
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 657 Session of
2015

INTRODUCED BY HUTCHINSON, SCARNATI, ALLOWAY, RAFFERTY, WHITE AND
YAW, MARCH 31, 2015

REFERRED TO FINANCE, MARCH 31, 2015

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in sales and use tax, further providing for
11 definitions.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 201(k)(8), (o)(4)(B) and (pp) of the act
15 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
16 1971, amended or added April 23, 1998 (P.L.239, No.45), are
17 amended to read:

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

22 * * *

1 (k) "Sale at retail."

2 * * *

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

8 The term "sale at retail" shall not include (i) any such
9 transfer of tangible personal property or rendition of services
10 for the purpose of resale, or (ii) such rendition of services or
11 the transfer of tangible personal property including, but not
12 limited to, machinery and equipment and parts therefor and
13 supplies to be used or consumed by the purchaser directly in the
14 operations of--

15 (A) The manufacture of tangible personal property.

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

24 (I) The business of producing or harvesting trees from
25 forests, woodlots or tree farms for the purpose of the
26 commercial production of wood, paper or energy products derived
27 from wood.

28 (II) All operations prior to the transport of the harvested
29 product necessary for the removal of timber or forest products
30 from the site, in-field processing of trees into logs or chips,

1 complying with environmental protection and safety requirements
2 applicable to the harvest of forest products, creating access to
3 the harvest site, loading of forest products onto highway
4 vehicles for transport to storage or processing facilities and
5 postharvest site reclamation, including those activities
6 necessary to improve timber growth or ensure natural or direct
7 reforestation of the site.

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

12 (D) Processing as defined in clause (d) of this section.

13 The exclusions provided in paragraphs (A), (B), (C) and (D)
14 shall not apply to any vehicle required to be registered under
15 The Vehicle Code, except those vehicles used directly by a
16 public utility engaged in business as a common carrier; to
17 maintenance facilities; or to materials, supplies or equipment
18 to be used or consumed in the construction, reconstruction,
19 remodeling, repair or maintenance of real estate other than
20 directly used machinery, equipment, parts or foundations
21 therefor that may be affixed to such real estate.

22 The exclusions provided in paragraphs (A), (B), (C) and (D)
23 shall not apply to tangible personal property or services to be
24 used or consumed in managerial sales or other nonoperational
25 activities, nor to the purchase or use of tangible personal
26 property or services by any person other than the person
27 directly using the same in the operations described in
28 paragraphs (A), (B), (C) and (D) herein.

29 The exclusion provided in paragraph (C) shall not apply to
30 (i) construction materials, supplies or equipment used to

1 construct, reconstruct, remodel, repair or maintain facilities
2 not used directly by the purchaser in the production, delivering
3 or rendition of public utility service, (ii) construction
4 materials, supplies or equipment used to construct, reconstruct,
5 remodel, repair or maintain a building, road or similar
6 structure, or (iii) tools and equipment used but not installed
7 in the maintenance of facilities used directly in the
8 production, delivering or rendition of a public utility service.

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

14 * * *

15 (o) "Use."

16 * * *

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

1 services in the preparation for sale of new items which are
2 excluded from the tax under clause (26) of section 204, or upon
3 diaper service: And provided further, That the term "use" shall
4 not include--

5 * * *

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

11 (i) The manufacture of tangible personal property.

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

20 (I) The business of producing or harvesting trees from
21 forests, woodlots or tree farms for the purpose of the
22 commercial production of wood, paper or energy products derived
23 from wood.

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

1 postharvest site reclamation, including those activities
2 necessary to improve timber growth or ensure natural or direct
3 reforestation of the site.

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

8 (iv) Processing as defined in subclause (d) of this section.

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

25 The exclusion provided in subparagraph (iii) shall not apply
26 to (A) construction materials, supplies or equipment used to
27 construct, reconstruct, remodel, repair or maintain facilities
28 not used directly by the purchaser in the production, delivering
29 or rendition of public utility service or (B) tools and
30 equipment used but not installed in the maintenance of

1 facilities used directly in the production, delivering or
2 rendition of a public utility service.

3 The exclusion provided in subparagraphs (i), (ii), (iii) and
4 (iv) shall not apply to the services enumerated in clauses (o)
5 (9) through (16) and (w) through (kk), except that the exclusion
6 provided in subparagraph (ii) for farming, dairying and
7 agriculture shall apply to the service enumerated in clause (z).

8 * * *

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

- 13 (1) air conditioning limited to heating, cooling,
14 purification, humidification, dehumidification and ventilation;
- 15 (2) electrical;
- 16 (3) plumbing;
- 17 (4) communications limited to voice, video, data, sound,
18 master clock and noise abatement;
- 19 (5) alarms limited to fire, security and detection;
- 20 (6) control system limited to energy management, traffic and
21 parking lot and building access;
- 22 (7) medical system limited to diagnosis and treatment
23 equipment, medical gas, nurse call and doctor paging;
- 24 (8) laboratory system;
- 25 (9) cathodic protection system; or
- 26 (10) furniture, cabinetry and kitchen equipment.

27 The term shall include boilers, chillers, air cleaners,
28 humidifiers, fans, switchgear, pumps, telephones, speakers,
29 horns, motion detectors, dampers, actuators, grills, registers,
30 traffic signals, traffic signal foundations, poles and mast

1 arms, sensors, card access devices, guardrails, medial devices,
2 floor troughs and grates and laundry equipment, together with
3 integral coverings and enclosures, whether or not the item
4 constitutes a fixture or is otherwise affixed to the real
5 estate, whether or not damage would be done to the item or its
6 surroundings upon removal or whether or not the item is
7 physically located within a real estate structure. The term
8 "building machinery and equipment" shall not include guardrail
9 posts, pipes, fittings, pipe supports and hangers, valves,
10 underground tanks, wire, conduit, receptacle and junction boxes,
11 insulation, ductwork and coverings thereof.

12 * * *

13 Section 2. This act shall take effect in 60 days.