
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 76 Session of 2018

INTRODUCED BY COX, RYAN, MILLARD, QUIGLEY, SIMMONS, ROZZI, FEE, MALONEY, KAUFFMAN, BOBACK, HEFFLEY, HAHN, DIAMOND, KAUFER, KNOWLES, GILLEN, ZIMMERMAN, JOZWIAK, MULLERY, KAVULICH, A. HARRIS, TOEPEL, HICKERNELL, HAGGERTY, WHEELAND, GOODMAN, SACCONI, GREINER, HENNESSEY, PHILLIPS-HILL, R. BROWN, LAWRENCE, CUTLER, GILLESPIE, RADER, BLOOM, REED, HELM, CALTAGIRONE, EVERETT, CHRISTIANA, TALLMAN, ELLIS, TOOHIL, TOBASH, BARRAR, MOUL, MICCARELLI, M. K. KELLER, D. COSTA, MACKENZIE AND STAATS, APRIL 10, 2018

REFERRED TO COMMITTEE ON FINANCE, APRIL 10, 2018

AN ACT

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

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2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 CHAPTER 1
5 PRELIMINARY PROVISIONS

6 Section 101. Short title.

7 This act shall be known and may be cited as the Property Tax
8 Independence Act.

9 Section 102. Definitions.

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

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

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

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

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

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

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

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

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

1 including any independent school district. For purposes of the
2 levy, assessment and collection of any tax in a school district
3 of the first class, the term shall include the city council.

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

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

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

10 CHAPTER 3

11 TAXATION BY SCHOOL DISTRICTS

12 Section 301. Scope.

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

17 Section 302. Definitions.

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

22 Section 303. Limitation.

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

25 Section 304. Preemption.

26 No act of the General Assembly shall vacate or preempt any
27 resolution passed or adopted under the authority of this
28 chapter, or any other act, providing authority for the
29 imposition of a tax by a school district, unless the act of the
30 General Assembly expressly vacates or preempts the authority to

1 pass or adopt resolutions.

2 Section 305. General tax authorization.

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

7 (b) Personal income tax.--

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

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

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

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

25 (i) Notwithstanding the provisions of section 353(f)
26 of the Tax Reform Code of 1971, the department may permit
27 the proper officer or an authorized agent of a school
28 district imposing a personal income tax pursuant to this
29 chapter to inspect the tax returns of any taxpayer of the
30 school district or may furnish to the officer or an

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

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

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

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

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

30 (B) Any officer or authorized agent of a school

1 district that violates clause (A):

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

4 (II) May be removed from office or
5 discharged from employment.

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

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

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

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

19 Section 306. Referendum.

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

24 (b) Approved by electorate.--

25 (1) Subject to notice and public hearing requirements of
26 subsection (g), a governing body may levy the personal income
27 tax or earned income and net profits tax under this chapter
28 only by obtaining the approval of the electorate of the
29 affected school district in a public referendum at only the
30 primary election preceding the fiscal year when the personal

1 income tax or earned income and net profits tax will be
2 initially imposed or the rate increased.

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

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

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

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

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

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

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

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

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

5 (e) Notification.--

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

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

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

20 (g) Adoption of resolution.--

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

24 (2) Prior to adopting a resolution imposing the tax
25 authorized by this section, the governing body shall give
26 public notice of its intent to adopt the resolution in the
27 manner provided by the Local Tax Enabling Act and shall
28 conduct at least two public hearings regarding the proposed
29 adoption of the resolution. One public hearing shall be
30 conducted during normal business hours and one public hearing

1 shall be conducted during evening hours or on a weekend.

2 Section 307. Continuity of tax.

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

7 Section 308. Collections.

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

11 Section 309. Credits.

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

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

23 Section 310. Exemption and special provisions.

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

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

1 Section 311. Regulations.

2 A school district that imposes:

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

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

12 CHAPTER 4

13 EDUCATION TAX

14 Section 401. Education tax.

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

20 (b) Imposition of tax.--

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

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

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

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

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

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

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

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

18 CHAPTER 7

19 SALES AND USE TAX FOR THE

20 STABILIZATION OF EDUCATION FUNDING

21 SUBCHAPTER A

22 PRELIMINARY PROVISIONS

23 Section 700. Scope.

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

29 Section 701. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 (a) "Soft drinks."

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

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

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

25 (1) Having, maintaining or using within this
26 Commonwealth, either directly or through a subsidiary,
27 representative or an agent, an office, distribution house,
28 sales house, warehouse, service enterprise or other place of
29 business; or any agent of general or restricted authority, or
30 representative, irrespective of whether the place of

1 business, representative or agent is located in this
2 Commonwealth, permanently or temporarily, or whether the
3 person or subsidiary maintaining the place of business,
4 representative or agent is authorized to do business within
5 this Commonwealth.

6 (1.1) Providing taxable services.

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

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

30 (3.1) Entering this Commonwealth by any person to

1 provide assembly, service or repair of tangible personal
2 property, either directly or through a subsidiary,
3 representative or an agent.

4 (3.2) Delivering tangible personal property to locations
5 within this Commonwealth if the delivery includes the
6 unpacking, positioning, placing or assembling of the tangible
7 personal property.

8 (3.3) Having any contact within this Commonwealth which
9 would allow the Commonwealth to require a person to collect
10 and remit tax under the Constitution of the United States.

11 (3.4) Providing a customer's mobile telecommunications
12 service deemed to be provided by the customer's home service
13 provider under the Mobile Telecommunications Sourcing Act
14 (Public Law 106-252, 4 U.S.C. § 116). For purposes of this
15 clause, words and phrases used in this clause shall have the
16 meanings given to them in the Mobile Telecommunications
17 Sourcing Act.

18 (4) The term does not include:

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

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

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

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

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

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

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

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

30 (4) Building, rebuilding, repairing and making additions

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

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

8 (i) product or utility service; or

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

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

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

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

1 clause, the following terms or phrases have the following
2 meanings:

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

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

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

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

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

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

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

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

6 (1.1) The processing of fruits or vegetables by
7 cleaning, cutting, coring, peeling or chopping and treating
8 to preserve, sterilize or purify and substantially extend the
9 useful shelf life of the fruits or vegetables, when the
10 person engaged in the activity packages the property in
11 sealed containers for wholesale distribution.

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

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

21 (3.1) The blanking, shearing, leveling, slitting or
22 burning of metals for sale to or use by a manufacturer or
23 processor.

24 (4) The rolling, drawing or extruding of ferrous and
25 nonferrous metals.

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

30 (6) The preparation of animal feed or poultry feed for

1 sale.

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

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

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

11 (9.1) The aging, stripping, conditioning, crushing and
12 blending of tobacco leaves for use as cigar filler or as
13 components of smokeless tobacco products for sale to
14 manufacturers of tobacco products.

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

19 (11) The processing of used lubricating oils.

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

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

30 (14) The cleaning and roasting and the blending,

1 grinding or packaging for sale of coffee from green coffee
2 beans or the production of coffee extract.

3 (15) The preparation of dry or liquid fertilizer for
4 sale.

5 (16) The production, processing and packaging of ice for
6 wholesale distribution.

7 (17) The producing of mobile telecommunications
8 services.

9 (18) The collection, washing, sorting, inspecting and
10 packaging of eggs.

