13,000 - 15,000	10

38 (2) The following apply:

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

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

49 (ii) The supplemental amount for a claimant with a  
50 household income equal to or less than \$30,000 and an  
51 eligible claim for property tax rebate for real property

1 taxes due and payable during the calendar year preceding  
2 the first year in which a payment under section 505(b) of  
3 the Taxpayer Relief Act is made and each year thereafter  
4 and whose real property taxes exceed 15% of the  
5 claimant's household income shall be equal to 50% of the  
6 base amount determined under subparagraph (i). A claimant  
7 who is a resident of a city of the first class, a city of  
8 the second class A or a school district of the first  
9 class A shall be ineligible for the supplemental amount  
10 under this subparagraph.

11 (3) The amount of any claim for rent rebate in lieu of  
12 property taxes for rent due and payable during calendar year  
13 2006 and thereafter shall be determined in accordance with  
14 the following:

Household Income	Amount of Rent Rebate in Lieu of Property Taxes Allowed as Rebate
\$ 0 - \$ 8,000	\$650
8,001 - 15,000	500

15  
16  
17  
18  
19  
20 (b) Limitations on claims.--

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

26 (2) For calendar year 2006 and thereafter, the maximum  
27 amount of property tax or rent rebate in lieu of property  
28 taxes payable shall not exceed the lesser of:

29 (i) the amount of a claim under subsection (a)(2) or  
30 (3);

31 (ii) the amount of real property taxes actually  
32 paid; or

33 (iii) 20% of gross rent actually paid.

34 (3) No claim shall be allowed if the claimant is a  
35 tenant of an owner of real property exempt from real property  
36 taxes.

37 (c) Apportionment and public assistance.--

38 (1) If any of the following exist relating to a claim:

39 (i) a homestead is owned or rented and occupied for  
40 only a portion of a year or is owned or rented in part by  
41 a person who does not meet the qualifications for a  
42 claimant, exclusive of any interest owned or leased by a  
43 claimant's spouse;

44 (ii) the claimant is a widow or widower who  
45 remarries; or

46 (iii) the claimant is a formerly disabled person who  
47 is no longer disabled,

48 the department shall apportion the real property taxes or  
49 rent in accordance with the period or degree of ownership or  
50 leasehold or eligibility of the claimant in determining the  
51 amount of rebate for which a claimant is eligible.

1 (2) A claimant who receives public assistance from the  
2 Department of Public Welfare shall not be eligible for rent  
3 rebate in lieu of property taxes during those months within  
4 which the claimant receives public assistance.

5 (d) Government subsidies.--Rent shall not include subsidies  
6 provided by or through a governmental agency.

7 Section 1405. Filing of claim.

8 (a) General rule.--Except as otherwise provided in  
9 subsection (b), a claim for property tax or rent rebate shall be  
10 filed with the department on or before the 30th day of June of  
11 the year next succeeding the end of the calendar year in which  
12 real property taxes or rent was due and payable.

13 (b) Exception.--A claim filed after the June 30 deadline  
14 until December 31 of such calendar year shall be accepted by the  
15 secretary as long as funds are available to pay the benefits to  
16 the late filing claimant.

17 (c) Payments from State Lottery Fund.--No reimbursement on a  
18 claim shall be made from the State Lottery Fund earlier than the  
19 day following the 30th day of June provided in this chapter on  
20 which that claim may be filed with the department.

21 (d) Eligibility of claimants.--

22 (1) Only one claimant from a homestead each year shall  
23 be entitled to the property tax or rent rebate.

24 (2) If two or more persons are able to meet the  
25 qualifications for a claimant, they may determine who the  
26 claimant shall be.

27 (3) If they are unable to agree, the department shall  
28 determine to whom the rebate is to be paid.

29 Section 1406. Proof of claim.

30 (a) Contents.--Each claim shall include:

31 (1) Reasonable proof of household income.

32 (2) The size and nature of the property claimed as a  
33 homestead.

