

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 117 Session of 2015

INTRODUCED BY HUGHES, MAY 15, 2015

REFERRED TO FINANCE, MAY 15, 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,"  
11 in tax for education, further providing for definitions,  
12 for imposition of tax, for computation of tax, for exclusions  
13 from tax, for credit against tax, for licenses, for  
14 definitions, for imposition of tax, for time for filing  
15 returns, for tax held in trust for the Commonwealth, for  
16 discount, for assessment to recover erroneous refunds, for  
17 refund of sales tax attributed to bad debt, for refunds,  
18 providing for assessment after refunds, further providing for  
19 interest, for additions to tax, for crimes and for keeping of  
20 records; and providing for transfers;  
21 in personal income tax, further providing for imposition,  
22 for classes of income and for special poverty provisions;  
23 establishing the Property Tax and Rent Relief Account; and  
24 providing for restricted account and transfers to the  
25 Property Tax Relief Fund;  
26 in corporate net income tax, further providing for  
27 definitions, for imposition, for reports and for payment of  
28 tax;  
29 in bank and trust company shares, further providing for  
30 imposition, for taxable amount, for apportionment and for  
31 definitions;

1 in cigarette tax, further providing for incidence and  
2 rate of tax and for floor tax;  
3 providing for a tobacco products tax;  
4 in general provisions, further providing for underpayment  
5 of estimated tax;  
6 and providing for transfers to a restricted account for  
7 the purpose of the Public School Employees' Retirement Fund  
8 and to a city of first class in accordance with the Municipal  
9 Pension Plan Funding Standard and Recovery Act and for  
10 payment of additional cigarette tax.

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

13 Section 1. Section 201(a), (b), (c), (f), (g), (i), (k),  
14 (m), (o), (w), (y), (ll), (pp), (qq) and (tt) of the act of  
15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
16 1971, amended or added August 4, 1991 (P.L.97, No.22), December  
17 13, 1991 (P.L.373, No.40), June 30, 1995 (P.L.139, No.21), May  
18 7, 1997 (P.L.85, No.7), April 23, 1998 (P.L.239, No.45), May 24,  
19 2000 (P.L.106, No.23), June 29, 2002 (P.L.559, No.89) and July  
20 25, 2007 (P.L.373, No.55), are amended and the section is  
21 amended by adding subsections to read:

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

26 (a) "Soft drinks."

27 (1) All nonalcoholic beverages, whether carbonated or not,  
28 such as soda water, ginger ale, coca cola, lime cola, peps  
29 cola, Dr. Pepper, fruit juice when plain or carbonated water,  
30 flavoring or syrup is added, carbonated water, orangeade,  
31 lemonade, root beer or any and all preparations, commonly  
32 referred to as "soft drinks," of whatsoever kind, and are  
33 further described as including any and all beverages, commonly  
34 referred to as "soft drinks," which are made with or without the

1 use of any syrup or any beverage commonly referred to as energy  
2 drinks and flavored water of any type.

3 (2) The term "soft drinks" shall not include natural fruit  
4 or vegetable juices or their concentrates, or non-carbonated  
5 fruit juice drinks containing not less than twenty-five per cent  
6 by volume of natural fruit juices or of fruit juice which has  
7 been reconstituted to its original state, or natural  
8 concentrated fruit or vegetable juices reconstituted to their  
9 original state, whether any of the foregoing natural juices are  
10 frozen or unfrozen, sweetened or unsweetened, seasoned with salt  
11 or spice or unseasoned, nor shall the term "soft drinks" include  
12 coffee, coffee substitutes, tea, cocoa, natural fluid milk or  
13 non-carbonated drinks made from milk derivatives.

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

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

24 (1.1) Providing taxable services within this Commonwealth.

25 (2) Engaging in any activity as a business within this  
26 Commonwealth by any person, either directly or through a  
27 subsidiary, representative or an agent, in connection with the  
28 lease, sale or delivery of tangible personal property or the  
29 performance of services thereon for use, storage or consumption  
30 or in connection with the sale or delivery for use of the

1 services described in subclauses (11) through [(18)] (20) of  
2 clause (k) of this section, including, but not limited to,  
3 having, maintaining or using any office, distribution house,  
4 sales house, warehouse or other place of business, any stock of  
5 goods or any solicitor, canvasser, salesman, representative or  
6 agent under its authority, at its direction or with its  
7 permission, regardless of whether the person or subsidiary is  
8 authorized to do business in this Commonwealth.