11 (e) "Person." Any natural person, association, fiduciary,
12 partnership, corporation or other entity, including the
13 Commonwealth of Pennsylvania, its political subdivisions and
14 instrumentalities and public authorities. Whenever used in
15 prescribing and imposing a penalty or imposing a fine or
16 imprisonment, or both, the term as applied to an association,
17 includes the members of the association and, as applied to a
18 corporation, the officers of the corporation.

19 (f) "Purchase at retail."

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

1 described in subclauses (2), (3) and (4) of clause (k) of
2 this section 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 of those services
8 described in subclauses (11) through (18) of clause (k) of
9 this section.

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

25 (g) "Purchase price."

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

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

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

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

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

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

28 (5) (i) With respect to the tax imposed by section
29 702(a)(2), on any tangible personal property originally
30 purchased by the user of the property six months or

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

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

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

28 (7) Unless the vendor separately states that portion of
29 the billing which applies to premium cable service as defined
30 in clause (11), the total bill for the provision of all cable

1 services shall be the purchase price.

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

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

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

28 (i) "Resale."

29 (1) Any transfer of ownership, custody or possession of
30 tangible personal property for a consideration, including the

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

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

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

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

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

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

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

16 (j) "Resident."

17 (1) Any natural person:

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

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

22 (2) Any corporation:

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

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

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

29 (3) Any association, fiduciary, partnership or other
30 entity:

1 (i) domiciled in this Commonwealth;
2 (ii) authorized to do business or doing business
3 within this Commonwealth; or
4 (iii) maintaining a place of business within this
5 Commonwealth.

6 (k) "Sale at retail."

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

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

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

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

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

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

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

8 (5) (Reserved).

9 (6) (Reserved).

10 (7) (Reserved).

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

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

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

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

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

1 commercial purposes by holders of propagation permits
2 issued 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (16) (Reserved).

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

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

30 (19) The rendition for a consideration of a mobile

1 telecommunications service.

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

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

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

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

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

30 In the case of any interstate or intrastate telecommunications

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

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

8 (o) "Use."

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

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

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

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

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

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

1 including, but not limited to, wearing apparel or shoes,
2 regardless of whether the services are performed directly or
3 by any means other than by means of coin-operated self-
4 service laundry equipment for wearing apparel or household
5 goods, and regardless of whether any tangible personal
6 property is transferred to the purchaser in conjunction with
7 the activity, therewith, except such services are obtained in
8 the construction, reconstruction, remodeling, repair or
9 maintenance of real estate. The term "use" does 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 subclauses
21 (2), (3) and (4) of this clause directly in the
22 operations of:

23 (i) The manufacture of tangible personal property.

24 (ii) Farming, dairying, agriculture, horticulture or
25 floriculture when engaged in as a business enterprise.

26 The term includes the propagation and raising of ranch-
27 raised furbearing animals and the propagation of game
28 birds for commercial purposes by holders of propagation
29 permits issued under 34 Pa.C.S. (relating to game) and
30 the propagation and raising of horses to be used

1 exclusively for commercial racing activities.

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

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

28 (A) construction materials, supplies or
29 equipment used to construct, reconstruct, remodel,
30 repair or maintain facilities not used directly by

1 the purchaser in the production, delivering or
2 rendition of public utility service; or

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

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

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

21 (6) The term, with respect to liquor and malt or brewed
22 beverages, includes the purchase of liquor from any
23 Pennsylvania Liquor Store by any person for any purpose and
24 the purchase of malt or brewed beverages from a manufacturer
25 of malt or brewed beverages, distributor or importing
26 distributor by any person for any purpose, except purchases
27 from a manufacturer of malt or brewed beverages by a
28 distributor or importing distributor, or purchases from an
29 importing distributor by a distributor within the meaning of
30 the act of April 12, 1951 (P.L.90, No.21), known as the

1 Liquor Code. The term does not include any purchase of malt
2 or brewed beverages from a retail dispenser or any purchase
3 of liquor or malt or brewed beverages from a person holding a
4 retail liquor license within the meaning of and pursuant to
5 the provisions of the Liquor Code, but includes the exercise
6 of any right or power incidental to the ownership, custody or
7 possession of liquor or malt or brewed beverages obtained by
8 the person exercising the right or power in any manner other
9 than pursuant to the provisions of the Liquor Code.

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

14 (8) (Reserved).

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

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

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

20 (12) The obtaining by the purchaser of disinfecting or
21 pest control services, building maintenance or cleaning
22 services.

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

25 (14) (Reserved).

26 (15) The obtaining by the purchaser of lawn care
27 service.

28 (16) The obtaining by the purchaser of self-storage
29 service.

30 (17) The obtaining by a construction contractor of

1 tangible personal property or services provided to tangible
2 personal property which will be used pursuant to a
3 construction contract regardless of whether the tangible
4 personal property or services are transferred.

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

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

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

18 (q) "NAICS." The 2012 North American Industry
19 Classification System developed by the Federal Office of
20 Management and Budget and published in the Federal Register,
21 Vol. 76, No. 159, on August 17, 2011, or its successor revision.

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

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

1 flight activities for compensation.

2 (t) "Transient vendor."

3 (1) Any person who:

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

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

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

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

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

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

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

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

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

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

27 (z) "Disinfecting or pest control services." Providing
28 disinfecting, termite control, insect control, rodent control or
29 other pest control services. The term includes, but is not
30 limited to, deodorant servicing of rest rooms, washroom

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

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

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

29 (cc) "Help supply services." Providing temporary or
30 continuing help where the help supplied is on the payroll of the

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

12 (1) dressing, bathing or feeding;

13 (2) supervising self-administered medication;

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

16 (4) routine housekeeping chores when provided in
17 conjunction with and supplied by the same provider of the
18 assistance listed in subclause (1), (2) or (3).

19 (dd) "NAICS taxable services." Any service performed in
20 this Commonwealth as defined in the following subsectors and
21 industries of the revised 2012 NAICS developed by the Federal
22 Office of Management and Budget and published in the Federal
23 Register, Vol. 76, No. 159, on August 17, 2011, or its successor
24 revision:

25 481, for intrastate transport of persons

26 482, for intrastate transport of persons

27 483, for intrastate transport of persons

28 4851, for intrastate transport of persons

29 4852, for intrastate transport of persons

30 4853, for intrastate transport of persons

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

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

21 6216, 6219, 6231, 6232, 6233, 6239, 6241, 6242, 6243,
22 unless provided by a nonprofit organization

23 6244

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

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

12 7113

13 7114

14 712

15 7131

16 7139

17 7212

18 7224

19 8121

20 8122

21 8123

22 8129

23 (ee) (Reserved).

24 (ff) (Reserved).

25 (gg) (Reserved).

26 (hh) (Reserved).

27 (ii) (Reserved).

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

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

6 (1) safe deposit boxes by financial institutions;

7 (2) storage in refrigerator or freezer units;

8 (3) storage in commercial warehouses;

9 (4) facilities for goods distribution; and

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

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

17 If a purchaser receives or agrees to receive cable or video
18 programming service, then the following charges are included in
19 the purchase price: charges for installation or repair of any
20 cable or video programming service, upgrade to include
21 additional premium cable or premium video programming service,
22 downgrade to exclude all or some premium cable or premium video
23 programming service, additional cable outlets in excess of 10 or
24 any other charge or fee related to cable or video programming
25 services. The term does not apply to: transmissions by public
26 television, public radio services or official Federal, State or
27 local government cable services; local origination programming
28 which provides a variety of public service programs unique to
29 the community, programming which provides coverage of public
30 affairs issues which are presented without commentary or

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

6 (mm) (Reserved).

