
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1318 Session of
2017

INTRODUCED BY GILLESPIE, MAY 2, 2017

REFERRED TO COMMITTEE ON FINANCE, MAY 2, 2017

AN ACT

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

17 TABLE OF CONTENTS

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

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

1 Section 711. Seasonal tax returns.

2 Subchapter F. Returns

3 Section 715. Persons required to make returns.

4 Section 716. Form of returns.

5 Section 717. Time for filing returns.

6 Section 718. Extension of time for filing returns.

7 Section 719. Place for filing returns.

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

10 Subchapter G. Payment

11 Section 721. Payment.

12 Section 722. Time of payment.

13 Section 723. Other times for payment.

14 Section 724. Place for payment.

15 Section 725. Tax held in trust for Commonwealth.

16 Section 726. Local receivers of use tax.

17 Section 727. Discount.

18 Subchapter H. Assessment and Reassessment

19 Section 730. Assessment.

20 Section 731. Mode and time of assessment.

21 Section 732. Reassessment.

22 Section 733. Assessment to recover erroneous refunds.

23 Section 734. (Reserved).

24 Section 735. (Reserved).

25 Section 736. Burden of proof.

26 Subchapter I. Collection

27 Section 737. Collection of tax.

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

30 Section 739. Precollection of tax.

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

4 Subchapter J. Nonpayment

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

9 Subchapter K. Miscellaneous Provisions

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

21 Subchapter L. Refunds and Credits

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

30 Subchapter M. Limitations

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

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

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

25 CHAPTER 1

26 PRELIMINARY PROVISIONS

27 Section 101. Short title.

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

30 Section 102. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

1 CHAPTER 3

2 TAXATION BY SCHOOL DISTRICTS

3 Section 301. Scope of chapter.

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

8 Section 302. Definitions.

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

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

15 "Earned income." As defined in section 501 of the act of
16 December 31, 1965 (P.L.1257, No.511), known as The Local Tax
17 Enabling Act.

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

19 "Net profits." As defined in section 501 of the act of
20 December 31, 1965 (P.L.1257, No.511), known as The Local Tax
21 Enabling Act.

22 "Personal income." Income enumerated in section 303 of the
23 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
24 of 1971, as determined by the Department of Revenue, subject to
25 any correction thereof for fraud, evasion or error as finally
26 determined by the Commonwealth.

27 "Resident individual." An individual who is domiciled in a
28 school district.

29 "School district." A school district of the first class A,
30 second class, third class or fourth class.

1 "Taxpayer." An individual required to pay a tax under this
2 chapter.

3 Section 303. Limitation.

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

6 Section 304. Preemption.

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

12 Section 305. General tax authorization.

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

17 (b) Personal income tax.--

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

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

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

28 (4) A personal income tax imposed under the authority of
29 this section must be levied by the school district on each of
30 the classes of income specified in section 303 of the Tax

1 Reform Code of 1971 and regulations under that section,
2 provisions of which are incorporated by reference into this
3 chapter. The following apply:

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

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

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

27 (II) Permit another individual or entity to
28 view or examine a return or copy of a return or a
29 book containing an abstract or particulars.

30 (III) Print, publish or publicize in any

1 manner a return, any particular information
2 contained in or concerning the return, any amount
3 or source of income, profits, losses or
4 expenditures in or concerning the return or any
5 particular information concerning income,
6 profits, losses or expenditures contained in or
7 relating to a return.

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

10 (I) may be fined not more than \$1,000 or
11 imprisoned for not more than one year, or both;
12 and

13 (II) may be removed from office or
14 discharged from employment.

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

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

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

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

28 Section 306. Referendum.

29 (a) Procedures.--In order to levy a personal income tax or
30 an earned income and net profits tax under this chapter, a

1 governing body shall use the procedures set forth in subsections
2 (b), (c), (d), (e), (f) and (g).

3 (b) Requirements.--

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

12 (2) The referendum question must state:

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

15 (ii) the purpose of the tax;

16 (iii) the duration of the tax; and

17 (iv) the amount of revenue to be generated by the
18 implementation of the tax.

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

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

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

28 (4) A nonlegal interpretative statement must accompany
29 the question in accordance with section 201.1 of the act of
30 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania

1 Election Code, that includes the following:

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

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

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

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

16 (e) Duties of election officials.--

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

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

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

1 (g) Notice and public hearing.--

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

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

13 Section 307. Continuity of tax.

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

18 Section 308. Collections.

19 An income tax imposed under this chapter is subject to the
20 provisions for collection and delinquency found in the Local Tax
21 Enabling Act.

22 Section 309. Credits.

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

27 (b) Limitation.--Payment of a tax on income to a state other
28 than Pennsylvania or to a political subdivision located outside
29 the boundaries of this Commonwealth by a resident of a school
30 district located in this Commonwealth may not be credited to and

1 allowed as a deduction from the person's liability for an income
2 tax imposed by the school district of residence under this
3 chapter.

4 Section 310. Exemption and special provisions.

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

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

12 Section 311. Regulations.

13 A school district that imposes:

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

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

23 CHAPTER 5

24 EDUCATION TAX

25 Section 501. Definitions.

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

29 Section 502. Education tax.

30 In addition to the tax collected under section 302 of the Tax

1 Reform Code of 1971, the Commonwealth shall impose the tax set
2 forth in section 503 in the same manner as the tax under the Tax
3 Reform Code of 1971.

4 Section 503. Imposition of tax.

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

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

18 Section 504. Deposit in Residential Property Tax Elimination
19 Fund.

20 All moneys collected under this chapter shall be deposited in
21 the Residential Property Tax Elimination Fund.

22 Section 505. Combination of tax forms.

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

27 CHAPTER 7

28 SALES AND USE TAX FOR THE

29 ELIMINATION OF RESIDENTIAL PROPERTY TAXES

30 SUBCHAPTER A

1 GENERAL PROVISIONS

2 Section 701. Definitions.

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

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

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

22 "Building machinery and equipment." As follows:

23 (1) The term includes, without limitation, boilers,
24 chillers, air cleaners, humidifiers, fans, switchgear, pumps,
25 telephones, speakers, horns, motion detectors, dampers,
26 actuators, grills, registers, traffic signals, sensors, card
27 access devices, guardrails, medial devices, floor troughs and
28 grates and laundry equipment, together with integral
29 coverings and enclosures, whether or not the item constitutes
30 a fixture or is otherwise affixed to the real estate, whether

1 or not damage would be done to the item or its surroundings
2 upon removal or whether or not the item is physically located
3 within a real estate structure. The term also includes
4 generation equipment, storage equipment, conditioning
5 equipment, distribution equipment and termination equipment,
6 which shall be limited to the following:

7 (i) air conditioning, limited to heating, cooling,
8 purification, humidification, dehumidification and
9 ventilation;

10 (ii) electrical;

11 (iii) plumbing;

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

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

15 (vi) control system limited to energy management,
16 traffic and parking lot and building access;

17 (vii) medical system limited to diagnosis and
18 treatment equipment, medical gas, nurse call and doctor
19 paging;

20 (viii) laboratory system;

21 (ix) cathodic protection system; or

22 (x) furniture, cabinetry and kitchen equipment.

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

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

1 service, lighting maintenance service such as bulb replacement,
2 cleaning, chimney cleaning service, acoustical tile cleaning
3 service, venetian blind cleaning, cleaning and maintenance of
4 telephone booths or cleaning and degreasing of service stations.
5 The term shall not include repairs on buildings and other
6 structures; nor shall this term include the maintenance or
7 repair of boilers, furnaces and residential air conditioning
8 equipment or parts thereof; the painting, wallpapering or
9 applying other like coverings to interior walls, ceilings or
10 floors; or the exterior painting of buildings.

11 "Call center." As follows:

12 (1) The physical location in this Commonwealth:

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

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

16 and

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

20 (A) customer service and support;

21 (B) technical assistance;

22 (C) help desk service;

23 (D) providing information;

24 (E) conducting surveys;

25 (F) revenue collections; or

26 (G) receiving orders or reservations.

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

30 "Commercial aircraft operator." A person, excluding

1 scheduled airlines, that engages in any or all of the following:

2 (1) charter of aircraft;

3 (2) leasing of aircraft;

4 (3) aircraft sales;

5 (4) aircraft rental;

6 (5) flight instruction;

7 (6) air freight; or

8 (7) any other flight activities for compensation.

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

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

13 (2) Fair racing sanctioned by the State Harness Racing
14 Commission.

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

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

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

1 not include the spraying of trees which are harvested for
2 commercial purposes for gypsy moth control.

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

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

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

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

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

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

11 "Lawn care service." Providing services for lawn upkeep,
12 including, but not limited to, fertilizing, lawn mowing,
13 shrubbery trimming or other lawn treatment services.

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

17 "Maintaining a place of business in this Commonwealth." As
18 follows:

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

30 (2) Engagement in any activity as a business within this

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

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

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

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

1 personal property.

2 (3.3) Having any contact within this Commonwealth which
3 would allow the Commonwealth to require a person to collect
4 and remit tax under the Constitution of the United States.

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

12 (4) The term shall not include:

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

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

19 (B) the property is located at the Pennsylvania
20 premises of the commercial printer.

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

25 "Manufacture." As follows:

26 (1) The performance of manufacturing, fabricating,
27 compounding, processing or other operations, engaged in as a
28 business, which place any tangible personal property in a
29 form, composition or character different from that in which
30 it is acquired whether for sale or use by the manufacturer,

1 and shall include, but not be limited to:

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

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

13 (B) process piping systems;

14 (C) specialized lighting systems;

15 (D) deionized water systems;

16 (E) process vacuum and compressed air systems;

17 (F) process and specialty gases; and

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

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

27 (iii) Refining, blasting, exploring, mining and
28 quarrying for, or otherwise extracting from the earth or
29 from waste or stockpiles or from pits or banks any
30 natural resources, minerals and mineral aggregates,

1 including blast furnace slag.

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

9 (v) As follows:

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

12 (I) product or utility service; or

13 (II) method of producing a product or
14 utility service.

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

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

26 (vii) Remanufacture or retrofit by a manufacturer or
27 remanufacturer of aircraft, armored vehicles and other
28 defense-related vehicles having a finished value of at
29 least \$50,000. Remanufacture or retrofit involves the
30 disassembly of such aircraft, vehicles, parts or

1 components, including electric or electronic components,
2 the integration of those parts and components with other
3 used or new parts or components, including the salvaging,
4 recycling or reclaiming of the used parts or components,
5 and the assembly of the new or used aircraft, vehicles,
6 parts or components. For purposes of this definition, the
7 following terms or phrases have the following meanings:

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

11 (B) "armored vehicles" means tanks, armed
12 personnel carriers and all other armed track or
13 semitrack vehicles; or

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

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

25 (2) The term does not include:

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

29 (ii) Producing a commercial motion picture.

30 (iii) Cooking, freezing or baking fruits,

1 vegetables, mushrooms, fish, seafood, meats, poultry or
2 bakery products.

3 "Mobile telecommunications service." Mobile
4 telecommunications service as that term is defined in the Mobile
5 Telecommunications Sourcing Act (Public Law 106-252, 4 U.S.C.).

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

15 "Prebuilt housing." Either of the following:

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

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

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

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

29 "Prebuilt housing sale." A sale of prebuilt housing to a
30 prebuilt housing purchaser, including a sale to a landlord,

1 without regard to whether the person making the sale is
2 responsible for installing the prebuilt housing or whether the
3 prebuilt housing becomes a real estate structure upon
4 installation. Temporary installation by a prebuilt housing
5 builder for display purposes of a unit held for resale shall not
6 be considered occupancy for residential purposes.