9 (3) Regularly or substantially soliciting orders within this  
10 Commonwealth in connection with the lease, sale or delivery of  
11 tangible personal property to or the performance thereon of  
12 services or in connection with the sale or delivery of the  
13 services described in subclauses (11) through [(18)] (20) of  
14 clause (k) of this section for residents of this Commonwealth by  
15 means of catalogues or other advertising, whether the orders are  
16 accepted within or without this Commonwealth.

17 (3.1) Entering this Commonwealth by any person to provide  
18 assembly, service or repair of tangible personal property,  
19 either directly or through a subsidiary, representative or an  
20 agent.

21 (3.2) Delivering tangible personal property to locations  
22 within this Commonwealth if the delivery includes the unpacking,  
23 positioning, placing or assembling of the tangible personal  
24 property.

25 (3.3) Having any contact within this Commonwealth which  
26 would allow the Commonwealth to require a person to collect and  
27 remit tax under the Constitution of the United States.

28 (3.4) Providing a customer's mobile telecommunications  
29 service deemed to be provided by the customer's home service  
30 provider under the Mobile Telecommunications Sourcing Act (4

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

4 (4) The term "maintaining a place of business in this  
5 Commonwealth" shall not include:

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

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

10 (B) the property is located at the Pennsylvania premises of  
11 the commercial printer.

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

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

22 (1) Every operation commencing with the first production  
23 stage and ending with the completion of tangible personal  
24 property having the physical qualities (including packaging, if  
25 any, passing to the ultimate consumer) which it has when  
26 transferred by the manufacturer to another. For purposes of this  
27 clause, "operation" shall include clean rooms and their  
28 component systems, including: environmental control systems,  
29 antistatic vertical walls and manufacturing platforms and  
30 floors, which are independent of the real estate; process piping

1 systems; specialized lighting systems; deionized water systems;  
2 process vacuum and compressed air systems; process and specialty  
3 gases; and alarm or warning devices specifically designed to  
4 warn of threats to the integrity of the product or people. For  
5 purposes of this clause, a "clean room" is a location with a  
6 self-contained, sealed environment with a controlled, closed air  
7 system independent from the facility's general environmental  
8 control system.

9 (2) The publishing of books, newspapers, magazines and other  
10 periodicals and printing.

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

15 (4) Building, rebuilding, repairing and making additions to,  
16 or replacements in or upon vessels designed for commercial use  
17 of registered tonnage of fifty tons or more when produced upon  
18 special order of the purchaser, or when rebuilt, repaired or  
19 enlarged, or when replacements are made upon order of, or for  
20 the account of the owner.

21 (5) Research having as its objective the production of a new  
22 or an improved (i) product or utility service, or (ii) method of  
23 producing a product or utility service, but in either case not  
24 including market research or research having as its objective  
25 the improvement of administrative efficiency.

26 (6) Remanufacture for wholesale distribution by a  
27 remanufacturer of motor vehicle parts from used parts acquired  
28 in bulk by the remanufacturer using an assembly line process  
29 which involves the complete disassembly of such parts and  
30 integration of the components of such parts with other used or

1 new components of parts, including the salvaging, recycling or  
2 reclaiming of used parts by the remanufacturer.

3 (7) Remanufacture or retrofit by a manufacturer or  
4 remanufacturer of aircraft, armored vehicles, other defense-  
5 related vehicles having a finished value of at least fifty  
6 thousand dollars (\$50,000). Remanufacture or retrofit involves  
7 the disassembly of such aircraft, vehicles, parts or components,  
8 including electric or electronic components, the integration of  
9 those parts and components with other used or new parts or  
10 components, including the salvaging, recycling or reclaiming of  
11 the used parts or components and the assembly of the new or used  
12 aircraft, vehicles, parts or components. For purposes of this  
13 clause, the following terms or phrases have the following  
14 meanings:

15 (i) "aircraft" means fixed-wing aircraft, helicopters,  
16 powered aircraft, tilt-rotor or tilt-wing aircraft, unmanned  
17 aircraft and gliders;

18 (ii) "armored vehicles" means tanks, armed personnel  
19 carriers and all other armed track or semitrack vehicles; or

20 (iii) "other defense-related vehicles" means trucks, truck-  
21 tractors, trailers, jeeps and other utility vehicles, including  
22 any unmanned vehicles.

23 (8) Remanufacture by a remanufacturer of locomotive parts  
24 from used parts acquired in bulk by the remanufacturer using an  
25 assembly line process which involves the complete disassembly of  
26 such parts and integration of the components of such parts with  
27 other used or new components of parts, including the salvaging,  
28 recycling or reclaiming of used parts by the remanufacturer.