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

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

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

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

22 (2) electrical;

23 (3) plumbing;

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

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

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

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

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

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

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

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

26 (2) the United States; or

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

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

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

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

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

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

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

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

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

13 (4) Mobile telecommunications services.

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

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

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

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

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

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

28 (1) Manufactured housing, including mobile homes, which
29 bears a label as required by and referred to in the act of
30 November 17, 1982 (P.L.676, No.192), known as the

1 Manufactured Housing Construction and Safety Standards
2 Authorization Act.

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

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

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

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

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

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

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

27 (ccc) "Prepaid mobile telecommunications service." Mobile
28 telecommunications service which is paid for in advance and
29 which enables the origination of calls using an access number,
30 authorization code or both, regardless of whether manually or

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

10 (ddd) (Reserved).

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

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

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

1 and clothing not normally used or worn when not engaged in
2 sports.

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

5 SUBCHAPTER B

6 SALES AND USE TAX

7 Section 702. Imposition of tax.

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

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

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

25 (b) General sourcing rules.--

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

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

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

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

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

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

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

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

19 (c) Telecommunications service.--

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

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

1 by third-party vendors.

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

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

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

22 (e) Prepaid telecommunications.--

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

27 (2) The sale or use of prepaid telecommunications not
28 evidenced by the transfer of tangible personal property shall
29 be subject to the tax imposed by subsection (a) and shall be
30 deemed to occur at the purchaser's billing address.

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

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

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

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

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

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

29 (ii) The service provider shall notify the
30 department of its election and shall collect the tax on

1 receipts of each sale until the service provider notifies
2 the department otherwise.

3 (f) Prebuilt housing.--

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

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

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

20 (g) Home service providers.--

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

1 within this Commonwealth, regardless of where the mobile
2 telecommunications services originate, terminate or pass
3 through.

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

7 Section 703. Computation of tax.

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

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

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

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

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

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

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

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

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

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

1 SUBCHAPTER C

2 EXCLUSIONS FROM SALES AND USE TAX

3 Section 704. Exclusions from tax.

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

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

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

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

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

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

11 (4) (Reserved).

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

16 (6) (Reserved).

17 (7) (Reserved).

18 (8) (Reserved).

19 (9) (Reserved).

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

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

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

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

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

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

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

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

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

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

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

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

1 incapacity, including, but not limited to, hospital beds,
2 iron lungs and kidney machines.

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

4 (19) (Reserved).

5 (20) (Reserved).

6 (21) (Reserved).

7 (22) (Reserved).

8 (23) (Reserved).

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

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

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

18 (27) (Reserved).

19 (28) (Reserved).

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

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

27 (31) (Reserved).

28 (32) (Reserved).

29 (33) (Reserved).

30 (34) (Reserved).

1 (35) (Reserved).

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

4 (37) (Reserved).

5 (38) (Reserved).

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 Commission.

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

14 (41) (Reserved).

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

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

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

27 (45) (Reserved).

28 (46) The sale at retail or use of tangible personal
29 property purchased in accordance with the Food Stamp Act of
30 1977, as amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029).

1 (47) (Reserved).

2 (48) (Reserved).

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

6 (ii) The following words and phrases when used in
7 this paragraph shall have the meanings given to them in
8 this subparagraph unless the context clearly indicates
9 otherwise:

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

22 "Sports program." Baseball, softball, football,
23 basketball, soccer and any other competitive sport
24 formally recognized as a sport by the United States
25 Olympic Committee as specified by and under the
26 jurisdiction of the Amateur Sports Act of 1978 (Public
27 Law 95-606, 36 U.S.C. Ch. 2205), the Amateur Athletic
28 Union or the National Collegiate Athletic Association.
29 The term shall be limited to a program or that portion of
30 a program that is organized for recreational purposes and

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

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

13 (50) (Reserved).

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

22 (52) (Reserved).

23 (53) (Reserved).

24 (54) (Reserved).

25 (55) (Reserved).

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

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

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

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

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

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

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

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

22 (58) (Reserved).

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

27 (60) (Reserved).

28 (61) (Reserved).

29 (62) The sale at retail or use of tangible personal
30 property or services which are directly used in farming,

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

6 (63) (Reserved).

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

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

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

20 (65) (Reserved).

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

25 (i) "court" includes:

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

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

30 (C) the minor judiciary as defined in 42 Pa.C.S.

1 § 102;

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

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

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

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

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

23 (70) (Reserved).

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

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

30 (i) Legal services as defined by NAICS industry

1 5411.

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

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

6 (iv) Specialized design services as defined by NAICS
7 industry 5414.

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

10 (vi) Services to buildings and dwellings as defined
11 by NAICS industry 5617.

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

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

16 (ix) Information services as defined by NAICS
17 subsector 519.

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

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

22 (xii) Parking lot and garage services as defined by
23 NAICS industry 8129.

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

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

29 (75) The sale at retail or use of services performed by
30 minors under 18 years of age and not on behalf of another

1 person.

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

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

8 Section 705. Alternate imposition of tax.

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

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

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

28 Section 706. Credit against tax.

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

30 (1) A credit against the tax imposed by section 702

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

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

10 (b) (Reserved).

11 SUBCHAPTER D

12 LICENSES

13 Section 708. Licenses.

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

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

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

26 (a) if the applicant filed all required State tax reports and
27 paid any State taxes not subject to a timely perfected
28 administrative or judicial appeal or subject to a duly
29 authorized deferred payment plan. The license shall be
30 nonassignable.

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

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

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

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

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

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

1 person and the fact that the person's license has been
2 refused, suspended or revoked under this subsection.
3 Disclosure may include the basis for refusal, suspension or
4 revocation.

5 (c) Penalties.--

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

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

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

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

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

29 SUBCHAPTER E

30 HOTEL OCCUPANCY TAX

1 Section 709. Definitions.

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

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

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

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

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

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

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

29 (b) Other definitions.--The following words and phrases,
30 when used in Subchapters D and F, shall, in addition to the

1 meaning ascribed to them by section 701, have the meaning
2 ascribed to them in this subsection, except where the context
3 clearly indicates a different meaning:

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

5 Being the operator of a hotel in this Commonwealth.

6 "Purchase at retail." Occupancy.

7 "Purchase price." Rent.

8 "Purchaser." Occupant.

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

11 "Services." Occupancy.

12 "Tangible personal property." Occupancy.

13 "Use." Occupancy.

14 "Vendor." Operator.

15 Section 710. Imposition of tax.

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

21 Section 711. Seasonal tax returns.

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

29

SUBCHAPTER F

30

PROCEDURE AND ADMINISTRATION

1 Section 715. Persons required to make returns.

2 Every person required to pay tax to the department or collect
3 and remit tax to the department shall file returns with respect
4 to the tax.

5 Section 716. Form of returns.

6 The returns required by section 715 shall be on forms
7 prescribed by the department and shall show such information
8 with respect to the taxes imposed by this chapter as the
9 department may reasonably require.

10 Section 717. Time for filing returns.

11 (a) Quarterly and monthly returns.--

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

17 (2) For the year in which this chapter becomes
18 effective, and in each year thereafter, a return shall be
19 filed monthly with respect to each month by every licensee
20 whose actual tax liability for the third calendar quarter of
21 the preceding year equals or exceeds \$600 and is less than
22 \$25,000. Such returns shall be filed on or before the 20th
23 day of the next succeeding month with respect to which the
24 return is made. Any licensee required to file monthly returns
25 under this act shall be relieved from filing quarterly
26 returns.