7 "Premium cable or premium video programming service."

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

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

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

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

24 (A) A basic service tier shall include:

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

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

29 (III) any additional video programming
30 signals or service added to the basic service

1 tier by the cable operator.

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

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

9 (I) the basic service tier;

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

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

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

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

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

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

24 (iv) Additional premium cable outlets in excess of
25 10.

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

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

29 (i) Transmissions by public television.

30 (ii) Public radio services.

1 (iii) Official Federal, State or local government
2 cable services.

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

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

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

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

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

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

1 "Processing." The performance of the following activities
2 when engaged in as a business enterprise:

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

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

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

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

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

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

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

1 construction site.

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

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

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

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

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

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

21 (11) The processing of used lubricating oils.

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

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

1 sold.

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

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

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

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

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

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

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

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

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

30 (3) The obtaining for a consideration any of those

1 services set forth under paragraphs (2), (3) and (4) of the
2 definition of "sale at retail" other than for resale.

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

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

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

28 "Purchase price." As follows:

29 (1) The total value of anything paid or delivered, or
30 promised to be paid or delivered, whether it be money or

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

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

16 (3) In determining the purchase price on the sale or use
17 of taxable tangible personal property or a service where,
18 because of affiliation of interests between the vendor and
19 purchaser, or irrespective of any such affiliation, if for
20 any other reason the purchase price declared by the vendor or
21 taxpayer on the taxable sale or use of such tangible personal
22 property or service is, in the opinion of the department, not
23 indicative of the true value of the article or service or the
24 fair price thereof, the department shall, pursuant to uniform
25 and equitable rules, determine the amount of constructive
26 purchase price upon the basis of which the tax shall be
27 computed and levied. Such rules shall provide for a
28 constructive amount of purchase price for each sale or use
29 which would naturally and fairly be charged in an arms-length
30 transaction in which the element of common interest between

1 the vendor or purchaser is absent or, if no common interest
2 exists, any other element causing a distortion of the price
3 or value is likewise absent. For the purpose of this
4 paragraph where a taxable sale or purchase at retail
5 transaction occurs between a parent and a subsidiary,
6 affiliate or controlled corporation of such parent
7 corporation, there shall be a rebuttable presumption that
8 because of such common interest such transaction was not at
9 arms-length.

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

1 (5) With respect to the tax imposed by section 702(b)
2 upon any tangible personal property originally purchased by
3 the user of the property six months or longer prior to the
4 first taxable use of the property within this Commonwealth.
5 The user may elect to pay tax on a substituted base
6 determined by considering the purchase price of the property
7 for tax purposes to be equal to the prevailing market price
8 of similar tangible personal property at the time and place
9 of the first use within this Commonwealth. The election must
10 be made at the time of filing a tax return with the
11 department and reporting the tax liability and paying the tax
12 due plus accrued penalties and interest within six months of
13 the due date of the report and payment under section 717(a)
14 and (c).

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

29 (7) Unless the vendor separately states which portion of
30 the billing applies to premium cable services, the total bill

1 for the provision of all cable services shall be the purchase
2 price.

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

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

18 "Real estate structure." As follow:

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

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

27 (ii) the United States; or

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

30 (2) The term includes building machinery and equipment,

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

16 "Resale." As follows:

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

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

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

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

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

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

27 "Resident." As follows:

28 (1) Any natural person:

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

30 (ii) who maintains a permanent place of abode within

1 this Commonwealth and spends in the aggregate more than
2 60 days of the year within this Commonwealth.

3 (2) Any corporation:

4 (i) incorporated under the laws of this
5 Commonwealth;

6 (ii) authorized to do business or doing business
7 within this Commonwealth; or

8 (iii) maintaining a place of business within this
9 Commonwealth.

10 (3) Any association, fiduciary, partnership or other
11 entity:

12 (i) domiciled in this Commonwealth;

13 (ii) authorized to do business or doing business
14 within this Commonwealth; or

15 (iii) maintaining a place of business within this
16 Commonwealth.

17 "Sale at retail." As follows:

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

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

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

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

1 conjunction therewith.

2 (ii) Inspecting motor vehicles pursuant to the
3 mandatory requirements of 75 Pa.C.S. (relating to
4 vehicles).

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

20 (5) (Reserved).

21 (6) (Reserved).

22 (7) (Reserved).

23 (8) (i) Any retention of possession, custody or a
24 license to use or consume tangible personal property or
25 any further obtaining of services described in paragraphs
26 (2), (3) and (4) pursuant to a rental or service contract
27 or other arrangement, other than as security.

28 (ii) The term does not include any such transfer of
29 tangible personal property or rendition of services for
30 the purpose of resale or such rendition of services or

1 the transfer of tangible personal property, including,
2 but not limited to, machinery and equipment and parts
3 therefor and supplies to be used or consumed by the
4 purchaser directly in the operations of:

5 (A) The manufacture of tangible personal
6 property.

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

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

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

1 storage or processing facilities and
2 postharvesting site reclamation, including those
3 activities necessary to improve timber growth or
4 ensure natural or direct reforestation of the
5 site. The term shall not include the harvesting
6 of trees for clearing land for access roads.

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

12 (D) Processing as defined in this section.

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

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

30 (v) The exclusion provided in subparagraph (ii)(C)

1 shall not apply to:

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

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

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

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

27 (9) Where tangible personal property or services are
28 utilized for purposes constituting a sale at retail and for
29 purposes excluded from this definition it shall be presumed
30 that the tangible personal property or services are utilized

1 for purposes constituting a sale at retail and subject to tax
2 unless the user thereof proves to the department that the
3 predominant purposes for which the tangible personal property
4 or services are utilized do not constitute a sale at retail.

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

21 (11) The rendition for a consideration of lobbying
22 services.

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

25 (13) The rendition for a consideration of secretarial or
26 editing services.

27 (14) The rendition for a consideration of disinfecting
28 or pest control services, building maintenance or cleaning
29 services.

30 (15) The rendition for a consideration of employment

1 agency services or help supply services.

2 (16) (Reserved).

3 (17) The rendition for a consideration of lawn care
4 service.

5 (18) The rendition for a consideration of self-storage
6 service.

7 (19) The rendition for a consideration of a mobile
8 telecommunications service.

9 "Secretarial or editing services." Providing services which
10 include, but are not limited to, editing, letter writing,
11 proofreading, resume writing, typing or word processing. Such
12 services shall not include court reporting and stenographic
13 services.

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

19 (1) Safe deposit boxes by financial institutions.

20 (2) Storage in refrigerator or freezer units.

21 (3) Storage in commercial warehouses.

22 (4) Facilities for goods distribution.

23 (5) Lockers in airports, bus stations, museums and other
24 public places.

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

1 vendor displays for sale or sells tangible personal property or
2 services subject to tax under section 702.

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

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

27 "Tangible personal property."

28 (1) Corporeal personal property, including, but not
29 limited to, goods, wares, merchandise, steam and natural and
30 manufactured and bottled gas for nonresidential use,

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

22 (2) The term shall include the following, whether
23 electronically or digitally delivered, streamed or accessed
24 and whether purchased singly, by subscription or in any other
25 manner, including maintenance, updates and support:

- 26 (i) video;
- 27 (ii) photographs;
- 28 (iii) books;
- 29 (iv) any other otherwise taxable printed matter;
- 30 (v) applications, commonly known as apps;

- 1 (vi) games;
- 2 (vii) music;
- 3 (viii) any other audio, including satellite radio
- 4 service;
- 5 (ix) canned software, notwithstanding the function
- 6 performed; or
- 7 (x) any other otherwise taxable tangible personal
- 8 property electronically or digitally delivered, streamed
- 9 or accessed.

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

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

25 (1) Subscriber charges for access to a video dial tone
26 system.

27 (2) Charges to video programmers for the transport of
28 video programming.

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

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

8 (ii) Telecommunications services purchased by an
9 Internet service provider to deliver access to the
10 Internet to its customers.

11 (4) Mobile telecommunications services.

12 "Transient vendor." As follows:

13 (1) Any person who:

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

21 (ii) offers or intends to offer such tangible
22 personal property or services for sale at retail within
23 this Commonwealth; and

24 (iii) does not maintain an established office,
25 distribution house, sales house, warehouse, service
26 enterprise, residence from which business is conducted or
27 other place of business within this Commonwealth.

28 (2) The term shall not include a person who delivers
29 tangible personal property within this Commonwealth pursuant
30 to orders for the property which were solicited or placed by

1 mail or other means.

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

6 "Use." As follows:

7 (1) The exercise of any right or power incidental to the
8 ownership, custody or possession of tangible personal
9 property and shall include, but not be limited to,
10 transportation, storage or consumption.

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

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

16 (i) Washing, cleaning, waxing, polishing or
17 lubricating of motor vehicles whether or not any tangible
18 personal property is transferred to the purchaser in
19 conjunction with such services.

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

23 (4) (i) The obtaining by a purchaser 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
27 or installing tangible personal property as a repair or
28 replacement part of other tangible personal property
29 other than wearing apparel or shoes, whether or not the
30 services are performed directly or by any means other

1 than by coin-operated self-service laundry equipment for
2 wearing apparel or household goods, and whether or not
3 any tangible personal property is transferred to the
4 purchaser in conjunction therewith, except such services
5 as are obtained in the construction, reconstruction,
6 remodeling, repair or maintenance of real estate, except
7 that this paragraph shall not be deemed to impose tax on
8 diaper service.

9 (ii) The term shall not include:

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

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

23 (I) The manufacture of tangible personal
24 property.

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

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

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

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

28 (III) The producing, delivering or rendering
29 of a public utility service, or the constructing,
30 reconstructing, remodeling, repairing or

1 maintaining the facilities which are directly
2 used in producing, delivering or rendering a
3 public utility service.

4 (IV) Processing as defined in this section.

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

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

22 (v) The exclusion provided in subparagraph (iii)
23 shall not apply to:

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

29 (B) tools and equipment used but not installed
30 in the maintenance of facilities used directly in the

1 production, delivering or rendition of a public
2 utility service.

3 (vi) The exclusion provided in subparagraph (ii) (B)
4 shall not apply to the services enumerated in paragraphs
5 (9), (10), (11), (12), (13), (14), (15) and (16) nor to
6 lobbying services, adjustment services, collection
7 services or credit reporting services, secretarial or
8 editing services, disinfecting or pest control services,
9 building maintenance or cleaning services, employment
10 agency services, help supply services, lawn care service
11 or self-storage service, except that the exclusion
12 provided in subparagraph (ii) (B) (II) for farming,
13 dairying and agriculture shall apply to the service
14 enumerated in the definition of "disinfecting or pest
15 control services."

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

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

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

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

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

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

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

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

26 (12) The obtaining by the purchaser of disinfecting or
27 pest control services, building maintenance or cleaning
28 services.

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

1 (14) (Reserved).

2 (15) The obtaining by the purchaser of lawn care
3 service.

4 (16) The obtaining by the purchaser of self-storage
5 service.

6 (17) The obtaining by a construction contractor of
7 tangible personal property or services provided to tangible
8 personal property which will be used pursuant to a
9 construction contract whether or not the tangible personal
10 property or services are transferred.

11 (18) The obtaining of mobile telecommunications service
12 by a customer.