29 The term "manufacture" shall not include constructing,  
30 altering, servicing, repairing or improving real estate or

1 repairing, servicing or installing tangible personal property,  
2 nor the producing of a commercial motion picture, nor the  
3 cooking, freezing or baking of fruits, vegetables, mushrooms,  
4 fish, seafood, meats, poultry or bakery products.

5 \* \* \*

6 (f) "Purchase at retail."

7 (1) The acquisition for a consideration of the ownership,  
8 custody or possession of tangible personal property other than  
9 for resale by the person acquiring the same when such  
10 acquisition is made for the purpose of consumption or use,  
11 whether such acquisition shall be absolute or conditional, and  
12 by whatsoever means the same shall have been effected.

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

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

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

24 (5) The obtaining for a consideration of those services  
25 described in subclauses (11) through [(18)] (20) of clause (k)  
26 of this section.

27 The term "purchase at retail" with respect to "liquor" and  
28 "malt or brewed beverages" shall include the purchase of  
29 "liquor" from any "Pennsylvania Liquor Store" by any person for  
30 any purpose, and the purchase of "malt or brewed beverages" from

1 a "manufacturer of malt or brewed beverages," "distributor" or  
2 "importing distributor" by any person for any purpose, except  
3 purchases from a "manufacturer of malt or brewed beverages" by a  
4 "distributor" or "importing distributor" or purchases from an  
5 "importing distributor" by a "distributor" within the meaning of  
6 the "Liquor Code." The term "purchase at retail" shall not  
7 include any purchase of "malt or brewed beverages" from a  
8 "retail dispenser" or any purchase of "liquor" or "malt or  
9 brewed beverages" from a person holding a "retail liquor  
10 license" within the meaning of and pursuant to the provisions of  
11 the "Liquor Code," but shall include any purchase or acquisition  
12 of "liquor" or "malt or brewed beverages" other than pursuant to  
13 the provisions of the "Liquor Code."

14 (g) "Purchase price."

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

25 (2) There shall be deducted from the purchase price the  
26 value of any tangible personal property actually taken in trade  
27 or exchange in lieu of the whole or any part of the purchase  
28 price. For the purpose of this clause, the amount allowed by  
29 reason of tangible personal property actually taken in trade or  
30 exchange shall be considered the value of such property.

1       (3) In determining the purchase price on the sale or use of  
2 taxable tangible personal property or a service where, because  
3 of affiliation of interests between the vendor and purchaser, or  
4 irrespective of any such affiliation, if for any other reason  
5 the purchase price declared by the vendor or taxpayer on the  
6 taxable sale or use of such tangible personal property or  
7 service is, in the opinion of the department, not indicative of  
8 the true value of the article or service or the fair price  
9 thereof, the department shall, pursuant to uniform and equitable  
10 rules, determine the amount of constructive purchase price upon  
11 the basis of which the tax shall be computed and levied. Such  
12 rules shall provide for a constructive amount of purchase price  
13 for each such sale or use which would naturally and fairly be  
14 charged in an arms-length transaction in which the element of  
15 common interest between the vendor or purchaser is absent or if  
16 no common interest exists, any other element causing a  
17 distortion of the price or value is likewise absent. For the  
18 purpose of this clause where a taxable sale or purchase at  
19 retail transaction occurs between a parent and a subsidiary,  
20 affiliate or controlled corporation of such parent corporation,  
21 there shall be a rebuttable presumption, that because of such  
22 common interest such transaction was not at arms-length.

23       (4) Where there is a transfer or retention of possession or  
24 custody, whether it be termed a rental, lease, service or  
25 otherwise, of tangible personal property including, but not  
26 limited to linens, aprons, motor vehicles, trailers, tires,  
27 industrial office and construction equipment, and business  
28 machines the full consideration paid or delivered to the vendor  
29 or lessor shall be considered the purchase price, even though  
30 such consideration be separately stated and be designated as

1 payment for processing, laundering, service, maintenance,  
2 insurance, repairs, depreciation or otherwise. Where the vendor  
3 or lessor supplies or provides an employe to operate such  
4 tangible personal property, the value of the labor thus supplied  
5 may be excluded and shall not be considered as part of the  
6 purchase price if separately stated. There shall also be  
7 included as part of the purchase price the value of anything  
8 paid or delivered, or promised to be paid or delivered by a  
9 lessee, whether it be money or otherwise, to any person other  
10 than the vendor or lessor by reason of the maintenance,  
11 insurance or repair of the tangible personal property which a  
12 lessee has the possession or custody of under a rental contract  
13 or lease arrangement.