27 (3) With respect to every licensee whose actual tax
28 liability for the third calendar quarter of the preceding
29 year equals or exceeds \$25,000 and is less than \$100,000, the
30 licensee shall, on or before the 20th day of each month, file

1 a single return consisting of all of the following:

2 (i) Either of the following:

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

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

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

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

1 and (ii).

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

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

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

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

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

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

28 (c) Other returns.--Any person, other than a licensee,
29 liable to pay to the department any tax under this chapter,
30 shall file a return on or before the 20th day of the month

1 succeeding the month in which the person becomes liable for the
2 tax.

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

8 Section 718. Extension of time for filing returns.

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

14 Section 719. Place for filing returns.

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

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

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

29 (b) Presentation of receipt.--For the purposes of this
30 chapter, presentation of a receipt indicating that the report or

1 payment was mailed by registered or certified mail on or before
2 the due date shall be evidence of timely filing and payment.

3 Section 721. Payment of tax.

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

7 Section 722. Time of payment.

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

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

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

22 Section 723. Other times for payment.

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

26 Section 724. Place for payment.

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

29 Section 725. Tax held in trust for Commonwealth.

30 (a) General rule.--All taxes collected by any person from

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

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

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

18 Section 726. (Reserved).

19 Section 727. Discount.

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

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

- 1 (1) For a monthly filer, \$25 per return.
- 2 (2) For a quarterly filer, \$75 per return.
- 3 (3) For a semiannual filer, \$150 per return.

4 Section 728. (Reserved).

5 Section 729. (Reserved).

6 Section 730. Assessment.

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

12 Section 731. Mode and time of assessment.

13 (a) Duty to examine.--

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

22 (2) If such assessment is not paid within 10 days, there
23 shall be added and paid to the department an additional 3% of
24 the difference for each month during which the assessment
25 remains unpaid. The total of all additions shall not exceed
26 18% of the difference shown on the assessment.

27 (b) Understated tax on returns.--

28 (1) If the department determines that any return or
29 returns of any taxpayer understates the amount of tax due, it
30 shall determine the proper amount and shall ascertain the

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

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

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

9 (c) Estimated assessments.--

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

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

18 (d) Studies.--

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

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

28 Section 732. Reassessment.

29 Any taxpayer against whom an assessment is made may petition
30 the department for a reassessment under Article XXVII of the Tax

1 Reform Code of 1971.

2 Section 733. Assessment to recover erroneous refunds.

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

10 Section 734. (Reserved).

11 Section 735. (Reserved).

12 Section 736. Burden of proof.

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

16 Section 737. Collection of tax.

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

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

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

29 (2) (i) Every person not otherwise required to collect
30 tax that delivers tangible personal property to a

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

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

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

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

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

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

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

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

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

12 (6) An exemption certificate:

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

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

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

28 (iv) which, in the case of any purchase costing \$200
29 or more, is accompanied by a sworn declaration on a form
30 to be provided by the department of an intended usage of

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

4 (d) Direct payment permits.--

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

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

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

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

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

1 semitrailer.

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

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

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

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

17 Section 739. Precollection of tax.

18 (a) Authorization.--

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

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

29 (b) No license required.--In any case in which a vendor has
30 been authorized to prepay the tax to the person from whom the

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

7 (c) Reimbursement.--

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

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

20 Section 740. Bulk and auction sales.

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

29 Section 741. (Reserved).

30 Section 742. Lien for taxes.

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

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

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

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

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

20 (b) Priority status.--

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

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

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

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

18 (ii) Not less than 10 days before issuance of any
19 execution on the lien, notice of the filing and the
20 effect of the lien shall be sent by registered mail to
21 the taxpayer at the taxpayer's last known post office
22 address.

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

29 (c) Penalty.--Any willful failure of any prothonotary to
30 carry out any duty imposed on the prothonotary under this

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

5 (d) Priority payment from distribution.--

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

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

21 (e) Construction.--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) General rule.--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, to collect the amount of tax due together
3 with additions, interest, penalties and costs in the manner
4 provided at law or in equity for the collection of ordinary
5 debts.

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

12 (c) Construction.--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 if the other state extends a like comity to this
21 Commonwealth.

22 Section 745. Service.

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

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

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

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

20 Section 747. Prepayment of tax.

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

30 (b) Subsequent collection of tax.--If the purchase price is

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

5 (c) Time period for refund.--Tax prepaid shall be subject to
6 refund on 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) General rule.--A vendor may file a petition for refund
11 of sales tax paid to the department that is attributed to a bad
12 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 debt on the books and records of the vendor
16 or an affiliate of the vendor.

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

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

24 (a.2) Private-label credit cards.--In the case of private-
25 label credit card accounts not qualifying under subsection (a),
26 a vendor or lender that makes an election pursuant to subsection
27 (a.3) shall be entitled to file a petition for refund of sales
28 tax 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) Joint election.--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) Limitation.--

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

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

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

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

29 (d) Items not refundable.--No refund shall be granted under
30 this section for interest, finance charges or expenses incurred

1 in attempting to collect any amount receivable.

2 (e) Documentation.--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, 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. This includes the
4 following:

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

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

14 (f) Subsequent collection.--

15 (1) If the purchase price that is attributed to a prior
16 bad debt refund is collected in whole or in part by the
17 vendor or lender, or an affiliate of the vendor or lender,
18 the entity claiming the refund shall remit the proportional
19 tax to the department with the first return filed after the
20 collection. If the entity is not required to file periodic
21 returns, the entity shall remit the proportional tax to the
22 department with another return pursuant to 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(a)(1) of the Internal
29 Revenue 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 by 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 prohibited.--Notwithstanding the provisions of
15 section 806.1 of the Fiscal Code, no interest shall be paid by
16 the Commonwealth on refunds of sales tax attributed to bad debt
17 under this section.

18 (h) Administration.--

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

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

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

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

30 "Affiliate." A person that is:

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

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

10 "Lender." Any of the following:

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

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

17 (3) A person that is:

18 (i) an affiliate of a person described in paragraph
19 (1) or (2); or

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

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

1 referred to in this definition.

2 Section 748. Registration of transient vendors.

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

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

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

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

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

1 conduct business.

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

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

9 Section 748.1. Bond.

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

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

25 Section 748.2. Notification to department.

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

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

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

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

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

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

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

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

20 Section 748.3. Seizure of property.

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

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

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

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

9 Section 748.4. Fines.

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

15 Section 748.5. Transient vendors subject to chapter.

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

19 Section 748.6. Promoters.

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

26 (b) License.--

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

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

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

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

18 (e) Penalties.--

19 (1) Any licensed promoter who:

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

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

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

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

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

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

9 Section 749. (Reserved).

10 Section 750. (Reserved).

11 Section 751. (Reserved).

12 Section 752. Refunds.

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

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

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

1 the petitioner has paid the tax assessed.