13 "Used prebuilt housing." Prebuilt housing that was
14 previously subject to a sale to a prebuilt housing purchaser.

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

21 SUBCHAPTER B

22 IMPOSITION OF TAX

23 Section 702. Imposition of tax.

24 (a) Sales tax.--There is imposed upon each separate sale at
25 retail of tangible personal property or services within this
26 Commonwealth a tax of 7% of the purchase price. The tax shall be
27 collected by the vendor from the purchaser and shall be paid
28 over to this Commonwealth as provided in this chapter.

29 (b) Use tax.--There is imposed upon the use within this
30 Commonwealth of tangible personal property purchased at retail

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

8 (c) Telecommunications services.--

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

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

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

30 (d) (Reserved).

1 (e) Prepaid telecommunications.--

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

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

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

16 (ii) The service provider shall notify the
17 department of its election and shall collect the tax on
18 receipts of each sale until the service provider notifies
19 the department otherwise.

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

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

25 (2) The sale or use of prepaid mobile telecommunications
26 service not evidenced by the transfer of tangible personal
27 property shall be subject to the tax imposed by subsections
28 (a) and (b) and shall be deemed to occur at the purchaser's
29 billing address or the location associated with the mobile
30 telephone number or the point of sale, whichever is

1 applicable.

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

14 (1) Notwithstanding any other provision of this chapter,
15 tax with respect to sales of prebuilt housing shall be
16 imposed, subject to the provisions of paragraph (2), on the
17 prebuilt housing builder at the time of the prebuilt housing
18 sale within this Commonwealth and shall be paid and reported
19 by the prebuilt housing builder to the department in the time
20 and manner provided in this chapter.

21 (2) A manufacturer of prebuilt housing may, at its
22 option, precollect the tax from the prebuilt housing builder
23 at the time of sale to the prebuilt housing builder.

24 (3) In any case where prebuilt housing is purchased and
25 the tax is not paid by the prebuilt housing builder or
26 precollected by the manufacturer, the prebuilt housing
27 purchaser shall remit tax directly to the department if the
28 prebuilt housing is used in this Commonwealth without regard
29 to whether the prebuilt housing becomes a real estate
30 structure.

1 (g) Mobile telecommunications services provided by home
2 service provider.--Notwithstanding any other provisions of this
3 chapter and in accordance with the Mobile Telecommunications
4 Sourcing Act (Public Law 106-252, 4 U.S.C. §§ 116-126), the sale
5 or 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(a) and (b) (relating to sourcing rules) shall be
8 subject to the tax of 7% of the purchase price. The 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 within
12 this Commonwealth, regardless of where the mobile
13 telecommunications services originate, terminate or pass
14 through. The words and phrases used in this subsection shall
15 have the same meanings given to them in the Mobile
16 Telecommunications Sourcing Act.

17 Section 703. Computation of tax.

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

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

22 (2) If the purchase price is 11¢ or more, but less than
23 18¢, 1¢ shall be collected.

24 (3) If the purchase price is 18¢ or more, but less than
25 35¢, 2¢ shall be collected.

26 (4) If the purchase price is 35¢ or more, but less than
27 51¢, 3¢ shall be collected.

28 (5) If the purchase price is 51¢ or more, but less than
29 68¢, 4¢ shall be collected.

30 (6) If the purchase price is 68¢ or more, but less than

1 85¢, 5¢ shall be collected.

2 (7) If the purchase price is 85¢ or more, but less than
3 \$1.01, 6¢ shall be collected.

4 (8) If the purchase price is more than \$1.00, 7% of each
5 dollar of purchase price plus the charges set forth in this
6 section upon any fractional part of a dollar in excess of
7 even dollars shall be collected.

8 (b) Deposit into Residential Property Tax Elimination
9 Fund.--The tax collected under section 702 shall be deposited
10 into the Residential Property Tax Elimination Fund.

11 SUBCHAPTER C

12 EXCLUSIONS FROM TAX

13 Section 704. Exclusions from tax.

14 The tax imposed by section 702 shall not be imposed upon any
15 of the following:

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

27 (2) The use of tangible personal property purchased by a
28 nonresident person outside of, and brought into, this
29 Commonwealth for use in this Commonwealth for a period not to
30 exceed seven days or for a period of time when the

1 nonresident is a tourist or vacationer, as long as the
2 tangible personal property is not consumed within this
3 Commonwealth.

4 (3) The use of tangible personal property in accordance
5 with the following:

6 (i) The property is purchased outside this
7 Commonwealth for use outside this Commonwealth by an
8 individual or business entity that, at the time of
9 purchase, is not:

10 (A) a resident of this Commonwealth; nor

11 (B) actually doing business within this
12 Commonwealth.

13 (ii) The purchaser later brings the tangible
14 personal property into this Commonwealth in connection
15 with the establishment of a permanent business or
16 residence in this Commonwealth.

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

19 (A) the date it was first brought into this
20 Commonwealth; or

21 (B) the establishment of a business or residence
22 under subparagraph (ii).

23 (iv) This paragraph does not apply to tangible
24 personal property temporarily brought into this
25 Commonwealth for the performance of contracts for the
26 construction, reconstruction, remodeling, repairing and
27 maintenance of real estate.

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

29 (i) disposable diapers;

30 (ii) premoistened wipes;

- 1 (iii) incontinence products;
- 2 (iv) colostomy deodorants;
- 3 (v) toilet paper;
- 4 (vi) sanitary napkins, tampons or similar items used
- 5 for feminine hygiene; or
- 6 (vii) toothpaste, toothbrushes or dental floss.

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

14 (6) (Reserved).

15 (7) (Reserved).

16 (8) (Reserved).

17 (9) (Reserved).

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

19 (A) any charitable organization, volunteer
20 firemen's organization, volunteer firefighters'
21 relief association as defined in 35 Pa.C.S. § 7412
22 (relating to definitions) or nonprofit educational
23 institution; or

24 (B) a religious organization for religious
25 purposes of tangible personal property or services
26 other than pursuant to a construction contract.

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

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

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

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

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

29 (13) The sale at retail or use of wrapping paper,
30 wrapping twine, bags, cartons, tape, rope, labels,

1 nonreturnable containers and all other wrapping supplies, if
2 the use is incidental to the delivery of personal property.
3 Unless the property wrapped or packaged will be resold by the
4 purchaser of the wrapping or packaging service, this
5 paragraph does not apply to a charge for wrapping or
6 packaging. As used in this paragraph, the term "cartons"
7 includes corrugated boxes used by a person engaged in the
8 manufacture of snack food products to deliver the
9 manufactured product, whether or not the boxes are returnable
10 for potential reuse.

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

15 (15) Sale at retail of tangible personal property or
16 services used or consumed in building, rebuilding, repairing
17 and making additions to or replacements in and upon vessels
18 designed for commercial use of registered tonnage of 50 tons
19 or more upon special order of the purchaser, or when rebuilt,
20 repaired or enlarged, or when replacements are made upon
21 order of or for the account of the owner.

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

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

29 (i) Prescription or nonprescription medicines, drugs
30 or medical supplies.

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

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

6 (iv) False teeth and materials used by a dentist in
7 dental treatment.

8 (v) Eyeglasses when especially designed or
9 prescribed by an ophthalmologist, oculist or optometrist
10 for the personal use of the owner or purchaser.

11 (vi) Artificial braces and supports designed solely
12 for the use of persons who are walking-impaired or any
13 other therapeutic, prosthetic or artificial device
14 designed for the use of a particular individual to
15 correct or alleviate a physical incapacity, including,
16 but not limited to, hospital beds, iron lungs and kidney
17 machines.

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

19 (19) (Reserved).

20 (20) (Reserved).

21 (21) (Reserved).

22 (22) (Reserved).

23 (23) (Reserved).

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

27 (i) sold to a nonresident;

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

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

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

2 (26) (Reserved).

3 (27) (Reserved).

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

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

8 (29.1) The sale at retail of food and beverages at or
9 from a school or church in the ordinary course of the
10 activities of such organization.

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

12 (ii) For purposes of this paragraph, the term
13 "newspaper" shall mean a "legal newspaper" or publication
14 containing matters of general interest and reports of
15 current events which qualifies as a "newspaper of general
16 circulation" qualified to carry a "legal advertisement"
17 as those terms are defined in 45 Pa.C.S. § 101 (relating
18 to definitions), not including magazines.

19 (iii) This paragraph includes any printed
20 advertising materials circulated with such newspaper
21 regardless of where or by whom the advertising material
22 was produced.

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

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

28 (33) The sale at retail or use of textbooks for use in
29 schools, colleges and universities, either public or private,
30 that are recognized by the Department of Education, when the

1 textbooks are purchased on behalf of or through such schools,
2 colleges or universities.

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

6 (35) (Reserved).

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

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

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

1 "Certificate of Delivery to Destination Outside of the
2 Commonwealth" form must have attached to it bills of lading
3 both for the transfer to the domiciled person, agent or
4 corporation and from the aforementioned to the out-of-State
5 location.

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

10 (40) (Reserved).

11 (41) The sale at retail of supplies and materials to
12 tourist promotion agencies which receive grants from the
13 Commonwealth for distribution to the public as promotional
14 material and the use of supplies and materials by the
15 agencies for the purposes set forth in this paragraph.

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

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

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

28 (45) The sale at retail or use of materials used in the
29 construction and erection of objects purchased by not-for-
30 profit organizations for purposes of commemoration and

1 memorialization of historical events, provided that the
2 object is erected upon publicly owned property or property to
3 be conveyed to a public entity upon the commemoration or
4 memorialization of the historical event.

5 (46) The sale at retail or use of tangible personal
6 property purchased in accordance with the Food Stamp Act of
7 1977 (Public Law 88-525, 7 U.S.C. § 2011 et seq.).

8 (47) (Reserved).

9 (48) (Reserved).

10 (49) The sale at retail or use of food and beverages by
11 nonprofit associations which support sports programs. For
12 purposes of this paragraph, the words and phrases shall have
13 the following meanings:

14 "Nonprofit association." An entity which is
15 organized as a nonprofit corporation or nonprofit
16 unincorporated association under the laws of the United
17 States or this Commonwealth or any entity which is
18 authorized to do business in this Commonwealth as a
19 nonprofit corporation or unincorporated association under
20 the laws of this Commonwealth, including youth or
21 athletic, volunteer fire, ambulance, religious,
22 charitable, fraternal, veterans or civic, or any
23 separately chartered auxiliary of the association, if
24 organized and operated on a nonprofit basis.

25 "Sports program." Baseball, including softball,
26 football, basketball, soccer and any other competitive
27 sport formally recognized as a sport by the United States
28 Olympic Committee as specified by and under the
29 jurisdiction of the Ted Stevens Olympic and Amateur
30 Sports Act (Public Law 105-277, 36 U.S.C. § 220501 et

1 seq.), the Amateur Athletic Union or the National
2 Collegiate Athletic Association. The term shall be
3 limited to a program or that portion of a program that is
4 organized for recreational purposes. The term shall be
5 limited to a program or that portion of a program which
6 is organized for recreational purposes and the activities
7 of which are substantially for such purposes and which is
8 primarily for participants who are 18 years of age or
9 younger or whose 19th birthdays occur during the year of
10 participation or the competitive season, whichever is
11 longer. There shall, however, be no age limitation for
12 programs operated for persons with physical disabilities
13 or persons with mental retardation.