14 (5) With respect to the tax imposed by subsection (b) of  
15 section 202 upon any tangible personal property originally  
16 purchased by the user of such property six months or longer  
17 prior to the first taxable use of such property within the  
18 Commonwealth, such user may elect to pay tax on a substituted  
19 base determined by considering the purchase price of such  
20 property for tax purposes to be equal to the prevailing market  
21 price of similar tangible personal property at the time and  
22 place of such first use within the Commonwealth. Such election  
23 must be made at the time of filing a tax return with the  
24 department and reporting such tax liability and paying the  
25 proper tax due plus all accrued penalties and interest, if there  
26 be any, within six months of the due date of such report and  
27 payment, as provided for by subsections (a) and (c) of section  
28 217 of this article.

29 (6) The purchase price of employment agency services and  
30 help supply services shall be the service fee paid by the

1 purchaser to the vendor or supplying entity. The term "service  
2 fee," as used in this subclause, shall be the total charge or  
3 fee of the vendor or supplying entity minus the costs of the  
4 supplied employe which costs are wages, salaries, bonuses and  
5 commissions, employment benefits, expense reimbursements and  
6 payroll and withholding taxes, to the extent that these costs  
7 are specifically itemized or that these costs in aggregate are  
8 stated in billings from the vendor or supplying entity. To the  
9 extent that these costs are not itemized or stated on the  
10 billings, then the service fee shall be the total charge or fee  
11 of the vendor or supplying entity. No other evidence of the  
12 service fee is permissible.

13 (7) Unless the vendor separately states that portion of  
14 [the] a billing which applies to [premium cable service as  
15 defined in clause (11) of this section] taxable tangible  
16 personal property or services, the total bill [for the provision  
17 of all cable services] shall be the purchase price.

18 (8) The purchase price of prebuilt housing shall be sixty  
19 per cent of the manufacturer's selling price: Provided, however,  
20 That a manufacturer of prebuilt housing who precollects tax from  
21 a prebuilt housing builder at the time of the sale to the  
22 prebuilt housing builder shall have the option to collect tax on  
23 sixty per cent of the selling price or on one hundred per cent  
24 of the actual cost of the supplies and materials used in the  
25 manufacture of the prebuilt housing.

26 (9) Amounts representing on-the-spot cash discounts,  
27 employee discounts, volume discounts, store discounts such as  
28 "buy one, get one free," wholesaler's or trade discounts,  
29 rebates and store or manufacturer's coupons shall establish a  
30 new purchase price if both the name of the item and the name of

1 the item to which the coupon applies are described on the  
2 invoice or cash register tape. An amount representing a discount  
3 allowed for prompt payment of bills which is dependent upon an  
4 event occurring after the completion of the sale may not be  
5 deducted in computing the tax. A sale is completed when there is  
6 a transfer of ownership of the property or services to the  
7 purchaser.

8 \* \* \*

9 (i) "Resale."

10 (1) Any transfer of ownership, custody or possession of  
11 tangible personal property for a consideration, including the  
12 grant of a license to use or consume and transactions where the  
13 possession of such property is transferred but where the  
14 transferor retains title only as security for payment of the  
15 selling price whether such transaction be designated as bailment  
16 lease, conditional sale or otherwise.

17 (2) The physical incorporation of tangible personal property  
18 as an ingredient or constituent into other tangible personal  
19 property, which is to be sold in the regular course of business  
20 or the performance of those services described in subclauses  
21 (2), (3) and (4) of clause (k) of this section upon tangible  
22 personal property which is to be sold in the regular course of  
23 business or where the person incorporating such property has  
24 undertaken at the time of purchase to cause it to be transported  
25 in interstate commerce to a destination outside this  
26 Commonwealth. The term "resale" shall include telecommunications  
27 services purchased by a cable operator or video programmer that  
28 are used to transport or deliver cable or video programming  
29 services which are sold in the regular course of business.

30 (3) The term "resale" shall also include tangible personal

1 property purchased or having a situs within this Commonwealth  
2 solely for the purpose of being processed, fabricated or  
3 manufactured into, attached to or incorporated into tangible  
4 personal property and thereafter transported outside this  
5 Commonwealth for use [exclusively] in a construction contract  
6 outside this Commonwealth.