2 Section 753. Refund petition.

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

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

20 Section 754. (Reserved).

21 Section 755. (Reserved).

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

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

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

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

18 Section 757. (Reserved).

19 Section 758. Limitation on assessment and collection.

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

29 Section 759. Failure to file return.

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

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

3 Section 760. False or fraudulent return.

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

7 Section 761. Extension of limitation period.

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

16 Section 762. (Reserved).

17 Section 763. (Reserved).

18 Section 764. (Reserved).

19 Section 765. (Reserved).

20 Section 766. Additions to tax.

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

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

5 Section 767. Penalties.

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

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

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

27 Section 768. Criminal offenses.

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

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

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

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

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

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

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

1 fraudulent return or report;

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

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

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

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

13 (c) Exceptions.--

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

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

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

27 Section 769. Abatement of additions or penalties.

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

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

4 Section 770. Rules and regulations.

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

14 (b) Determination of purchase price.--

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

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

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

6 Section 771. Keeping of records.

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

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

24 (c) Nonresidents.--

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

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

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

7 (d) Retail dealers.--

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

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

18 (e) Segregation of taxes required.--

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

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

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

1 amount of tax collected.

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

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

8 Section 771.1. Reports and records of promoters.

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

22 Section 772. Examinations.

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

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

4 (c) Other powers of department.--

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

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

15 Section 773. Records and examinations of delivery agents.

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

22 Section 774. Unauthorized disclosure.

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

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

2 Section 775. Cooperation with other governments.

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

17 Section 776. Interstate compacts.

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

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

1 Section 777. Bonds.

2 (a) Procedure.--

3 (1) Whenever the department, in its discretion, deems it
4 necessary to protect the revenues to be obtained under the
5 provisions of this chapter, it may require any nonresident
6 natural person or any foreign corporation, association,
7 fiduciary, partnership or other entity, not authorized to do
8 in this Commonwealth or not having an established place of
9 business in this Commonwealth and subject to the tax imposed
10 by section 702, to file a bond issued by a surety company
11 authorized to do business in this Commonwealth and approved
12 by the Insurance Commissioner as to solvency and
13 responsibility, in such amounts as it may fix, to secure the
14 payment of any tax or penalties due, or which may become due,
15 from a natural person or corporation.

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

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

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

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

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

23 (b) Alternative security.--

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

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

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

3 (c) Lien may be filed.--

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

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

11 Section 778. Remote sales reports.

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

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

1 and other related costs, shall be included.

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

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

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

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

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

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

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

22 SUBCHAPTER G

23 FUNDING PROVISIONS

24 Section 780. (Reserved).

25 Section 781. Appropriation for refunds.

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

30 Section 781.1. Construction.

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

7 Section 782. Transfers to Education Stabilization Fund.

8 (a) Deposit of sales and use tax and hotel occupancy tax
9 collected.--The secretary shall deposit into the Education
10 Stabilization Fund revenues received on or after January 1,
11 2018, regardless of the transaction date, that equal the portion
12 of the tax imposed by this chapter as follows:

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

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

20 (b) (Reserved).

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

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

27 (b) Transfer.--Within 30 days of the close of any calendar
28 month, 0.596% of the taxes received in the previous month under
29 this chapter, less any amounts collected in that previous
30 calendar month under former 74 Pa.C.S. § 1314(d) (relating to

1 Public Assistance Transportation Fund), shall be transferred to
2 the Public Transportation Assistance Fund.

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

8 (d) Revenue.--Commencing February 20, 2018, and
9 notwithstanding the provisions of 74 Pa.C.S. § 1506(c)(1)
10 (relating to fund) to the contrary, the revenues deposited into
11 the Public Transportation Trust Fund under 74 Pa.C.S. § 1506(c)
12 (1) shall be 2.769% of the amount collected under this chapter.
13 The amounts required to be deposited into the Public
14 Transportation Trust Fund under this subsection are estimated to
15 be equivalent to the revenue that would be deposited into the
16 Public Transportation Trust Fund under 74 Pa.C.S. § 1506(c)(1)
17 if the amendments to section 702 were not enacted.

18 CHAPTER 9

19 EDUCATION COST COMMISSION

20 Section 901. Education Cost Commission.

21 (a) Establishment.--The Education Cost Commission is
22 established and shall exercise the powers and duties described
23 in this chapter.

24 (b) Membership.--The commission shall consist of the
25 following members:

26 (1) The chair and minority chair of the Education
27 Committee of the Senate and the chair and minority chair of
28 the Education Committee of the House of Representatives or
29 their designees.

30 (2) Two legislators from each of the four legislative

1 caucuses, to be appointed by the President pro tempore of the
2 Senate and the Speaker of the House of Representatives, in
3 consultation with the Majority Leader and Minority Leader of
4 the Senate and the Majority Leader and Minority Leader of the
5 House of Representatives.

6 (3) An individual appointed by the Governor from within
7 the Governor's Administration.

8 (c) Chairperson.--The members of the commission shall elect
9 one of its members as chairperson.

10 (d) Meetings.--The commission shall convene its first
11 meeting within 30 days of the effective date of this section and
12 other meetings as necessary shall occur at the call of the
13 chairperson.

14 (e) Duties.--The commission shall conduct an initial study
15 that identifies the largest cost drivers within public education
16 in this Commonwealth and make recommendations to the General
17 Assembly for reducing the cost drivers. The commission shall
18 perform a similar study every five years.

19 (f) Report to General Assembly.--The commission shall
20 prepare a report of its initial study and submit the initial
21 study with the General Assembly within six months of the
22 effective date of this section. The commission shall prepare a
23 report of each similar study every five years and submit the
24 report not later than five years from the previous report.

25 CHAPTER 11

26 LIMIT ON SCHOOL DISTRICT TAXATION

27 AND EXPIRATION OF DEBT AUTHORITY

28 Section 1101. 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 "Qualified refunding debt." School district debt issued
3 after the effective date of this section to refund existing
4 school district debt, which existing school district debt is
5 secured by a pledge of tax on real estate, provided the
6 refunding results in reducing total debt service over the life
7 of the debt or shortens the term of the debt.

8 "School district debt." All debt which a school district is
9 obligated to pay. The term does not include debt that is issued
10 after the effective date of this section to refund debt which
11 was outstanding prior to the effective date of this section,
12 provided the refunding results in reducing total debt service
13 over the life of the debt or shortens the term of the debt.

14 Section 1102. Coordination of school district fiscal years.

15 (a) General rule.--By July 1, 2018, a school district which
16 operates under a fiscal year other than the period beginning
17 July 1 of each calendar year and ending June 30 of the calendar
18 year next succeeding shall adopt a fiscal year which is the
19 period beginning July 1 of each calendar year and ending June 30
20 of the calendar year next succeeding.

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

25 Section 1103. Transition period.

26 Beginning with the effective date of this section and ending
27 July 1, 2018, a school district which levies a tax on real
28 property may not increase the rate of tax on real property above
29 the rate levied as of the effective date of this section.

30 Section 1104. School district debt and budgeting.

1 (a) General rule.--Beginning December 31, 2017, or on the
2 effective date of this section, whichever is later, a school
3 district may not incur any additional school district debt
4 secured by a pledge of tax on real estate, except for qualified
5 refunding debt.

6 (b) Certification.--By April 1, 2018, and by April 1 of each
7 year after, a school district shall certify and report to the
8 Department of Education all of the following:

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

10 (2) The repayment status of all outstanding school
11 district debt.

12 (3) The repayment terms of all outstanding school
13 district debt.

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

17 (5) Any other information requested by the Department of
18 Education.

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

22 (d) Department responsibilities.--By July 1, 2018, and by
23 January 1 each year after, the Department of Education shall do
24 all of the following:

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

29 (2) Notify each school district of the amount of its
30 annual debt service payments that the Department of Education

1 has certified as necessary for the school district to
2 continue to repay its existing outstanding school district
3 debt.