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

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

29 (51) The sale at retail or use of interior office
30 building cleaning services but only as relates to the costs

1 of the supplied employee, which costs are wages, salaries,
2 bonuses and commissions, employment benefits, expense
3 reimbursements and payroll and withholding taxes, to the
4 extent that these costs are specifically itemized or that
5 these costs in aggregate are stated in billings from the
6 vender or supplying entity.

7 (52) (Reserved).

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

11 (54) (Reserved).

12 (55) The sale at retail or use of horses to be used
13 exclusively for commercial racing activities and the sale at
14 retail and use of feed, bedding, grooming supplies, riding
15 tack, farrier services, portable stalls and sulkies for
16 horses used exclusively for commercial racing activities.

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

21 (i) The equipment or devices are used by a person
22 who, by virtue of a physical disability, is unable to
23 ascend or descend stairs without the aid of such
24 equipment or device.

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

27 (iii) A physician has certified the physical
28 disability of the person in whose residence the equipment
29 or device is installed or used.

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

1 contractor of building machinery and equipment and services
2 thereto that are:

3 (i) transferred pursuant to a construction contract
4 for any charitable organization, volunteer firemen's
5 organization, volunteer firefighters' relief association,
6 nonprofit educational institution or religious
7 organization for religious purposes, if the building
8 machinery and equipment and services thereto are not used
9 in any unrelated trade or business; or

10 (ii) transferred to the United States or the
11 Commonwealth or its instrumentalities or political
12 subdivisions.

13 (58) As follows:

14 (i) The sale at retail or use of a personal
15 computer, a peripheral device or an Internet access
16 device, or a service contract or single-user licensed
17 software purchased in conjunction with a personal
18 computer, peripheral device or Internet access device,
19 during the exclusion period by an individual purchaser
20 for nonbusiness use.

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

23 (A) a personal computer, peripheral device or
24 Internet access device;

25 (B) mainframe computers;

26 (C) network servers;

27 (D) local area network hubs;

28 (E) routers and network cabling;

29 (F) network operating systems;

30 (G) multiple-user licensed software;

- 1 (H) minicomputers;
- 2 (I) hand-held computers;
- 3 (J) personal digital assistants without Internet
- 4 access;
- 5 (K) hardware word processors;
- 6 (L) graphical calculators;
- 7 (M) video game consoles;
- 8 (O) telephones; digital cameras;
- 9 (P) pagers;
- 10 (Q) compact discs encoded with music or movies;
- 11 and
- 12 (R) digital versatile discs encoded with music
- 13 or movies.

14 (iii) The following words and phrases when used in
15 this paragraph shall have the meanings given to them in
16 this subparagraph unless the context clearly indicates
17 otherwise:

18 "Exclusion period." The period of time from August
19 5, 2001, to and including August 12, 2001, and from
20 February 17, 2002, to and including February 24, 2002.

21 "Purchaser." An individual who places an order and
22 pays the purchase price by cash or credit during the
23 exclusion period even if delivery takes place after the
24 exclusion period.

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

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

30 (61) The sale at retail to or use of food and

1 nonalcoholic beverages by an airline which will transfer the
2 food or nonalcoholic beverages to passengers in connection
3 with the rendering of the airline service.

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 whether or not the sale is made to the person
8 directly engaged in the business enterprise or to a person
9 contracting with the person directly engaged in the business
10 enterprise for the production of food.

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

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

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

23 (ii) takes place during the period when there is a
24 declaration of disaster emergency under 35 Pa.C.S. §
25 7301(c) (relating to general authority of Governor).

26 (65) The sale at retail or use of investment metal
27 bullion and investment coins. "Investment metal bullion"
28 means any elementary precious metal which has been put
29 through a process of smelting or refining, including, but not
30 limited to, gold, silver, platinum and palladium, and which

1 is in such state or condition that its value depends upon its
2 content and not its form. "Investment metal bullion" does not
3 include precious metal which has been assembled, fabricated,
4 manufactured or processed in one or more specific and
5 customary industrial, professional, aesthetic or artistic
6 uses. "Investment coins" means numismatic coins or other
7 forms of money and legal tender manufactured of gold, silver,
8 platinum, palladium or other metal and of the United States
9 or any foreign nation with a fair market value greater than
10 any nominal value of such coins. "Investment coins" does not
11 include jewelry or works of art made of coins, nor does it
12 include commemorative medallions.

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

17 (i) "Court." Includes:

18 (A) an appellate court as defined in 42 Pa.C.S.
19 § 102 (relating to definitions);

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

22 (C) the minor judiciary as defined in 42 Pa.C.S.
23 § 102.

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

27 (iii) "Official document." A record as defined in
28 section 102 of the Right-to-Know Law. The term shall
29 include notes of court testimony, deposition transcripts,
30 driving records, accident reports, birth and death

1 certificates, deeds, divorce decrees and other similar
2 documents.

3 (67) The sale at retail or use of repair or replacement
4 parts, including the installation of those parts, exclusively
5 for use in helicopters and similar rotorcraft or in
6 overhauling or rebuilding of helicopters and similar
7 rotorcraft or helicopters and similar rotorcraft components.

8 (68) The sale at retail or use of helicopters and
9 similar rotorcraft.

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

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

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

24 Section 705. Alternate imposition of tax.

25 (a) Dealers of motor vehicles.--

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

30 (i) acquires a motor vehicle, trailer or semitrailer

1 for the purpose of resale; and

2 (ii) prior to the resale, uses the motor vehicle,
3 trailer or semitrailer for a taxable use under this
4 chapter.

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

8 (b) Commercial aircraft operators.--

9 (1) This subsection applies to a commercial aircraft
10 operator who:

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

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

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

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

22 Section 706. Credit against tax.

23 (a) Prerequisites.--

24 (1) Subject to the provisions of paragraph (2), a credit
25 against the tax imposed by section 702 shall be granted with
26 respect to tangible personal property or services purchased
27 for use outside this Commonwealth equal to the tax paid to
28 another state by reason of the imposition by the other state
29 of a tax similar to the tax imposed by this chapter.

30 (2) No credit shall be granted under this section unless

1 the other state grants substantially similar tax relief by
2 reason of the payment of tax under this chapter.

3 (b) Call center credit.--A credit against the tax imposed by
4 section 702 on telecommunications services shall be granted to a
5 call center for gross receipts tax paid by a telephone company
6 on the receipts derived from the sale of incoming and outgoing
7 interstate telecommunications services to the call center under
8 section 1101(a)(2) of the Tax Reform Code of 1971. The following
9 apply:

10 (1) A telephone company, upon request, shall notify a
11 call center of the amount of gross receipts tax paid by the
12 telephone company on the receipts derived from the sale of
13 incoming and outgoing interstate telecommunications services
14 to the call center.

15 (2) A call center that is eligible for the credit in
16 this subsection may apply for a tax credit as set forth in
17 this subsection.

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

23 (4) By April 15 of the calendar year following the close
24 of the calendar year during which the gross receipts tax was
25 incurred, the department shall notify the applicant of the
26 amount of the applicant's tax credit approved by the
27 department.

28 (5) The total amount of tax credits provided for in this
29 subsection and approved by the department shall not exceed
30 \$30,000,000 in any fiscal year. If the total amount of tax

1 credits applied for by all applicants exceeds the amount
2 allocated for those credits, then the credit to be received
3 by each applicant shall be determined as follows:

4 (i) Divide:

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

6 by

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

8 all applicants.

9 (ii) Multiply:

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

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

12 SUBCHAPTER D

13 LICENSES

14 Section 708. Licenses.

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

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

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

2 (1) If an applicant for a license or any person holding
3 a license has not filed all required State tax reports and
4 paid any State taxes not subject to a timely perfected
5 administrative or judicial appeal or subject to a duly
6 authorized deferred payment plan, the department may refuse
7 to issue, may suspend or may revoke said license.

8 (2) The department shall notify the applicant or
9 licensee of any refusal, suspension or revocation. The notice
10 shall contain a statement that the refusal, suspension or
11 revocation may be made public and shall be sent by first
12 class mail.

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

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

28 (c) Penalties.--

29 (1) A person who maintains a place of business in this
30 Commonwealth for the purpose of selling or leasing services

1 or tangible personal property, the sale or use of which is
2 subject to tax, without having first been licensed by the
3 department shall be guilty of a summary offense and, upon
4 conviction thereof, be sentenced to pay a fine of not less
5 than \$300 nor more than \$1,500 and, in default thereof, to
6 imprisonment of not less than five days nor more than 30
7 days.

8 (2) The penalties imposed under this subsection shall be
9 in addition to any other penalties imposed by this chapter.

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

14 (4) The Secretary of Revenue may designate employees of
15 the department to enforce the provisions of this subsection.
16 Those employees shall exhibit proof of and be within the
17 scope of the designation when instituting proceedings as
18 provided by the Pennsylvania Rules of Criminal Procedure.

19 (d) Liability to pay tax remains.--The failure of any person
20 to obtain a license shall not relieve that person of liability
21 to pay the tax imposed by this chapter.

22 SUBCHAPTER E

23 HOTEL OCCUPANCY TAX

24 Section 709. Definitions.

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

28 "Hotel." A building or buildings in which the public may,
29 for a consideration, obtain sleeping accommodations. The term
30 shall not include any charitable, educational or religious

1 institution summer camp for children, hospital or nursing home.

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

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

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

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

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

22 (b) Special definitions.--The following words and phrases,
23 when used in Subchapters D and F, for the purposes of those
24 subchapters only, shall, in addition to the meaning ascribed to
25 them in section 701, have the meaning ascribed to them in this
26 subsection, except where the context clearly indicates a
27 different meaning:

28 "Maintaining a place of business in this Commonwealth."
29 Being the operator of a hotel in this Commonwealth.

30 "Purchase at retail." Occupancy.

1 "Purchase price." Rent.
2 "Purchaser." An occupant.
3 "Sale at retail." The providing of occupancy to an occupant
4 by an operator.
5 "Services." Occupancy.
6 "Tangible personal property." Occupancy.
7 "Use." Occupancy.
8 "Vendor." Operator.

9 Section 710. Imposition of tax.

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

16 Section 711. Seasonal tax returns.

17 Notwithstanding any other provision of this chapter or the
18 Tax Reform Code of 1971, the department may, by regulation,
19 waive the requirement for the filing of quarterly returns in the
20 case of an operator whose hotel is operated only during certain
21 seasons of the year and may provide for the filing of returns by
22 such persons at times other than those provided by former
23 section 221 of the Tax Reform Code of 1971.

24 SUBCHAPTER F

25 RETURNS

26 Section 715. Persons required to make returns.

27 A person required to pay tax to the department or collect and
28 remit tax to the department shall file returns with respect to
29 such tax.

30 Section 716. Form of returns.

1 The returns required by section 715 shall be on forms
2 prescribed by the department and shall show such information
3 with respect to the taxes imposed by this chapter as the
4 department may reasonably require.

5 Section 717. Time for filing returns.

6 (a) Quarterly and monthly returns.--

7 (1) A return shall be filed quarterly by every licensee
8 on or before the 20th day of April, July, October and January
9 for the three months ending the last day of March, June,
10 September and December.

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

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

24 (i) Either of the following:

25 (A) An amount equal to 50% of the licensee's
26 actual tax liability for the same month in the
27 preceding calendar year if the licensee was a monthly
28 filer or, if the licensee was a quarterly or
29 semiannual filer, 50% of the licensee's average
30 actual tax liability for that tax period in the

1 preceding calendar year. The average actual tax
2 liability shall be the actual tax liability for the
3 tax period divided by the number of months in that
4 tax period. For licensees that were not in business
5 during the same month in the preceding calendar year
6 or were in business for only a portion of that month,
7 50% of the average actual tax liability for each tax
8 period the licensee has been in business. If the
9 licensee is filing a tax liability for the first time
10 with no preceding tax periods, the amount shall be
11 zero.