34 (3) The rent, tax receipt or other proof that the real  
35 property taxes on the homestead have been paid or rent in  
36 connection with the occupancy of a homestead has been paid.

37 (4) If the claimant is a widow or widower, a declaration  
38 of such status in such manner as prescribed by the secretary.

39 (b) Proof of disability.--

40 (1) Proof that a claimant is eligible to receive  
41 disability benefits under the Social Security Act (49 Stat.  
42 620, 42 U.S.C. § 301 et seq.) shall constitute proof of  
43 disability under this chapter.

44 (2) No person who has been found not to be disabled by  
45 the Social Security Administration shall be granted a rebate  
46 under this chapter.

47 (3) A claimant not covered under the Social Security Act  
48 shall be examined by a physician designated by the department  
49 and such status determined using the same standards used by  
50 the Social Security Administration.

51 (c) Direct payment of taxes or rent not required.--It shall

1 not be necessary that such taxes or rent were paid directly by  
2 the claimant if the rent or taxes have been paid when the claim  
3 is filed.

4 (d) Proof of age on first claim.--The first claim filed  
5 shall include proof that the claimant or the claimant's spouse  
6 was at least 65 years of age, or at least 50 years of age in the  
7 case of a widow or widower during the calendar year in which  
8 real property taxes or rent were due and payable.  
9 Section 1407. Incorrect claim.

10 Whenever on audit of a claim the department finds the claim  
11 to have been incorrectly determined, it shall redetermine the  
12 correct amount of the claim and notify the claimant of the  
13 reason for the redetermination and the amount of the corrected  
14 claim.

15 Section 1408. Funds for payment of claims.

16 (a) Payment.--Approved claims shall be paid from the State  
17 Lottery Fund established by the act of August 26, 1971 (P.L.351,  
18 No.91), known as the State Lottery Law.

19 (b) Transfers.--The Secretary of the Budget shall transfer  
20 the following amounts from the Property Tax Relief Fund to the  
21 State Lottery:

22 (1) Notwithstanding any other provision of law, an  
23 amount equal to \$100,000,000 of the total slot machine  
24 license fees paid by successful applicants for a Category 1  
25 slot machine license under 4 Pa.C.S. § 1209 (relating to slot  
26 machine license fee). The transfer under this paragraph shall  
27 occur upon deposit in the Property Tax Relief Fund of moneys  
28 derived from the fee from the fourth successful applicant for  
29 a Category 1 slot machine license.

30 (2) Notwithstanding any other provision of law, an  
31 amount equal to \$100,000,000 of the total slot machine  
32 license fees paid by successful applicants for a Category 2  
33 slot machine license under 4 Pa.C.S. § 1209. The transfer  
34 under this paragraph shall occur upon deposit in the Property  
35 Tax Relief Fund of moneys derived from the fee from the third  
36 successful applicant for a Category 2 slot machine license.

37 (3) For fiscal years 2007-2008 and 2008-2009, an amount  
38 equal to the sum of approved claims to be paid in each of  
39 those fiscal years under sections 704 of the Taxpayer Relief  
40 Act and 1404(a)(2)(ii), if any.

41 (4) For fiscal year 2009-2010 and each fiscal year  
42 thereafter, all of the following:

43 (i) The difference between the sum of the amount of  
44 approved claims to be paid in the next fiscal year under  
45 section 1404(a)(2)(i) and (3) and the amount of approved  
46 claims paid in fiscal year 2006-2007 under section  
47 1404(a)(1).

48 (ii) The sum of the amount of approved claims to be  
49 paid in the next fiscal year under sections 704 of the  
50 Taxpayer Relief Act and 1404(a)(2)(ii), if any.

51 (5) Beginning in fiscal year 2009-2010 and until the

1 difference between the sum of subparagraphs (i) and (ii) and  
2 \$200,000,000 is paid, an amount of not less than \$40,000,000  
3 annually or the amount of the difference, whichever is less.  
4 All transfers under this paragraph shall be completed no  
5 later than four years after the transfer required by  
6 paragraph (2).