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

6 (1) Adopt a preliminary budget proposal under section
7 311 of the Taxpayer Relief Act which reflects proposed tax
8 rates on real property that complies with section 1105.

9 (2) Adopt an annual budget under section 312 of the act
10 of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the
11 Taxpayer Relief Act, which reflects proposed tax rates on
12 real property that complies with section 1105.

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

15 (a) General rule.--Except as necessary to service
16 outstanding school district debt and as provided in subsection
17 (b), the authority of a school district to levy, assess and
18 collect a tax on real property shall expire July 1, 2018.

19 (b) Delinquent taxes.--Subsection (a) shall not apply to the
20 authority of a school district to collect delinquent school
21 property taxes imposed prior to July 1, 2018.

22 CHAPTER 13

23 FUNDING PROVISIONS

24 Section 1301. Definitions.

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

28 "Base revenue." The money a school district receives from
29 school property taxes and the State property tax reduction
30 allocation received under section 505 of act of June 27, 2006

1 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief
2 Act, during fiscal year 2017-2018 and the amount of outstanding
3 delinquent school property taxes owed to the school district for
4 the fiscal year 2017-2018 less the amount certified by the
5 department under section 1104(d).

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

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

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

15 "Department." The Department of Education of the
16 Commonwealth.

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

19 Section 1302. Education Stabilization Fund.

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

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

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

28 Section 1302.1. Sources and transfers.

29 (a) Deposit.--The following shall be deposited into the
30 fund:

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

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

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

9 (4) Appropriations.

10 (5) Return on money in the fund.

11 (b) Transfer from the fund.--

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

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

24 Section 1303. Standard disbursements to school districts from
25 Education Stabilization Fund.

26 (a) General rule.--In fiscal year 2018-2019, the department
27 shall disburse to each school district an amount equal to the
28 sum of the following:

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

30 (2) the school district's base revenue multiplied by the

1 cost-of-living factor.

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

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

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

10 (c) Distributions.--Disbursements under subsections (a) and
11 (b) shall be made at a time and in a manner determined by the
12 Department of Education in consultation with the department.

13 CHAPTER 14

14 SENIOR CITIZENS PROPERTY TAX AND

15 RENT REBATE ASSISTANCE

16 Section 1401. Scope of chapter.

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

19 Section 1402. (Reserved).

20 Section 1403. Definitions.

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

24 "Board." The Board of Finance and Revenue of the
25 Commonwealth.

26 "Claimant." A person who files a claim for property tax
27 rebate or rent rebate in lieu of property taxes and:

28 (1) was at least 65 years of age or whose spouse, if a
29 member of the household, was at least 65 years of age during
30 a calendar year in which real property taxes or rent were due

1 and payable;

2 (2) was a widow or widower and was at least 50 years of
3 age during a calendar year or part thereof in which real
4 property taxes or rent were due and payable; or

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

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

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

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

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

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

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

26 (5) Premises occupied by a claimant if the claimant is
27 required by law to pay a property tax by reason of the
28 claimant's ownership or rental, including a possessory
29 interest, in the dwelling, the land or both. An owner
30 includes a person in possession under a contract of sale,

1 deed of trust, life estate, joint tenancy or tenancy in
2 common or by reason of statutes of descent and distribution.

3 "Household income." All income received by a claimant and
4 the claimant's spouse while residing in the homestead during the
5 calendar year for which a rebate is claimed.

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

8 (1) Salaries, wages, bonuses, commissions, income from
9 self-employment, alimony, support money, cash public
10 assistance and relief.

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

15 (3) (i) All benefits received under the Social Security
16 Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), except
17 Medicare benefits, for calendar years prior to 1999, and
18 50% of all benefits received under the Social Security
19 Act, except Medicare benefits, for calendar years 1999
20 and thereafter.

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

27 (iii) Eligibility in the property tax and rent
28 rebate program pursuant to subparagraph (ii) shall expire
29 on December 31, 2018.

30 (4) All benefits received under State unemployment

1 insurance laws.

2 (5) All interest received from the Federal or any state
3 government or any instrumentality or political subdivision
4 thereof.

5 (6) Realized capital gains and rentals.

6 (7) Workers' compensation.

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

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

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

17 "Permanently disabled person." A person who is unable to
18 engage in any substantial gainful activity by reason of any
19 medically determinable physical or mental impairment which can
20 be expected to continue indefinitely, except as otherwise
21 provided in this chapter.

22 "Real property taxes." All taxes on a homestead, exclusive
23 of municipal assessments, delinquent charges and interest, due
24 and payable during a calendar year.

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

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

2 "State veterans' benefits." Service-connected compensation
3 or benefits of any kind provided to a veteran or an unmarried
4 surviving spouse of a veteran by a Commonwealth agency or
5 authorized under the laws of this Commonwealth.

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

8 "Widow" or "widower." The surviving wife or the surviving
9 husband, as the case may be, of a deceased individual and who
10 has not remarried except as otherwise provided in this chapter.
11 Section 1404. Property tax and rent rebate.

12 (a) Schedule of rebates.--

13 (1) The amount of any claim for property tax rebate or
14 rent rebate in lieu of property taxes for real property taxes
15 or rent due and payable during calendar years 1985 through
16 2005 shall be determined in accordance with the following
17 schedule:

18	Percentage of Real Property Taxes or	
19	Rent Rebate in Lieu of	
20	Household Income	Property Taxes Allowed as Rebate
21	\$ 0 - \$ 4,999	100%
22	5,000 - 5,499	100
23	5,500 - 5,999	90
24	6,000 - 6,499	80
25	6,500 - 6,999	70
26	7,000 - 7,499	60
27	7,500 - 7,999	50
28	8,000 - 8,499	40
29	8,500 - 8,999	35
30	9,000 - 9,999	25

1	10,000 - 11,999	20
2	12,000 - 12,999	15
3	13,000 - 15,000	10

4 (2) The following apply:

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

9	Amount of Real Property Taxes	
10	Household Income	Allowed as Rebate
11	\$ 0 - \$ 8,000	\$650
12	8,001 - 15,000	500
13	15,001 - 18,000	300
14	18,001 - 35,000	250

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

28 (3) The amount of any claim for rent rebate in lieu of
29 property taxes for rent due and payable during calendar year
30 2006 and thereafter shall be determined in accordance with

1 the following:

2	Amount of Rent Rebate in
3	Lieu of Property Taxes
4 Household Income	Allowed as Rebate
5 \$ 0 - \$ 8,000	\$650
6 8,001 - 15,000	500

7 (b) Limitations on claims.--

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

13 (2) For calendar year 2006 and thereafter, the maximum
14 amount of property tax or rent rebate in lieu of property
15 taxes payable shall not exceed the lesser of:

16 (i) the amount of a claim under subsection (a) (2) or
17 (3);

18 (ii) the amount of real property taxes actually
19 paid; or

20 (iii) 20% of gross rent actually paid.

21 (3) No claim shall be allowed if the claimant is a
22 tenant of an owner of real property exempt from real property
23 taxes.

24 (c) Apportionment and public assistance.--

25 (1) If any of the following exist relating to a claim:

26 (i) a homestead is owned or rented and occupied for
27 only a portion of a year or is owned or rented in part by
28 a person who does not meet the qualifications for a
29 claimant, exclusive of any interest owned or leased by a
30 claimant's spouse;

1 (ii) the claimant is a widow or widower who
2 remarries; or
3 (iii) the claimant is a formerly disabled person who
4 is no longer disabled,
5 the department shall apportion the real property taxes or
6 rent in accordance with the period or degree of ownership or
7 leasehold or eligibility of the claimant in determining the
8 amount of rebate for which a claimant is eligible.