7 (4) The term "resale" shall not include any sale of "malt or  
8 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 the "Liquor Code."

11 (5) The physical incorporation of tangible personal property  
12 as an ingredient or constituent in the construction of  
13 foundations for machinery or equipment the sale or use of which  
14 is excluded from tax under the provisions of paragraphs (A),  
15 (B), (C) and (D) of subclause (8) of clause (k) and  
16 subparagraphs (i), (ii), (iii) and (iv) of paragraph (B) of  
17 subclause (4) of clause (o) of this section, whether such  
18 foundations at the time of construction or transfer constitute  
19 tangible personal property or real estate.

20 (6) The sale at retail or use of taxable services performed  
21 for resale in the ordinary course of business of the purchaser  
22 of the same service as purchased.

23 (7) The sale at retail or use of otherwise taxable services  
24 that are an integral, inseparable part of services that are  
25 taxable.

26 \* \* \*

27 (k) "Sale at retail."

28 (1) Any transfer, for a consideration, of the ownership,  
29 custody or possession of tangible personal property, including  
30 the grant of a license to use or consume whether such transfer

1 be absolute or conditional and by whatsoever means the same  
2 shall have been effected.

3 (2) The rendition of the service of printing or imprinting  
4 of tangible personal property for a consideration for persons  
5 who furnish, either directly or indirectly the materials used in  
6 the printing or imprinting.

7 (3) The rendition for a consideration of the service of--

8 (i) Washing, cleaning, waxing, polishing or lubricating of  
9 motor vehicles of another, whether or not any tangible personal  
10 property is transferred in conjunction therewith; and

11 (ii) Inspecting motor vehicles pursuant to the mandatory  
12 requirements of "The Vehicle Code."

13 (4) The rendition for a consideration of the service of  
14 repairing, altering, mending, pressing, fitting, dyeing,  
15 laundering, drycleaning or cleaning tangible personal property  
16 other than wearing apparel or shoes, or applying or installing  
17 tangible personal property as a repair or replacement part of  
18 other tangible personal property except wearing apparel or shoes  
19 for a consideration, whether or not the services are performed  
20 directly or by any means other than by coin-operated self-  
21 service laundry equipment for wearing apparel or household goods  
22 and whether or not any tangible personal property is transferred  
23 in conjunction therewith, except such services as are rendered  
24 in the construction, reconstruction, remodeling, repair or  
25 maintenance of real estate[: Provided, however, That this  
26 subclause shall not be deemed to impose tax upon such services  
27 in the preparation for sale of new items which are excluded from  
28 the tax under clause (26) of section 204, or upon diaper  
29 service].

30 (8) Any retention of possession, custody or a license to use

1 or consume tangible personal property or any further obtaining  
2 of services described in subclauses (2), (3) and (4) of this  
3 clause pursuant to a rental or service contract or other  
4 arrangement (other than as security).

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

12 (A) The manufacture of tangible personal property.

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

21 (C) The producing, delivering or rendering of a public  
22 utility service, or in constructing, reconstructing, remodeling,  
23 repairing or maintaining the facilities which are directly used  
24 in producing, delivering or rendering such service.

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

26 The exclusions provided in paragraphs (A), (B), (C) and (D)  
27 shall not apply to any vehicle required to be registered under  
28 The Vehicle Code, except those vehicles used directly by a  
29 public utility engaged in business as a common carrier; to  
30 maintenance facilities; or to materials, supplies or equipment

1 to be used or consumed in the construction, reconstruction,  
2 remodeling, repair or maintenance of real estate other than  
3 directly used machinery, equipment, parts or foundations  
4 therefor that may be affixed to such real estate.

5 The exclusions provided in paragraphs (A), (B), (C) and (D)  
6 shall not apply to tangible personal property or services to be  
7 used or consumed in managerial sales or other nonoperational  
8 activities, nor to the purchase or use of tangible personal  
9 property or services by any person other than the person  
10 directly using the same in the operations described in  
11 paragraphs (A), (B), (C) and (D) herein.

12 The exclusion provided in paragraph (C) shall not apply to  
13 (i) construction materials, supplies or equipment used to  
14 construct, reconstruct, remodel, repair or maintain facilities  
15 not used directly by the purchaser in the production, delivering  
16 or rendition of public utility service, (ii) construction  
17 materials, supplies or equipment used to construct, reconstruct,  
18 remodel, repair or maintain a building, road, bridge or similar  
19 structure, or (iii) tools and equipment used but not installed  
20 in the maintenance of facilities used directly in the  
21 production, delivering or rendition of a public utility service.