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

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

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

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

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

30 (7) The department may require the filing of the returns

1 and the payments for these types of filers by electronic
2 means approved by the department.

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

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

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

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

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

30 Section 718. Extension of time for filing returns.

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

5 Section 719. Place for filing returns.

6 Returns shall be filed with the department at its main office
7 or at any branch office which it may designate for filing
8 returns.

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

11 (a) General rule.--Notwithstanding the provisions of any
12 State tax law to the contrary, when a report or payment of all
13 or any portion of a State tax is required by law to be received
14 by the department or other agency of this Commonwealth on or
15 before a day certain, the taxpayer shall be deemed to have
16 complied with that law if the letter transmitting the report or
17 payment of the tax which has been received by the department is
18 postmarked by the United States Postal Service on or prior to
19 the final day on which the payment is to be received.

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

24 SUBCHAPTER G

25 PAYMENT

26 Section 721. Payment.

27 When a return of tax is required under this subchapter, the
28 person required to make the return shall pay the tax to the
29 department.

30 Section 722. Time of payment.

1 (a) Monthly and quarterly payments.--The tax imposed by this
2 chapter and incurred or collected by a licensee shall be due and
3 payable by the licensee on the day the return is required to be
4 filed under the provisions of section 717 and the payment must
5 accompany the return.

6 (b) Annual payments.--If the amount of tax due for the
7 preceding year as shown by the annual return of any taxpayer is
8 greater than the amount already paid by the taxpayer in
9 connection with the taxpayer's monthly or quarterly returns, the
10 taxpayer shall send with such annual return a remittance for the
11 unpaid amount of tax for the year.

12 (c) Other payments.--A person other than a licensee liable
13 to pay any tax under this chapter shall remit the tax at the
14 time of filing the return required by this chapter.
15 Section 723. Other times for payment.

16 In the event that the department authorizes a taxpayer to
17 file a return at other times than those specified in section
18 717, the tax due shall be paid at the time the return is filed.
19 Section 724. Place for payment.

20 The tax imposed by this chapter shall be paid to the
21 department at the place fixed for filing the return.
22 Section 725. Tax held in trust for Commonwealth.

23 (a) General rule.--All taxes collected by any person from
24 purchasers in accordance with this chapter and all taxes
25 collected by any person from purchasers under color of this
26 chapter which have not been properly refunded by the person to
27 the purchaser shall constitute a trust fund for the
28 Commonwealth. The trust shall be enforceable against that
29 person, his representatives and any person, other than a
30 purchaser to whom a refund has been made properly, receiving any

1 part of the fund without consideration, or knowing that the
2 taxpayer is committing a breach of trust.

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

7 (c) Appeal.--A person, other than a taxpayer, against whom
8 the department makes any claim under this section shall have the
9 same right to petition and appeal as is given taxpayers by any
10 provisions of this subchapter.

11 Section 726. Local receivers of use tax.

12 (a) County treasurers.--

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

18 (2) Each county treasurer shall remit to the department
19 all use taxes received under the authority of this section
20 minus the costs of administering this provision not to exceed
21 1% of the amount of use taxes received, which amount shall be
22 retained in lieu of any commission otherwise allowable by law
23 for the collection of the tax.

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

26 Section 727. Discount.

27 If a return is filed by a licensee and the tax shown to be
28 due thereon less any discount is paid all within the time
29 prescribed, the licensee shall be entitled, as compensation for
30 the expense of collecting and remitting the tax and as a

1 consideration of the prompt payment of the tax, to credit and
2 apply against the tax payable by the licensee a discount of the
3 lesser of:

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

5 (2) as follows:

6 (i) twenty-five dollars per return for a monthly
7 filer;

8 (ii) seventy-five dollars per return for a quarterly
9 filer; or

10 (iii) one hundred fifty dollars per return for a
11 semiannual filer.

12 SUBCHAPTER H

13 ASSESSMENT AND REASSESSMENT

14 Section 730. Assessment.

15 (a) Investigation.--The department is authorized and
16 required to make the inquiries, determinations and assessments
17 of the tax, including interest, additions and penalties, imposed
18 by this chapter. A notice of assessment and demand for payment
19 shall be mailed to the taxpayer. The notice shall set forth the
20 basis of the assessment.

21 (b) (Reserved).

22 Section 731. Mode and time of assessment.

23 (a) Underpayment of tax.--Within a reasonable time after any
24 return is filed, the department shall examine the return and, if
25 the return shows a greater tax due or collected than the amount
26 of tax remitted with the return, the department shall issue an
27 assessment for the difference, together with an addition of 3%
28 of such difference, which shall be paid to the department within
29 10 days after a notice of the assessment has been mailed to the
30 taxpayer. If such assessment is not paid within 10 days, there

1 shall be added to the assessment and paid to the department an
2 additional 3% of the difference for each month during which the
3 assessment remains unpaid, but the total of all additions shall
4 not exceed 18% of the difference shown on the assessment.

5 (b) Understatement of tax.--If the department determines
6 that any return or returns of any taxpayer understates the
7 amount of tax due, it shall determine the proper amount and
8 shall ascertain the difference between the amount of tax shown
9 in the return and the amount determined, the difference being
10 hereafter sometimes referred to as the "deficiency." A notice of
11 assessment for the deficiency and the reasons for the deficiency
12 shall then be sent to the taxpayer. The deficiency shall be paid
13 to the department within 30 days after a notice of the
14 assessment has been mailed to the taxpayer.

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

23 (d) Authority to establish effective rates by business
24 classification.--The department is authorized to make the
25 studies necessary to compute effective rates by business
26 classification, based upon the ratio between the tax required to
27 be collected and taxable sales and to use the rates in arriving
28 at the apparent tax liability of a taxpayer. Any assessment
29 based upon such rates shall be prima facie correct, except that
30 the rate shall not be considered where a taxpayer establishes

1 that the rate is based on a sample inapplicable to the taxpayer.

2 Section 732. Reassessment.

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

6 Section 733. Assessment to recover erroneous refunds.

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

14 Section 734. (Reserved).

15 Section 735. (Reserved).

16 Section 736. Burden of proof.

17 In all cases of petitions for reassessment, review or appeal,
18 the burden of proof shall be upon the petitioner or appellant,
19 as the case may be.

20 SUBCHAPTER I

21 COLLECTION

22 Section 737. Collection of tax.

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

26 (b) Collection by persons maintaining a place of business in
27 this Commonwealth.--Every person maintaining a place of business
28 in this 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

1 time of making the sale or lease and shall remit the tax to the
2 department unless such collection and remittance is otherwise
3 provided for in this chapter.

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

20 (d) Failure to collect tax.--Any person required under this
21 chapter to collect tax from another person, who shall fail to
22 collect the proper amount of such tax, shall be liable for the
23 full amount of the tax which the person should have collected.

24 (e) Exemption certificates.--If the tax does not apply to
25 the sale or lease of tangible personal property or services, the
26 purchaser or lessee shall furnish to the vendor a certificate
27 indicating that the sale is not legally subject to the tax. The
28 certificate shall be in substantially the form as the department
29 may, by regulation, prescribe. Where the tangible personal
30 property or service is of a type that is never subject to the

1 tax imposed or where the sale or lease is in interstate
2 commerce, a certificate need not be furnished. Where a series of
3 transactions is not subject to tax, a purchaser or user may
4 furnish the vendor with a single exemption certificate in
5 substantially such form and valid for such period of time as the
6 department may, by regulation, prescribe. The department shall
7 provide all school districts and intermediate units with a
8 permanent tax exemption number.

9 (f) Good faith reliance on exemption certificate.--An
10 exemption certificate, which is complete and regular and on its
11 face discloses a valid basis of exemption if taken in good
12 faith, shall relieve the vendor from the liability imposed by
13 this section. An exemption certificate accepted by a vendor from
14 a natural person domiciled within this Commonwealth or any
15 association, fiduciary, partnership, corporation or other
16 entity, either authorized to do business within this
17 Commonwealth or having an established place of business within
18 this Commonwealth, in the ordinary course of the vendor's
19 business, which on its face discloses a valid basis of exemption
20 consistent with the activity of the purchaser and character of
21 the property or service being purchased or which is provided to
22 the vendor by a charitable, religious, educational, volunteer
23 firefighters' relief association or volunteer firemen's
24 organization and contains the organization's charitable
25 exemption number and which, in the case of any purchase costing
26 \$200 or more, is accompanied by a sworn declaration on a form to
27 be provided by the department of an intended usage of the
28 property or service which would render it nontaxable, shall be
29 presumed to be taken in good faith and the burden of proving
30 otherwise shall be on the department.

1 (g) Direct payment permits.--The department may authorize a
2 purchaser or lessee who acquires tangible personal property or
3 services under circumstances that make it impossible at the time
4 of acquisition to determine the manner in which the tangible
5 personal property or service will be used to pay the tax
6 directly to the department and waive the collection of the tax
7 by the vendor. No such authority shall be granted or exercised
8 except upon application to the department and the issuance by
9 the department, in its discretion, of a direct payment permit.
10 If a direct payment permit is granted, its use shall be subject
11 to conditions specified by the department, and the payment of
12 tax on all acquisitions pursuant to the permit shall be made
13 directly to the department by the permit holder.

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

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

27 (b) Failure to pay tax.--The department may cancel or
28 suspend any record of certificate of title or registration of a
29 motor vehicle, trailer or semitrailer when the check received in
30 payment of the tax on such vehicle is not paid upon demand. Such

1 tax shall be considered as a first encumbrance against such
2 vehicle and the vehicle may not be transferred without first
3 payment in full of such tax and any interest additions or
4 penalties which shall accrue thereon in accordance with this
5 chapter.

6 Section 739. Precollection of tax.

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

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

25 (c) Sale at retail.--The vendor, on making a sale at retail
26 of tangible personal property with respect to which the vendor
27 has prepaid the tax, must separately state at the time of resale
28 the proper amount of tax on the transaction and reimburse
29 himself on account of the taxes which he has previously prepaid.
30 Should such vendor collect a greater amount of tax in any

1 reporting period than the vendor had previously prepaid upon
2 purchase of the goods with respect to which he prepaid the tax,
3 the vendor must file a return and remit the balance to the
4 Commonwealth at the time at which a return would otherwise be
5 due with respect to such sales.

6 Section 740. Bulk and auction sales.

7 A person that sells or causes to be sold at auction, or that
8 sells or transfers in bulk, 51% or more of any stock of goods,
9 wares or merchandise of any kind, fixtures, machinery,
10 equipment, buildings or real estate, involved in a business for
11 which the person is licensed or required to be licensed under
12 the provisions of this chapter, or is liable for filing use tax
13 returns in accordance with the provisions of this chapter, shall
14 be subject to the provisions of section 1403 of the Fiscal Code.

15 Section 741. Collection upon failure to request reassessment,
16 review or appeal.

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

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

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

23 (3) Within 30 days from the date of the decision of the
24 Board of Finance and Revenue upon a petition for review, or
25 of the expiration of the board's time for acting upon such
26 petition, if no appeal has been made.

27 (4) In all cases of judicial sales, receiverships,
28 assignments or bankruptcies.