9 (2) A claimant who receives public assistance from the
10 Department of Human Services shall not be eligible for rent
11 rebate in lieu of property taxes during those months within
12 which the claimant receives public assistance.

13 (d) Government subsidies.--Rent shall not include subsidies
14 provided by or through a governmental agency.

15 Section 1405. Filing of claim.

16 (a) General rule.--Except as otherwise provided in
17 subsection (b), a claim for property tax or rent rebate shall be
18 filed with the department on or before the 30th day of June of
19 the year next succeeding the end of the calendar year in which
20 real property taxes or rent was due and payable.

21 (b) Exception.--A claim filed after the June 30 deadline
22 until December 31 of such calendar year shall be accepted by the
23 secretary as long as funds are available to pay the benefits to
24 the late filing claimant.

25 (c) Payments from State Lottery Fund.--No reimbursement on a
26 claim shall be made from the State Lottery Fund earlier than the
27 day following the 30th day of June provided in this chapter on
28 which that claim may be filed with the department.

29 (d) Eligibility of claimants.--

30 (1) Only one claimant from a homestead each year shall

1 be entitled to the property tax or rent rebate.

2 (2) If two or more persons are able to meet the
3 qualifications for a claimant, they may determine who the
4 claimant shall be.

5 (3) If they are unable to agree, the department shall
6 determine to whom the rebate is to be paid.

7 Section 1406. Proof of claim.

8 (a) Contents.--Each claim shall include:

9 (1) Reasonable proof of household income.

10 (2) The size and nature of the property claimed as a
11 homestead.

12 (3) The rent, tax receipt or other proof that the real
13 property taxes on the homestead have been paid or rent in
14 connection with the occupancy of a homestead has been paid.

15 (4) If the claimant is a widow or widower, a declaration
16 of such status in such manner as prescribed by the secretary.

17 (b) Proof of disability.--

18 (1) Proof that a claimant is eligible to receive
19 disability benefits under the Social Security Act (49 Stat.
20 620, 42 U.S.C. § 301 et seq.) shall constitute proof of
21 disability under this chapter.

22 (2) No person who has been found not to be disabled by
23 the Social Security Administration shall be granted a rebate
24 under this chapter.

25 (3) A claimant not covered under the Social Security Act
26 shall be examined by a physician designated by the department
27 and such status determined using the same standards used by
28 the Social Security Administration.

29 (c) Direct payment of taxes or rent not required.--It shall
30 not be necessary that such taxes or rent were paid directly by

1 the claimant if the rent or taxes have been paid when the claim
2 is filed.

3 (d) Proof of age on first claim.--The first claim filed
4 shall include proof that the claimant or the claimant's spouse
5 was at least 65 years of age, or at least 50 years of age in the
6 case of a widow or widower during the calendar year in which
7 real property taxes or rent were due and payable.

8 Section 1407. Incorrect claim.

9 Whenever on audit of a claim the department finds the claim
10 to have been incorrectly determined, it shall redetermine the
11 correct amount of the claim and notify the claimant of the
12 reason for the redetermination and the amount of the corrected
13 claim.

14 Section 1408. Funds for payment of claims.

15 (a) Payment.--Approved claims shall be paid from the State
16 Lottery Fund established by the act of August 26, 1971 (P.L.351,
17 No.91), known as the State Lottery Law.

18 (b) Transfers.--The Secretary of the Budget shall transfer
19 the following amounts from the Property Tax Relief Fund to the
20 State Lottery:

21 (1) Notwithstanding any other provision of law, an
22 amount equal to \$100,000,000 of the total slot machine
23 license fees paid by successful applicants for a Category 1
24 slot machine license under 4 Pa.C.S. § 1209 (relating to slot
25 machine license fee). The transfer under this paragraph shall
26 occur upon deposit in the Property Tax Relief Fund of moneys
27 derived from the fee from the fourth successful applicant for
28 a Category 1 slot machine license.

29 (2) Notwithstanding any other provision of law, an
30 amount equal to \$100,000,000 of the total slot machine

1 license fees paid by successful applicants for a Category 2
2 slot machine license under 4 Pa.C.S. § 1209. The transfer
3 under this paragraph shall occur upon deposit in the Property
4 Tax Relief Fund of moneys derived from the fee from the third
5 successful applicant for a Category 2 slot machine license.

6 (3) For fiscal years 2007-2008 and 2008-2009, an amount
7 equal to the sum of approved claims to be paid in each of
8 those fiscal years under sections 704 of the Taxpayer Relief
9 Act and 1404(a)(2)(ii), if any.

10 (4) For fiscal year 2009-2010 and each fiscal year
11 thereafter, all of the following:

12 (i) The difference between the sum of the amount of
13 approved claims to be paid in the next fiscal year under
14 section 1404(a)(2)(i) and (3) and the amount of approved
15 claims paid in fiscal year 2006-2007 under section
16 1404(a)(1).

17 (ii) The sum of the amount of approved claims to be
18 paid in the next fiscal year under sections 704 of the
19 Taxpayer Relief Act and 1404(a)(2)(ii), if any.

20 (5) Beginning in fiscal year 2009-2010 and until the
21 difference between the sum of subparagraphs (i) and (ii) and
22 \$200,000,000 is paid, an amount of not less than \$40,000,000
23 annually or the amount of the difference, whichever is less.
24 All transfers under this paragraph shall be completed no
25 later than four years after the transfer required by
26 paragraph (2).

27 (i) The difference between the sum of the amount of
28 approved claims to be paid in fiscal year 2007-2008 under
29 section 1404(a)(2)(i) and (3) and the amount of approved
30 claims paid in fiscal year 2006-2007 under section

1 1404(a) (1) .

2 (ii) The difference between the sum of the amount of
3 approved claims to be paid in fiscal year 2008-2009 under
4 section 1404(a) (2) (i) and (3) and the amount of approved
5 claims paid in fiscal year 2006-2007 under section
6 1404(a) (1) .

7 Section 1409. Claim forms and rules and regulations.

8 (a) General rule.--Necessary rules and regulations shall be
9 prescribed by a committee consisting of the Secretary of Aging,
10 the Secretary of Revenue and the Secretary of Community and
11 Economic Development. The Secretary of Aging shall serve as the
12 chairman of the committee. The department shall receive all
13 applications, determine the eligibility of claimants, hear
14 appeals, disburse payments and make available suitable forms for
15 the filing of claims.

16 (b) Report to General Assembly.--In addition to any rules
17 and regulations prescribed under subsection (a), the department
18 shall collect the following information and issue a report
19 including such information to the chairperson and minority
20 chairperson of the Appropriations Committee of the Senate and
21 the chairperson and minority chairperson of the Appropriations
22 Committee of the House of Representatives by September 30 of
23 each year:

24 (1) The total number of claims which will be paid in the
25 fiscal year in which the report is issued with the
26 information provided by school district, by county and for
27 each household income level under section 1404(a) (2) (i) .

28 (2) The total amount of rebates paid in the fiscal year
29 in which the report is issued with the information provided
30 by school district, by county and for each household income

1 level under section 1404(a)(2)(i).