7 (i) The difference between the sum of the amount of  
8 approved claims to be paid in fiscal year 2007-2008 under  
9 section 1404(a)(2)(i) and (3) and the amount of approved  
10 claims paid in fiscal year 2006-2007 under section  
11 1404(a)(1).

12 (ii) The difference between the sum of the amount of  
13 approved claims to be paid in fiscal year 2008-2009 under  
14 section 1404(a)(2)(i) and (3) and the amount of approved  
15 claims paid in fiscal year 2006-2007 under section  
16 1404(a)(1).

17 Section 1409. Claim forms and rules and regulations.

18 (a) General rule.--Necessary rules and regulations shall be  
19 prescribed by a committee consisting of the Secretary of Aging,  
20 the Secretary of Revenue and the Secretary of Community and  
21 Economic Development. The Secretary of Aging shall serve as the  
22 chairman of the committee. The department shall receive all  
23 applications, determine the eligibility of claimants, hear  
24 appeals, disburse payments and make available suitable forms for  
25 the filing of claims.

26 (b) Report to General Assembly.--In addition to any rules  
27 and regulations prescribed under subsection (a), the department  
28 shall collect the following information and issue a report  
29 including such information to the chairman and minority chairman  
30 of the Appropriations Committee of the Senate and the chairman  
31 and minority chairman of the Appropriations Committee of the  
32 House of Representatives by September 30, 2006, and September 30  
33 of each year thereafter.

34 (1) The total number of claims which will be paid in the  
35 fiscal year in which the report is issued with the  
36 information provided by school district, by county and for  
37 each household income level under section 1404(a)(2)(i).

38 (2) The total amount of rebates paid in the fiscal year  
39 in which the report is issued with the information provided  
40 by school district, by county and for each household income  
41 level under section 1404(a)(2)(i).

42 Section 1410. Fraudulent claims and conveyances to obtain  
43 benefits.

44 (a) Civil penalty.--In any case in which a claim is  
45 excessive and was filed with fraudulent intent, the claim shall  
46 be disallowed in full, and a penalty of 25% of the amount  
47 claimed shall be imposed. The penalty and the amount of the  
48 disallowed claim, if the claim has been paid, shall bear  
49 interest at the rate of 1.5% per month from the date of the  
50 claim until repaid.

51 (b) Criminal penalty.--The claimant and any person who

1 assisted in the preparation or filing of a fraudulent claim  
2 commits a misdemeanor of the third degree and, upon conviction  
3 thereof, shall be sentenced to pay a fine not exceeding \$1,000  
4 or to imprisonment not exceeding one year, or both.

5 (c) Disallowance for receipt of title.--A claim shall be  
6 disallowed if the claimant received title to the homestead  
7 primarily for the purpose of receiving property tax rebate.

8 Section 1411. Petition for redetermination.

9 (a) Right to file.--A claimant whose claim is either denied,  
10 corrected or otherwise adversely affected by the department may  
11 file with the department a petition for redetermination on forms  
12 supplied by the department within 90 days after the date of  
13 mailing of written notice by the department of such action.

14 (b) Contents.--The petition shall set forth the grounds upon  
15 which the claimant alleges that such departmental action is  
16 erroneous or unlawful, in whole or part, and shall contain an  
17 affidavit or affirmation that the facts contained in the  
18 petition are true and correct.

19 (c) Extension of time for filing.--

20 (1) An extension of time for filing the petition may be  
21 allowed for cause but may not exceed 120 days.

22 (2) The department shall hold such hearings as may be  
23 necessary for the purpose of redetermination, and each  
24 claimant who has duly filed such petition for redetermination  
25 shall be notified by the department of the time when and the  
26 place where such hearing in the claimant's case will be held.

27 (d) Time period for decision.--The department shall, within  
28 six months after receiving a filed petition for redetermination,  
29 dispose of the matters raised by such petition and shall mail  
30 notice of the department's decision to the claimant.