29 (b) Defenses.--In any such case in a proceeding for the
30 collection of such taxes, the person against whom they were

1 assessed shall not be permitted to set up any ground of defense
2 that might have been determined by the department, the Board of
3 Finance and Revenue or the courts. The defense of failure of the
4 department to mail notice of assessment or reassessment to the
5 taxpayer and the defense of payment of assessment or
6 reassessment, however, may be raised in proceedings for
7 collection by a motion to stay the proceedings.

8 SUBCHAPTER J

9 NONPAYMENT

10 Section 742. Lien for taxes.

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

27 (b) Priority of lien and effect on judicial date; no
28 discharge by sale on junior lien.--The lien imposed under this
29 section shall have priority from the date of its recording under
30 subsection (a), and shall be fully paid and satisfied out of the

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

1 (c) Duty of prothonotary.--Any willful failure of any
2 prothonotary to carry out any duty imposed upon the prothonotary
3 by this section shall be a misdemeanor and, upon conviction, the
4 prothonotary shall be sentenced to pay a fine not exceeding
5 \$1,000 and costs of prosecution or to imprisonment for not more
6 than one year, or both.

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

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

27 Section 743. Suit for taxes.

28 (a) Commencement.--At any time within three years after any
29 tax or any amount of tax shall be finally due and payable, the
30 department may commence an action in the courts of this

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

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

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

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

22 Section 745. Service.

23 Any person maintaining a place of business within this
24 Commonwealth is deemed to have appointed the Secretary of the
25 Commonwealth his agent for the acceptance of service of process
26 or notice in any proceedings for the enforcement of the civil
27 provisions of this chapter, and any service made upon the
28 Secretary of the Commonwealth as such agent shall be of the same
29 legal force and validity as if such service had been personally
30 made upon such person. Where service cannot be made upon such

1 person in the manner provided by other laws of this Commonwealth
2 relating to service of process, service may be made upon the
3 Secretary of the Commonwealth and, in such case, a copy of the
4 process or notice shall also be personally served upon any agent
5 or representative of such 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 such person at the last known address of his
9 principal place of business, home office or residence.

10 SUBCHAPTER K

11 MISCELLANEOUS PROVISIONS

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

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

21 Section 747. Prepayment of tax.

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

1 in part, the amount collected shall be applied first to the
2 payment of the entire tax portion of the bill and shall be
3 remitted to the department by the vendor with the first return
4 filed after the collection.

5 (b) Petition for refund.--Tax prepaid shall be subject to
6 refund upon petition to the department under the provisions of
7 section 752 filed within 105 days of the close of the fiscal
8 year in which the accounts are written off.

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

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

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

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

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

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

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

30 (1) No refund was previously allowed with respect to the

1 portion of the account written off as a bad debt.

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

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

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

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

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

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

28 (1) Interest.

29 (2) Finance charges.

30 (3) Expenses incurred in attempting to collect any

1 amount receivable.

2 (e) Refund procedure.--Documentation requirements are as
3 follows:

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

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

9 (ii) Name and address of purchaser.

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

12 (iv) Taxable and nontaxable charges.

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

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

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

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

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

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

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

30 (2) A person claiming a refund under this section may

1 provide alternative forms of documentation acceptable to the
2 department if appropriate in light of the volume and
3 character of uncollectible accounts, including the following:

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

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

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

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

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

30 (3) A person that collects, in whole or in part, the

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

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

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

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

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

28 "Affiliate." A person that is:

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

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

7 "Lender." Any of the following:

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

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

14 (3) A person that is:

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

16 (1) or (2); or

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

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

29 Section 748. Registration of transient vendors.

30 (a) General rule.--Prior to conducting business or otherwise

1 commencing operations within this Commonwealth, a transient
2 vendor shall register with the department. The application for
3 registration shall be in such form and contain such information
4 as the department, by regulation, shall prescribe and shall set
5 forth truthfully and accurately the information desired by the
6 department. This registration shall be renewed and updated
7 annually.

8 (b) Issuance of certificate.--Upon registration and the
9 posting of the bond required by section 748.1, the department
10 shall issue to the transient vendor a certificate valid for one
11 year. Upon renewal of registration, the department shall issue a
12 new certificate valid for one year, providing the department is
13 satisfied that the transient vendor has complied with the
14 provisions of this chapter.

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

20 (d) Notice on certificate.--The certificate issued by the
21 department shall state that the transient vendor named therein
22 has registered with the department and shall provide notice to
23 the transient vendor that:

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

29 (2) Failure to notify or giving false information to the
30 department may result in suspension or revocation of the

1 transient vendor's certificate.

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

6 Section 748.1. Bond.

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

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

22 Section 748.2. Notification to department; inspection of
23 records.

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

29 (b) Inspection of records.--While conducting business within
30 this Commonwealth, the transient vendor shall permit authorized

1 employees of the department to inspect its sales records,
2 including, but not limited to, sales receipts and inventory or
3 price lists, and to permit inspection of the tangible personal
4 property offered for sale at retail.

5 (c) Suspension or revocation of certificate.--The department
6 may suspend or revoke a certificate issued to a transient vendor
7 if the transient vendor:

8 (1) fails to notify the department as required by
9 subsection (a);

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

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

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

16 (d) Rules and regulations.--The department shall promulgate
17 the rules and regulations necessary to implement this section.
18 Section 748.3. Seizure of property.

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

30 (b) Release of seized property.--Property seized under

1 subsection (a) shall be released upon:

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

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

8 Section 748.4. Fines.

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

15 Section 748.5. Transient vendors subject to chapter.

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

20 Section 748.6. Promoters.

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

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

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

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

12 (d) Duty of promoters at show.--No licensed promoter shall
13 permit any person to display for sale or to sell tangible
14 personal property or services subject to tax under section 702
15 at a show unless such person is licensed under section 708 and
16 provides to the promoter the information required under section
17 771.1.

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

1 of denial or revocation of a license by the department, the
2 promoter may petition the department for a hearing under 2
3 Pa.C.S. (relating to administrative law and procedure).

4 SUBCHAPTER L

5 REFUNDS AND CREDITS

6 Section 750. (Reserved).

7 Section 751. (Reserved).

8 Section 752. Refunds.

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

24 Section 753. Refund petition.

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

1 3003.1 of the Tax Reform Code of 1971.

2 (b) Refund upon assessment.--A refund or credit of tax,
3 interest or penalty, paid as a result of an assessment made by
4 the department under section 731, shall be made only where the
5 person who has actually paid the tax files with the department a
6 petition for a refund with the department under Article XXVII of
7 the Tax Reform Code of 1971 within the time limits of section
8 3003.1 of the Tax Reform Code of 1971. The filing of a petition
9 for refund, under the provisions of this subsection, shall not
10 affect the abatement of interest, additions or penalties to
11 which the person may be entitled by reason of his payment of the
12 assessment.

13 (c) (Reserved).

14 (d) (Reserved).

15 Section 754. (Reserved).

16 Section 755. (Reserved).

17 Section 756. Extended time for filing special petition for
18 refund.

19 Any party to a transaction who has paid tax by reason of a
20 transaction with respect to which the department is assessing
21 tax against another person may, within six months after the
22 filing by the department of the assessment against such other
23 person, file a special petition for refund, notwithstanding his
24 failure to timely file a petition under section 3003.1 of the
25 Tax Reform Code of 1971. Article XXVII of the Tax Reform Code of
26 1971 shall be applicable to such special petition for refund,
27 except that the department need not act on such petition until
28 there is a final determination as to the propriety of the
29 assessment filed against the other party to the transaction.

30 Where a petition is filed under this provision in order to take

1 advantage of the extended period of limitations, overpayments by
2 the petitioner shall be refunded but only to the extent of the
3 actual tax, without consideration of interest and penalties,
4 paid by the other party to the transaction. The purpose of this
5 section is to avoid duplicate payment of tax where a
6 determination is made by the department that one party to a
7 transaction is subject to tax, and another party to the
8 transaction has previously paid tax with respect to such
9 transaction; and this section shall be construed as extending
10 right beyond that provided for by section 753 and not to limit
11 such other section.

12 SUBCHAPTER M

13 LIMITATIONS

14 Section 758. Limitation on assessment and collection.

15 The amount of the tax imposed by this chapter shall be
16 assessed within three years after the date when the return
17 provided for by section 717(a) or (c) is filed or the end of the
18 year in which the tax liability arises, whichever occurs last.
19 The assessment may be made at any time during such period
20 notwithstanding that the department may have made one or more
21 previous assessments against the taxpayer for the year in
22 question or for any part of such year. In any such case, no
23 credit shall be given for any penalty previously assessed or
24 paid.

25 Section 759. Failure to file return.

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

29 Section 760. False or fraudulent return.

30 Where the taxpayer willfully files a false or fraudulent

1 return with intent to evade the tax imposed by this chapter, the
2 amount of tax due may be assessed and collected at any time.

3 Section 761. Extension of limitation period.

4 Notwithstanding any of the foregoing provisions of this
5 chapter, where, before the expiration of the period prescribed
6 therein for the assessment of a tax, a taxpayer has consented in
7 writing that the period be extended, the amount of tax due may
8 be assessed at any time within the extended period. The period
9 so extended may be extended further by subsequent consents in
10 writing made before the expiration of the extended period.

11 SUBCHAPTER N

12 INTEREST, ADDITIONS, PENALTIES AND CRIMES

13 Section 765. Interest.

14 If any amount of tax imposed by this chapter is not paid to
15 the department on or before the last date prescribed for
16 payment, interest on the amount at the rate of .75% per month
17 for each month, or fraction thereof, from such date, shall be
18 paid for the period from the last date to the date paid. The
19 last date prescribed for payment shall be determined under
20 section 722(a) or (c) without regard to any extension of time
21 for payment. In the case of any amount assessed as a deficiency
22 or as an estimated assessment, the date prescribed for payment
23 shall be 30 days after notice of the assessment.

24 Section 766. Additions to tax.

25 (a) Failure to file return.--In the case of failure to file
26 any return required by section 715 on the date prescribed for
27 filing, determined with regard to any extension of time for
28 filing, and in the case in which a return filed understates the
29 true amount due by more than 50%, there shall be added to the
30 amount of tax actually due 5% of the amount of such tax if the

1 failure to file a proper return is for not more than one month,
2 with an additional 5% for each additional month, or fraction
3 thereof, during which the failure continues, not exceeding 25%
4 in the aggregate. In every such case at least \$2 shall be added.

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

9 (c) Interest.--If the department assesses a tax according to
10 section 731(a), (b) or (c), there shall be added to the amount
11 of the deficiency interest at the rate of .75% per month for
12 each month, or fraction thereof, from the date prescribed by
13 section 722(a) or (c) for the payment of the tax to the date of
14 notice of the assessment.

15 Section 767. Penalties.

16 (a) Penalty assessed as tax.--The penalties, additions,
17 interest and liabilities provided by this chapter shall be paid
18 upon notice and demand by the department and shall be assessed
19 and collected in the same manner as taxes. Except as otherwise
20 provided, any reference in this chapter to a tax imposed by this
21 chapter shall be deemed also to refer to the penalties,
22 additions, interest and liabilities provided by this chapter.

23 (b) Attempt to evade or defeat tax.--Any person who
24 willfully attempts, in any manner, to evade or defeat the tax
25 imposed by this chapter, or the payment thereof, or to assist
26 any other person to evade or defeat the tax imposed by this
27 chapter, or the payment thereof, or to receive a refund
28 improperly shall, in addition to other penalties provided by
29 law, be liable for a penalty equal to one-half of the total
30 amount of the tax evaded.