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

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

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

6 (10) The term "sale at retail" with respect to "liquor" and  
7 "malt or brewed beverages" shall include the sale of "liquor" by  
8 any "Pennsylvania liquor store" to any person for any purpose,  
9 and the sale of "malt or brewed beverages" by a "manufacturer of  
10 malt or brewed beverages," "distributor" or "importing  
11 distributor" to any person for any purpose, except sales by a  
12 "manufacturer of malt or brewed beverages" to a "distributor" or  
13 "importing distributor" or sales by an "importing distributor"  
14 to a "distributor" within the meaning of the "Liquor Code." The  
15 term "sale at retail" shall not include any sale of "malt or  
16 brewed beverages" by a "retail dispenser" or any sale of  
17 "liquor" or "malt or brewed beverages" by a person holding a  
18 "retail liquor license" within the meaning of and pursuant to  
19 the provisions of the "Liquor Code," but shall include any sale  
20 of "liquor" or "malt or brewed beverages" other than pursuant to  
21 the provisions of the "Liquor Code."

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

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

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

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

30 (15) The rendition for a consideration of employment agency

1 services or help supply services.

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

3 (18) The rendition for a consideration of self-storage  
4 service.

5 (19) The rendition for a consideration of a mobile  
6 telecommunications service.

7 (20) (i) The rendition for a consideration of any service  
8 enumerated in clause (dd).

9 (ii) The services shall be sourced as follows:

10 (A) if it is delivered to a location in this Commonwealth,  
11 the service is taxable in this Commonwealth;

12 (B) if the service is delivered both to a location in and  
13 outside of this Commonwealth, the service is taxable in the  
14 Commonwealth based upon the percentage of total value of the  
15 service delivered to a location in this Commonwealth;

16 (C) if it cannot be determined where the service is taxable  
17 under paragraphs (A) and (B), the service is deemed to be  
18 delivered at the customer's billing address;

19 (D) if it cannot be determined where the service is taxable  
20 under paragraphs (A), (B) and (C), the service is deemed to be  
21 delivered at the location from which the service was ordered in  
22 the customer's ordinary course of operations;

23 (E) if it cannot be determined where the service is taxable  
24 under paragraphs (A), (B), (C) and (D), the service is deemed to  
25 be delivered at the customer's billing address.

26 \* \* \*

27 (m) "Tangible personal property."

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

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

21 (2) The term shall include the following, whether  
22 electronically or digitally delivered or accessed, or whether  
23 purchased singly, by subscription or in any other manner:

24 (i) video;

25 (ii) photographs;

26 (iii) books;

27 (iv) magazines;

28 (v) newspapers;

29 (vi) mailing lists;

30 (vii) any other otherwise taxable printed matter;

1     (viii) applications, commonly known as apps;  
2     (ix) games;  
3     (x) music;  
4     (xi) any other audio;  
5     (xii) software; or  
6     (xiii) any other otherwise taxable tangible personal  
7 property.

8     \* \* \*

9     (o) "Use."

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

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

18     (3) The obtaining by a purchaser of the services of (i)  
19 washing, cleaning, waxing, polishing or lubricating of motor  
20 vehicles whether or not any tangible personal property is  
21 transferred to the purchaser in conjunction with such services,  
22 and (ii) inspecting motor vehicles pursuant to the mandatory  
23 requirements of "The Vehicle Code."

24     (4) The obtaining by a purchaser of the service of  
25 repairing, altering, mending, pressing, fitting, dyeing,  
26 laundering, drycleaning or cleaning tangible personal property  
27 other than wearing apparel or shoes or applying or installing  
28 tangible personal property as a repair or replacement part of  
29 other tangible personal property other than wearing apparel or  
30 shoes, whether or not the services are performed directly or by

1 any means other than by means of coin-operated self-service  
2 laundry equipment for wearing apparel or household goods, and  
3 whether or not any tangible personal property is transferred to  
4 the purchaser in conjunction therewith, except such services as  
5 are obtained in the construction, reconstruction, remodeling,  
6 repair or maintenance of real estate: Provided, however, [That  
7 this subclause shall not be deemed to impose tax upon such  
8 services in the preparation for sale of new items which are  
9 excluded from the tax under clause (26) of section 204, or upon  
10 diaper service: And provided further,] That the term "use" shall  
11 not include--

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

18 (B) The use or consumption of tangible personal property,  
19 including but not limited to machinery and equipment and parts  
20 therefor, and supplies or the obtaining of the services  
21 described in subclauses (2), (3) and (4) of this clause directly  
22 in the 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. The term  
26 "farming" shall include the propagation and raising of ranch-  
27 raised furbearing animals and the propagation of game birds for  
28 commercial purposes by holders of propagation permits issued  
29 under 34 Pa.C.S. (relating to game) and the propagation and  
30 raising of horses to be used exclusively for commercial racing

1 activities.