2 Section 1410. Fraudulent claims and conveyances to obtain
3 benefits.

4 (a) Civil penalty.--In any case in which a claim is
5 excessive and was filed with fraudulent intent, the claim shall
6 be disallowed in full, and a penalty of 25% of the amount
7 claimed shall be imposed. The penalty and the amount of the
8 disallowed claim, if the claim has been paid, shall bear
9 interest at the rate of 1.5% per month from the date of the
10 claim until repaid.

11 (b) Criminal penalty.--The claimant and any person who
12 assisted in the preparation or filing of a fraudulent claim
13 commits a misdemeanor of the third degree and, upon conviction
14 thereof, shall be sentenced to pay a fine not exceeding \$1,000
15 or to imprisonment not exceeding one year, or both.

16 (c) Disallowance for receipt of title.--A claim shall be
17 disallowed if the claimant received title to the homestead
18 primarily for the purpose of receiving property tax rebate.
19 Section 1411. Petition for redetermination.

20 (a) Right to file.--A claimant whose claim is either denied,
21 corrected or otherwise adversely affected by the department may
22 file with the department a petition for redetermination on forms
23 supplied by the department within 90 days after the date of
24 mailing of written notice by the department of such action.

25 (b) Contents.--The petition shall set forth the grounds upon
26 which the claimant alleges that such departmental action is
27 erroneous or unlawful, in whole or part, and shall contain an
28 affidavit or affirmation that the facts contained in the
29 petition are true and correct.

30 (c) Extension of time for filing.--

1 (1) An extension of time for filing the petition may be
2 allowed for cause but may not exceed 120 days.

3 (2) The department shall hold such hearings as may be
4 necessary for the purpose of redetermination, and each
5 claimant who has duly filed such petition for redetermination
6 shall be notified by the department of the time when and the
7 place where such hearing in the claimant's case will be held.

8 (d) Time period for decision.--The department shall, within
9 six months after receiving a filed petition for redetermination,
10 dispose of the matters raised by such petition and shall mail
11 notice of the department's decision to the claimant.

12 Section 1412. Review by Board of Finance and Revenue.

13 (a) Right to review.--Within 90 days after the date of
14 official receipt by the claimant of notice mailed by the
15 department of its decision on a petition for redetermination
16 filed with it, the claimant who is adversely affected by the
17 decision may by petition request the board to review such
18 action.

19 (b) Effect of no decision from department.--The failure of
20 the department to officially notify the claimant of a decision
21 within the six-month period provided for by section 1411 shall
22 act as a denial of the petition, and a petition for review may
23 be filed with the board within 120 days after written notice is
24 officially received by the claimant that the department has
25 failed to dispose of the petition within the six-month period.

26 (c) Contents of petition for redetermination.--A petition
27 for redetermination filed shall state the reasons upon which the
28 claimant relies or shall incorporate by reference the petition
29 for redetermination in which such reasons were stated. The
30 petition shall be supported by affidavit that the facts set

1 forth therein are correct and true.

2 (d) Time period for decision.--The board shall act in
3 disposition of petitions filed with it within six months after
4 they have been received, and, in the event of failure of the
5 board to dispose of any petition within six months, the action
6 taken by the department upon the petition for redetermination
7 shall be deemed sustained.

8 (e) Relief authorized by board.--The board may sustain the
9 action taken by the department on the petition for
10 redetermination or it may take such other action as it shall
11 deem necessary and consistent with provisions of this chapter.

12 (f) Form of notice.--Notice of the action of the board shall
13 be given by mail to the department and to the claimant.

14 Section 1413. Appeal.

15 A claimant aggrieved by a decision of the board may appeal
16 from the decision of the board in the manner provided by law for
17 appeals from decisions of the board in tax cases.

18 CHAPTER 15

19 MISCELLANEOUS PROVISIONS

20 Section 1501. Transitional provision.

21 (a) Sales and use tax.--Notwithstanding the repeal specified
22 under section 1505(b)(6), the department shall have the
23 authority to enforce the collection of taxes imposed for
24 transactions that occur prior to the effective date of this
25 section under former Article II of the Tax Reform Code of 1971.
26 The taxes collected on or after January 1, 2018, regardless of
27 the transaction date, shall be deposited as provided in section
28 782.

29 (b) Other taxes.--Notwithstanding the repeal specified under
30 section 1505(b)(2), a governing body shall have the authority to

1 enforce, after the effective date of the repeal, the collection
2 of taxes levied and assessed under the former provision prior to
3 the effective date of section 1505(b) (2).

4 Section 1502. Regulations.

5 The department shall have jurisdiction over and shall
6 promulgate regulations as necessary for the proper
7 administration of this act.

8 Section 1503. Construction.

9 Any and all references in any other act to Article II or any
10 provision in Article II of the Tax Reform Code of 1971 shall be
11 deemed a reference to Chapter 7 of this act or the corresponding
12 provisions in Chapter 7 of this act.

13 Section 1504. Severability.

14 The provisions of this act are severable as follows:

15 (1) If any provision of this act is held invalid, the
16 invalidity shall not affect other provisions or applications
17 of this act which can be given effect without the invalid
18 provision or application.

19 (2) Under no circumstances shall the invalidity of any
20 provision or application of this act affect the validity of
21 any provision in this act that abolishes the power of the
22 governing body and any school district and city of the first
23 class or any other political subdivision to levy, assess or
24 collect a tax on any interest in real property for school
25 purposes.

26 Section 1505. Repeals.

27 (a) Intent.--The General Assembly declares that the repeals
28 under subsection (b) are necessary to effectuate this act.

29 (b) Provisions.--The following acts and parts of acts are
30 repealed to the extent specified:

1 (1) Section 631 of the act of March 10, 1949 (P.L.30,
2 No.14), known as the Public School Code of 1949, is repealed.

3 (2) Any provision of the Public School Code of 1949 and
4 of any other law relating to the authority of any school
5 district to levy, assess and collect any tax on real property
6 and the power of any city of the first class to levy, assess
7 and collect any tax real property for school purposes is
8 repealed upon the expiration of the respective schedule
9 prescribed in this act.

10 (3) Any provision of the act of the Public School Code
11 of 1949 and any other law relating to debt is repealed to the
12 extent that it is inconsistent with this act.

13 (4) Any provision of the Public School Code of 1949 and
14 any home rule charter adopted pursuant thereto is repealed
15 insofar as it is inconsistent with this act.

16 (5) Any provision of the act of August 9, 1963 (P.L.643,
17 No.341), known as the First Class City Public Education Home
18 Rule Act, and any home rule school district charter adopted
19 pursuant thereto is repealed insofar as it is inconsistent
20 with this act.

21 (6) Article II of the act of March 4, 1971 (P.L.6,
22 No.2), known as the Tax Reform Code of 1971, is repealed.

23 (7) Subchapters C and D of Chapter 3 and Chapter 13 of
24 the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1),
25 known as the Taxpayer Relief Act, are repealed.

26 (8) All acts and parts of acts that are inconsistent
27 with this act are repealed to the extent of such
28 inconsistency.

29 Section 1506. Applicability.

30 Chapter 7 and section 1505(b) (6) shall apply January 1, 2018.

1 Section 1507. Effective date.

2 This act shall take effect as follows:

3 (1) Chapter 3 and section 1505(b)(2) shall take effect
4 June 30, 2018.

5 (2) Chapter 4 shall take effect January 1, 2018.

6 (3) The remainder of this act shall take effect
7 immediately.