1 (c) Burden of proof.--In any direct proceeding arising out
2 of a petition for reassessment or refund as provided in this
3 chapter, in which an issue of fact is raised with respect to
4 whether a return is fraudulent or with respect to the propriety
5 of the imposition by the department of the penalty prescribed in
6 subsection (b), the burden of proof with respect to such issue
7 shall be upon the department.

8 Section 768. Crimes.

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

15 (b) Other crimes.--Except as otherwise provided by
16 subsection (a), the following persons commit a misdemeanor and
17 shall, upon conviction, be sentenced to pay a fine not exceeding
18 \$1,000 and costs of prosecution or to imprisonment for not more
19 than one year, or both:

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

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

6 (3) Any person who shall willfully fail or neglect to
7 timely file any return or report required by this chapter or
8 any taxpayer who shall refuse to timely pay any tax, penalty
9 or interest imposed or provided for by this chapter, or who
10 shall willfully fail to preserve his books, papers and
11 records as directed by the department.

12 (4) Any person who shall refuse to permit the department
13 or any of its authorized agents to examine his books, records
14 or papers, or who shall knowingly make any incomplete, false
15 or fraudulent return or report, or who shall do, or attempt
16 to do, anything to prevent the full disclosure of the amount
17 or character of taxable sales purchases or use made by
18 himself or any other person, or shall provide any person with
19 a false statement as to the payment of tax with respect to
20 particular tangible personal property or services, or shall
21 make, utter or issue a false or fraudulent exemption
22 certificate.

23 (c) Place of business outside Commonwealth.--Any person
24 maintaining a place of business outside this Commonwealth may
25 absorb the tax with respect to taxable sales made in the normal
26 course of business to customers present at the place of business
27 without being subject to the penalty and fines under subsection
28 (b).

29 (d) Prepaid mobile telecommunications services.--Advertising
30 tax-included prices shall be permissible, if the prepaid

1 services are sold by the service provider, for prepaid
2 telecommunications services not evidenced by the transfer of
3 tangible personal property or for prepaid mobile
4 telecommunications services.

5 (e) Sales suppression devices.--

6 (1) Notwithstanding any other provision of this chapter,
7 any person who purchases, installs or uses in this
8 Commonwealth an automated sales suppression device or zapper
9 or phantomware with the intent to defeat or evade the
10 determination of an amount due under this chapter commits a
11 misdemeanor.

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

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

28 (4) If a person commits an offense under paragraph (1)
29 and the person sold, installed, transferred or possessed more
30 than three automated sales suppression devices or zappers or

1 phantomware, the person commits an offense punishable by a
2 fine of not more than \$10,000.

3 (5) This subsection shall not apply to a corporation
4 that possesses an automated sales suppression device or
5 zapper or phantomware for the sole purpose of developing
6 hardware or software to combat the evasion of taxes by use of
7 automated sales suppression devices or zappers or
8 phantomware.

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

12 "Automated sales suppression device" or "zapper." A
13 software program carried on a memory stick or removable
14 compact disc, accessed through an Internet link or through
15 any other means, that falsifies the electronic records of
16 electronic cash registers and other point-of-sale systems,
17 including, but not limited to, transaction data and
18 transaction reports.

19 "Electronic cash register." A device that keeps a
20 register or supporting document through the means of an
21 electronic device or computer system designed to record
22 transaction data for the purpose of computing, compiling or
23 processing retail sales transaction data in whatever manner.

24 "Phantomware." A hidden programming option, which is
25 either preinstalled or installed at a later time, embedded in
26 the operating system of an electronic cash register or
27 hardwired into the electronic cash register that can be used
28 to create a virtual second till or may eliminate or
29 manipulate a transaction record that may or may not be
30 preserved in digital formats to represent the true or

1 manipulated record of transactions in the electronic cash
2 register.

3 "Transaction data." Includes information regarding items
4 purchased by a customer, the price for each item, a
5 taxability determination for each item, a segregated tax
6 amount for each of the taxed items, the amount of cash or
7 credit tendered, the net amount returned to the customer in
8 change, the date and time of the purchase, the name, address
9 and identification number of the vendor and the receipt or
10 invoice number of the transaction.

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

13 (g) Other penalties.--The penalties imposed by this
14 subsection shall be in addition to any other penalties imposed
15 by any provision of this chapter.

16 Section 769. Abatement of additions or penalties.

17 Upon the filing of a petition for reassessment or a petition
18 for refund as provided under this chapter by a taxpayer,
19 additions or penalties imposed upon such taxpayer by this
20 chapter may be waived or abated, in whole or in part, where the
21 petitioner has established that he has acted in good faith,
22 without negligence and with no intent to defraud.

23 SUBCHAPTER O

24 ENFORCEMENT AND EXAMINATIONS

25 Section 770. Rules and regulations.

26 (a) General rule.--The department is charged with the
27 enforcement of this chapter and is authorized and empowered to
28 prescribe, adopt, promulgate and enforce rules and regulations
29 not inconsistent with the provisions of this chapter, relating
30 to any matter or thing pertaining to the administration and

1 enforcement of this chapter, and the collection of taxes,
2 penalties and interest imposed by this chapter. The department
3 may prescribe the extent, if any, to which its rules and
4 regulations shall be applied without retroactive effect.

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

25 Section 771. Keeping of records.

26 (a) General rule.--Each person liable for any tax imposed by
27 this chapter or for the collection of any tax imposed by this
28 chapter shall keep the records, render the statements, make the
29 returns and comply with the rules and regulations that the
30 department may, from time to time, prescribe regarding matters

1 pertinent to the person's business. Whenever in the judgment of
2 the department it is necessary, it may require any person, by
3 notice served upon the person, or by regulations, to make
4 returns, render statements or keep records as the department
5 deems sufficient to show whether or not the person is liable to
6 pay or collect tax under this chapter.

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

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

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

1 and records, the person shall be liable for tax at the rate
2 designated in section 702 upon the entire purchase price of
3 sales from both or all of the person's businesses.

4 (e) Other methods.--

5 (1) In those instances where a vendor gives no sales
6 memoranda or uses registers showing only total sales, the
7 vendor must adopt some method of segregating tax from sales
8 receipts and keep records showing the segregation, all in
9 accordance with proper accounting and business practices.

10 (2) A vendor may apply to the department for permission
11 to use a collection and recording procedure which will show
12 the information as the law requires with reasonable accuracy
13 and simplicity. A vendor's application must contain a
14 detailed description of the procedure to be adopted.
15 Permission to use the proposed procedure is not to be
16 construed as relieving the vendor from remitting the full
17 amount of tax collected. The department may revoke permission
18 upon 30 days' notice to the vendor. Refusal of the department
19 to grant permission in advance to use the procedure shall not
20 be construed to invalidate a procedure which upon examination
21 shows the information as the law requires.

22 Section 771.1. Reports and records of promoters.

23 Each licensed promoter shall keep a record of the date and
24 place of each show and the name, address, sales, use and hotel
25 occupancy license number of each person whom the licensed
26 promoter permits to display for sale or to sell tangible
27 personal property or services subject to tax under section 702
28 at the show. The records shall be open for inspection and
29 examination at any reasonable time by the department or its
30 authorized representative, and the records shall, unless the

1 department consents in writing to an earlier destruction, be
2 preserved for three years after the date the report was filed or
3 the date it was due, whichever occurs later, except that the
4 department may by regulation require that they be kept for a
5 longer period of time.

6 Section 772. Examinations.

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

26 Section 773. Records and examinations of delivery agents.

27 Each agent for the purpose of delivery of goods shipped into
28 this Commonwealth by a nonresident, including, but not limited
29 to, common carriers, shall maintain adequate records of the
30 deliveries pursuant to rules and regulations adopted by the

1 department and shall make the records available to the
2 department upon request after due notice.

3 Section 774. Unauthorized disclosure.

4 Any information gained by the department as a result of any
5 return, examination, investigation, hearing or verification,
6 required or authorized by this chapter, shall be confidential,
7 except for official purposes and except in accordance with
8 proper judicial order or as otherwise provided by law, and any
9 person unlawfully divulging the information commits a
10 misdemeanor and shall, upon conviction, be sentenced to pay a
11 fine of not more than \$1,000 and costs of prosecution or to
12 imprisonment for not more than one year, or both.

13 Section 775. Cooperation with other governments.

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

27 Section 776. Interstate compacts.

28 The Governor, or an authorized representative, has the
29 authority to confer with the governors and the authorized
30 representatives of other states with respect to reciprocal use

1 tax collection between Pennsylvania and the other states. The
2 Governor, or a representative, is authorized to join with the
3 authorities of other states to conduct joint investigations, to
4 exchange information, to hold joint hearings and to enter into
5 compacts or interstate agreements with the other states to
6 accomplish uniform reciprocal use tax collections between those
7 states who are parties to any compact or interstate agreement
8 and the Commonwealth of Pennsylvania.

9 Section 777. Bonds.

10 (a) Taxpayer to file bond.--

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

24 (2) In order to protect the revenues to be obtained
25 under this chapter, the department shall require any
26 nonresident natural person or any foreign corporation,
27 association, fiduciary, partnership or entity, who or which
28 is a building contractor, or who or which is a supplier
29 delivering building materials for work in this Commonwealth
30 and is not authorized to do business within this Commonwealth

1 or does not have an established place of business in this
2 Commonwealth and is subject to the tax imposed by section 702
3 to file a bond issued by a surety company authorized to do
4 business in this Commonwealth and approved by the Insurance
5 Commissioner as to solvency and responsibility, in an amount
6 as the department may fix, to secure the payments of any tax
7 or penalties due, or which may become due, from the natural
8 person, corporation or other entity.

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

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

29 (b) Securities in lieu of bond.--In lieu of the bond
30 required by this section, securities approved by the department,

1 or cash in an amount as prescribed by the department, may be
2 deposited. The securities or cash shall be kept in the custody
3 of the department, which may, at any time, without notice to the
4 depositor, apply them to any tax, interest or penalties due, and
5 for that purpose the securities may be sold by the department,
6 at public or private sale, upon five days' written notice to the
7 depositor.

8 (c) Failure to file bond.--The department may file a lien
9 under section 742 against any taxpayer who fails to file a bond
10 when required to do so under this section. All funds received
11 upon execution of the judgment on a lien shall be refunded to
12 the taxpayer with 3% interest should a final determination be
13 made that the taxpayer does not owe any payment to the
14 department.

15 SUBCHAPTER P

16 APPROPRIATION, CONSTRUCTION,

17 TRANSFERS AND APPLICABILITY

18 Section 781. Appropriation for refunds.

19 So much of the proceeds of the tax imposed by this chapter as
20 shall be necessary for the payment of refunds, enforcement or
21 administration under this chapter is hereby appropriated for
22 such purposes.

23 Section 781.1. Construction of chapter.

24 To the extent that the language of this chapter is identical
25 to that of equivalent provisions in the former act of March 6,
26 1956 (P.L.1228, No.381), known as the Tax Act of 1963 for
27 Education, or Article II of the Tax Reform Code of 1971, the
28 language shall be deemed a reenactment of the identical
29 provisions.

30 Section 781.2. Transfers to Public Transportation Assistance

1 Fund.

2 (a) Transfer from imposition of tax on periodicals.--All
3 revenues received after June 30, 1992, from the imposition of
4 the tax on periodicals shall be transferred to the Public
5 Transportation Assistance Fund according to the formula set
6 forth in subsection (b).