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

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

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

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

1 the maintenance of facilities used directly in the production,  
2 delivering or 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 (5) Where tangible personal property or services are  
9 utilized for purposes constituting a "use," as herein defined,  
10 and for purposes excluded from the definition of "use," it shall  
11 be presumed that such property or services are utilized for  
12 purposes constituting a "sale at retail" and subject to tax  
13 unless the user thereof proves to the department that the  
14 predominant purposes for which such property or services are  
15 utilized do not constitute a "sale at retail."

16 (6) The term "use" with respect to "liquor" and "malt or  
17 brewed beverages" shall include the purchase of "liquor" from  
18 any "Pennsylvania liquor store" by any person for any purpose  
19 and the purchase of "malt or brewed beverages" from a  
20 "manufacturer of malt or brewed beverages," "distributor" or  
21 "importing distributor" by any person for any purpose, except  
22 purchases from a "manufacturer of malt or brewed beverages" by a  
23 "distributor" or "importing distributor," or purchases from an  
24 "importing distributor" by a "distributor" within the meaning of  
25 the "Liquor Code." The term "use" shall not include any purchase  
26 of "malt or brewed beverages" from a "retail dispenser" or any  
27 purchase of "liquor" or "malt or brewed beverages" from a person  
28 holding a "retail liquor license" within the meaning of and  
29 pursuant to the provisions of the "Liquor Code," but shall  
30 include the exercise of any right or power incidental to the

1 ownership, custody or possession of "liquor" or "malt or brewed  
2 beverages" obtained by the person exercising such right or power  
3 in any manner other than pursuant to the provisions of the  
4 "Liquor Code."

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

9 (8) The term "use" shall not include the providing of a  
10 motor vehicle to a nonprofit private or public school to be used  
11 by such a school for the sole purpose of driver education.

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

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

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

17 (12) The obtaining by the purchaser of disinfecting or pest  
18 control services, building maintenance or cleaning services.

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

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

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

23 (17) The obtaining by a construction contractor of tangible  
24 personal property or services provided to tangible personal  
25 property which will be used pursuant to a construction contract  
26 whether or not the tangible personal property or services are  
27 transferred.

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

30 (19) Except as otherwise provided under section 204, the

1 obtaining by the purchaser of any service enumerated in clause  
2 (dd).

3 \* \* \*

4 (w) "Lobbying services." Providing the services of a  
5 lobbyist, as defined in the definition of "lobbyist" in [section  
6 2 of the act of September 30, 1961 (P.L.1778, No.712), known as  
7 the "Lobbying Registration and Regulation Act."] 65 Pa.C.S. §  
8 13A03 (relating to definitions).

9 \* \* \*

10 (y) "Secretarial or editing services." Providing services  
11 which include, but are not limited to, editing, letter writing,  
12 proofreading, resume writing, typing, data or word processing,  
13 including medical transcription services. Such services shall  
14 not include court reporting and stenographic services.

15 \* \* \*

16 (dd) "Miscellaneous services." Any of the following:

17 (1) Scenic and sightseeing transportation services.

18 Providing single-day or multiday scenic or sightseeing  
19 transportation of passengers on land, water or in the air,

20 regardless of the mode of transportation, including, but not  
21 limited to:

22 (i) cable car;

23 (ii) horse-drawn carriages;

24 (iii) monorail;

25 (iv) railroad;

26 (v) bus;

27 (vi) trolley;

28 (vii) human-drawn vehicle;

29 (viii) boat, including, but not limited to, charter fishing  
30 boat, excursion boat, harbor sightseeing tour, hovercraft

1 services and swamp buggy and whale watching services; or  
2 (ix) aerial scenic and sightseeing, including, but not  
3 limited to, tramway, glider, helicopter, hot air balloon or  
4 aircraft.

5 (2) Motor vehicle towing. Towing a motor vehicle plus  
6 incidental services, including, but not limited to, storage and  
7 emergency road repair services.