31 Section 1412. Review by Board of Finance and Revenue.

32 (a) Right to review.--Within 90 days after the date of  
33 official receipt by the claimant of notice mailed by the  
34 department of its decision on a petition for redetermination  
35 filed with it, the claimant who is adversely affected by the  
36 decision may by petition request the board to review such  
37 action.

38 (b) Effect of no decision from department.--The failure of  
39 the department to officially notify the claimant of a decision  
40 within the six-month period provided for by section 1411 shall  
41 act as a denial of the petition, and a petition for review may  
42 be filed with the board within 120 days after written notice is  
43 officially received by the claimant that the department has  
44 failed to dispose of the petition within the six-month period.

45 (c) Contents of petition for redetermination.--A petition  
46 for redetermination filed shall state the reasons upon which the  
47 claimant relies or shall incorporate by reference the petition  
48 for redetermination in which such reasons were stated. The  
49 petition shall be supported by affidavit that the facts set  
50 forth therein are correct and true.

51 (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  
31 the effective date of section 1505(b)(2).

32 Section 1502. Regulations.

33 The department shall have jurisdiction over and shall  
34 promulgate regulations as necessary for the proper  
35 administration of this act.

36 Section 1503. Construction.

37 Any and all references in any other act to Article II or any  
38 provision in Article II of the Tax Reform Code of 1971 shall be  
39 deemed a reference to Chapter 7 of this act or the corresponding  
40 provisions in Chapter 7 of this act.

41 Section 1504. Severability.

42 The provisions of this act are severable as follows:

43 (1) If any provision of this act is held invalid, the  
44 invalidity shall not affect other provisions or applications  
45 of this act which can be given effect without the invalid  
46 provision or application.

47 (2) Under no circumstances shall the invalidity of any  
48 provision or application of this act affect the validity of  
49 any provision in this act that abolishes the power of the  
50 governing body and any school district and city of the first  
51 class or any other political subdivision to levy, assess or

1 collect a tax on any interest in real property for school  
2 purposes.

3 Section 1505. Repeals.

4 (a) Intent.--The General Assembly declares that the repeals  
5 under subsection (b) are necessary to effectuate this act.

6 (b) Provisions.--The following acts and parts of acts are  
7 repealed to the extent specified:

8 (1) Section 631 of the act of March 10, 1949 (P.L.30,  
9 No.14), known as the Public School Code of 1949, is repealed.

10 (2) Any provision of the Public School Code of 1949 and  
11 of any other law relating to the authority of any school  
12 district to levy, assess and collect any tax on real property  
13 and the power of any city of the first class to levy, assess  
14 and collect any tax real property for school purposes is  
15 repealed upon the expiration of the respective schedule  
16 prescribed in sections 1101 and 1102.

17 (3) Any provision of the act of the Public School Code  
18 of 1949 and any other law relating to debt is repealed to the  
19 extent that it is inconsistent with this act.

20 (4) Any provision of the Public School Code of 1949 and  
21 any home rule charter adopted pursuant thereto is repealed  
22 insofar as it is inconsistent with this act.

23 (5) Any provision of the act of August 9, 1963 (P.L.643,  
24 No.341), known as the First Class City Public Education Home  
25 Rule Act, and any home rule school district charter adopted  
26 pursuant thereto is repealed insofar as it is inconsistent  
27 with this act.

28 (6) Article II of the act of March 4, 1971 (P.L.6,  
29 No.2), known as the Tax Reform Code of 1971, is repealed.

30 (7) Subchapters C and D of Chapter 3 and Chapter 13 of  
31 the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1),  
32 known as the Taxpayer Relief Act, are repealed.

33 (8) All acts and parts of acts that are inconsistent  
34 with this act are repealed to the extent of such  
35 inconsistency.

36 Section 1506. Applicability.

37 Chapter 7 and section 1505(b)(6) shall apply January 1, 2016.

38 Section 1507. Effective date.

39 This act shall take effect as follows:

40 (1) Chapters 3 and 4 and section 1505(b)(2) shall take  
41 effect June 30, 2016.

42 (2) The remainder of this act shall take effect  
43 immediately.