7 (b) Transfer to Public Transportation Assistance Fund.--
8 Within 30 days of the close of any calendar month, 0.44% of the
9 taxes received in the previous month under this chapter, less
10 any amounts collected in that previous calendar month under
11 former 74 Pa.C.S. § 1314(d) (relating to Public Transportation
12 Assistance Fund), shall be transferred to the Public
13 Transportation Assistance Fund established under Article XXIII
14 of the Tax Reform Code of 1971.

15 (c) (Reserved).

16 (d) Other transfer.--Within 30 days of the close of any
17 calendar month, 0.09% of the taxes received in the previous
18 month under this chapter shall be transferred to the Public
19 Transportation Assistance Fund established under Article XXIII
20 of the Tax Reform Code of 1971.

21 (e) Transfer.--Within 30 days of the close of a calendar
22 month, 0.417% of the taxes received in the previous month under
23 this chapter shall be transferred to the Public Transportation
24 Assistance Fund established under Article XXIII of the Tax
25 Reform Code of 1971.

26 Section 782. Transfers to Residential Property Tax Elimination
27 Fund.

28 (a) Legislative intent.--It is the intent of the General
29 Assembly to broaden the sales tax base in order to provide funds
30 for the operating expenses of school districts and as a means to

1 abolish the school property tax.

2 (b) Source of funding for transfers.--Except as otherwise
3 provided under section 781.2, all revenues received on or after
4 January 1, 2017, from the tax imposed by this chapter shall be
5 transferred to the Residential Property Tax Elimination Fund.

6 Section 783. Applicability.

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

9 CHAPTER 9

10 LIMITATIONS ON

11 SCHOOL DISTRICT TAXATION

12 Section 901. Authority to levy taxes and effect of future
13 constitutional amendment.

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

15 (1) The authority of any school district to levy, assess
16 and collect any residential real property tax under the
17 Public School Code of 1949 or any other act shall expire,
18 subject to the provisions of section 902, at midnight
19 December 31, 2019.

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

25 (b) Collection of certain taxes unaffected.--The provisions
26 of this section or any other provision of this act shall not
27 prevent or interfere with any action of any school district to
28 collect any tax owed by any taxpayer prior to the repeal of any
29 law authorizing such tax after such law is repealed under this
30 act.

1 (c) Limitations on adoption of personal income taxes and
2 earned income taxes authorized under Chapter 3.--A school
3 district that adopts a personal income tax under Chapter 3 may
4 not adopt an earned income tax under Chapter 3. A school
5 district that adopts an earned income tax under Chapter 3 may
6 not adopt a personal income tax under Chapter 3.

7 Section 902. Transitional taxes.

8 (a) Transitional taxes for school districts other than
9 school districts of the first class.--Notwithstanding any other
10 provision of the Public School Code of 1949 or any other law to
11 the contrary:

12 (1) Any school district, other than a school district of
13 the first class, may continue to levy, assess and collect a
14 real property tax for fiscal year 2021-2022.

15 (2) For all fiscal years beginning after June 30, 2021,
16 no school district shall have any power or authority to levy,
17 assess and collect any real property tax, except as necessary
18 to reduce the amount of its outstanding debt in existence on
19 December 31, 2019.

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

23 (1) Any school district of the first class and city of
24 the first class may continue to levy, assess and collect a
25 real property tax and all other taxes in existence on July
26 31, 2019, at the rates in effect on that date for the use of
27 a coterminous school district of the first class for fiscal
28 year 2021-2022. The authority to levy, assess and collect
29 such taxes for the use of coterminous school districts shall
30 expire at midnight on December 31, 2019.

1 (2) For all fiscal years beginning after June 30, 2019,
2 no city of the first class shall have any power or authority
3 to levy, assess and collect any of the taxes identified under
4 paragraph (1) for school purposes, except as necessary to
5 reduce the amount of its outstanding debt in existence on
6 December 31, 2019.

7 Section 903. Consideration of State appropriations or
8 reimbursements.

9 The personal income or earned income tax levied shall not be
10 invalidated by reason of the fact that in determining the amount
11 to be raised by such tax no deduction was made for
12 appropriations or reimbursements paid or payable by the
13 Commonwealth to the school district.

14 Section 904. Taxes for cities and school districts of the first
15 class.

16 Notwithstanding any other provision of the Public School Code
17 of 1949 or any other law to the contrary, nothing in this act
18 shall be construed to limit or impair a city of the first class
19 from levying, assessing or collecting any tax for municipal
20 purposes or from increasing the millage for real estate taxes or
21 revenues if the revenues derived from the real property tax are
22 used solely for municipal purposes.

23 CHAPTER 11

24 INDEBTEDNESS

25 Section 1101. Expiration of authority to issue debt.

26 Notwithstanding any other provision of 53 Pa.C.S. Pt. VII
27 Subpt. B (relating to indebtedness and borrowing) or any other
28 law to the contrary, no school district, including a school
29 district of the first class, shall incur any electoral debt,
30 lease rental debt or nonelectoral debt under 53 Pa.C.S. Pt. VII

1 Subpt. B after the effective date of this section.

2 Section 1102. Notices and reporting by school districts of debt
3 outstanding.

4 (a) Duties.--

5 (1) Each school district, including a school district of
6 the first class, shall identify the outstanding amount of all
7 electoral debt, lease rental debt or nonelectoral debt
8 incurred as of December 31, 2019.

9 (2) On or before September 30, 2021, each school
10 district, including a school district of the first class,
11 shall certify and report to the department the outstanding
12 amount of all electoral debt, lease rental debt or
13 nonelectoral debt incurred as of December 31, 2019, together
14 with any information requested by the department in order for
15 the Commonwealth to comply with requirements of this section.

16 (b) Audit by department.--

17 (1) The department shall audit each report submitted
18 under subsection (a) and shall certify the amount of each
19 report and the total aggregate amount of all reports to the
20 State Treasurer on or before March 31, 2022.

21 (2) If the department disputes all or any portion of a
22 report submitted under subsection (a), the department shall
23 not include such amount in the certification to the State
24 Treasurer and shall notify the school district in writing of
25 the exclusion from the certification.

26 CHAPTER 13

27 FUNDING PROVISIONS

28 Section 1301. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Base revenue." The money a school district receives from
3 property tax during fiscal year 2019-2020.

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

5 (1) the average annual percentage increase in the
6 Consumer Price Index for All Urban Consumers (CPI-U) for the
7 Pennsylvania, New Jersey and Maryland area for the preceding
8 calendar year; or

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

11 "Fund." The Residential Property Tax Elimination Fund
12 established in section 1302.

13 Section 1302. Residential Property Tax Elimination Fund.

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

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

17 (1) Money collected by the Department of Education
18 under:

19 (i) Chapter 5; or

20 (ii) Chapter 7.

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

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

24 (ii) 4 Pa.C.S. § 1407(d)(2) (relating to
25 Pennsylvania Gaming Economic Development and Tourism
26 Fund).

27 (3) Appropriations.

28 (4) Return on money in the fund.

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

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

4 Section 1303. Standard disbursements to school districts from
5 Residential Property Tax Elimination Fund.

6 (a) Initial.--For fiscal year 2019-2020, the Department of
7 Education shall make disbursements to each school district as
8 follows:

9 (1) Ascertain base revenue.

10 (2) Multiply:

11 (i) the amount ascertained under paragraph (1); by

12 (ii) the cost of living factor.

13 (3) Divide:

14 (i) the product under paragraph (2); by

15 (ii) four.

16 (4) Each quarter, disburse the quotient under paragraph
17 (3).

18 (b) Subsequent.--For fiscal years beginning after June 30,
19 2019, the Department of Education shall make disbursements to
20 each school district as required by statute.

21 CHAPTER 15

22 MISCELLANEOUS PROVISIONS

23 Section 1501. Transitional provision.

24 (a) Sales tax.--Notwithstanding the repeal of Article II of
25 the Tax Reform Code of 1971, under section 1504, the department
26 shall have the authority to enforce the collection of taxes
27 imposed for transactions that occur prior to the effective date
28 of this section under former Article II of the Tax Reform Code
29 of 1971. The taxes collected after January 1, 2020, regardless
30 of the transaction date, shall be deposited into the Residential

1 Property Tax Elimination Fund.

2 (b) Other taxes.--Notwithstanding the repeal of any
3 provision of the Public School Code of 1949 or of any other law
4 authorizing school districts to impose taxes, a governing body
5 shall have the authority to enforce, after the effective date of
6 the repeal, the collection of taxes levied and assessed under
7 those former provisions prior to the effective date of the
8 repeal under section 1504.

9 Section 1502. Construction.

10 Any and all references in any other act to Article II of the
11 Tax Reform Code of 1971 or any provision in Article II of the
12 Tax Reform Code of 1971 shall be deemed a reference to Chapter 7
13 of this act or the corresponding provisions in Chapter 7 of this
14 act.

15 Section 1503. Severability.

16 The provisions of this act are severable as follows:

17 (1) If any provision of this act is held invalid, the
18 invalidity shall not affect other provisions or applications
19 of this act which can be given effect without the invalid
20 provision or application.

21 (2) Under no circumstances shall the invalidity of any
22 provision or application of this act affect the validity of
23 any provision in this act that abolishes the power of the
24 governing body and any school district and city of the first
25 class or any other political subdivision to levy, assess or
26 collect a tax on any interest in real property for school
27 purposes.

28 Section 1504. Repeals.

29 (a) Intent.--The General Assembly declares that the repeals
30 under subsection (b) are necessary to effectuate this act.

1 (b) Provisions.--The following acts and parts of acts are
2 repealed:

3 (1) Section 631 of the act of March 10, 1949 (P.L.30,
4 No.14), known as the Public School Code of 1949, is repealed.

5 (2) Any provision of the Public School Code of 1949 and
6 of any other law relating to the authority of any school
7 district to levy, assess and collect any tax on real property
8 and the power of any city of the first class to levy, assess
9 and collect any tax on real property for school purposes is
10 repealed upon the expiration of the respective schedule
11 prescribed in sections 901 and 902.

12 (3) Any provision of the Public School Code of 1949 and
13 any other law relating to debt is repealed to the extent that
14 it is inconsistent with this act.

15 (4) Any provision of the Public School Code of 1949 and
16 any home rule charter adopted pursuant thereto is repealed
17 insofar as it is inconsistent with this act.

18 (5) Any provision of the act of August 9, 1963 (P.L.643,
19 No.341), known as the First Class City Public Education Home
20 Rule Act, and any home rule school district charter adopted
21 pursuant thereto is repealed insofar as it is inconsistent
22 with this act.

23 (6) Article II of the act of March 4, 1971 (P.L.6,
24 No.2), known as the Tax Reform Code of 1971, is repealed.

25 (7) Section 321(b) of the act of June 27, 2006 (1st
26 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act,
27 is repealed regarding the tax on earned income.

28 (8) Any provision of the act of June 27, 2006 (1st
29 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act,
30 is repealed insofar as it is inconsistent with this act.

1 (9) All acts and parts of acts that are inconsistent
2 with this act are repealed to the extent of such
3 inconsistency.

4 Section 1505. Effective date.

5 This act shall take effect upon the amendment of the
6 Constitution of Pennsylvania to provide for special tax
7 provisions that prohibit a school district from imposing a tax
8 on real property classified as residential property.