8 (3) Information services. Including:

9 (i) Software publishing services. Providing computer  
10 software publishing or reproduction, including operations such  
11 as:

12 (A) designing;

13 (B) providing documentation; or

14 (C) assisting in installation and providing maintenance and  
15 support services to purchasers of packaged software, such as  
16 applications software, games, operating systems, programming  
17 language and compilation software, utility software or any other  
18 packaged software.

19 (ii) Motion picture and video services. Providing one or  
20 more of the following:

21 (A) Producing, or producing and distributing, motion  
22 pictures, videos, television programs or television commercials.

23 (B) Distributing film and video productions to motion  
24 picture theaters, television networks and stations and  
25 exhibitors.

26 (C) Exhibiting or displaying motion pictures or videos,  
27 including theaters, drive-in theaters, airlines, cinemas and  
28 festivals. For purposes of this paragraph, the taxable purchase  
29 price shall be the amount charged to view the motion picture or  
30 video which usually will be a ticket price.

1 (D) Providing postproduction and other services, including,  
2 but not limited to, editing, film and tape transfer, titling,  
3 subtitling, credits, closed-captioning, computer-produced  
4 graphics, animation and special effects, as well as developing  
5 and processing motion picture film.

6 (4) (Reserved).

7 (5) Investment advice services. Providing financial planning  
8 or investment advice, including, but not limited to, consulting,  
9 counseling or advisory services.

10 (6) Professional, scientific and technical services.

11 Providing one or more of the following:

12 (i) Legal services, including, but not limited to,  
13 settlement services, title abstract and search services, jury  
14 consulting services, notary public services, paralegal services,  
15 patent agent services, patent filing and search services,  
16 process serving services or trial consulting services.

17 (ii) Accounting services, including, but not limited to,  
18 services rendered by certified or noncertified public  
19 accountants, other accountants or bookkeepers, including, but  
20 not limited to, auditing, tax preparation services, bookkeeping  
21 services, payroll services, billing services or talent payment  
22 services.

23 (iii) Architectural services, including, but not limited to,  
24 planning and designing residential, institutional, leisure,  
25 commercial and industrial buildings and structures by applying  
26 knowledge of design, construction procedures, zoning  
27 regulations, building codes and building materials, such as:

28 (A) architectural consulting, design and planning services,

29 (B) landscape architectural services;

30 (C) landscape consulting services;

1     (D) landscape planning services;  
2     (E) city and town planning services;  
3     (F) garden planning services;  
4     (G) golf course design services;  
5     (H) industrial land use services;  
6     (I) land use design and planning services;  
7     (J) ski area design and planning services; and  
8     (K) urban, suburban and rural planning.  
9     (iv) Engineering services, including, but not limited to:  
10    (A) Applying physical laws and principles of engineering in  
11 the design, development and utilization of machines, materials,  
12 instruments, structures, processes and systems which may involve  
13 any of the following activities:  
14    (I) provision of advice;  
15    (II) preparation of feasibility studies;  
16    (III) consultation;  
17    (IV) preparation of preliminary and final plans and designs;  
18    (V) provision of technical services during the construction  
19 or installation phase;  
20    (VI) inspection and evaluation of engineering projects; and  
21    (VII) related services.  
22    (B) acoustical engineering;  
23    (C) acoustical system engineering;  
24    (D) boat engineering;  
25    (E) chemical engineering;  
26    (F) civil engineering;  
27    (G) combustion engineering;  
28    (H) construction engineering;  
29    (I) consulting engineering;  
30    (J) design engineering;

1     (K) electrical engineering;  
2     (L) environmental engineering;  
3     (M) erosion control engineering;  
4     (P) geological engineering;  
5     (Q) geophysical engineering;  
6     (R) heating equipment engineering;  
7     (S) industrial engineering;  
8     (T) logging engineering;  
9     (U) marine engineering;  
10    (V) mechanical engineering;  
11    (W) mining engineering;  
12    (X) petroleum engineering; and  
13    (Y) traffic engineering.

14    (v) Drafting services, including but not limited to drawing  
15 detailed layouts, plans and illustration of buildings,  
16 structures, systems or components from engineering and  
17 architectural specifications, such as blueprint drafting  
18 services or other services offered by draftsmen.

19    (vi) Building inspection services, including, but not  
20 limited to, evaluating any aspects of the building structure and  
21 component systems or preparing a report on the physical  
22 condition of the property, generally for buyers or others  
23 involved in real estate transactions, such as services provided  
24 by building inspection bureaus and establishments providing home  
25 inspection services, and energy efficiency inspection services.

26    (vii) Geophysical surveying and mapping services, including,  
27 but not limited to:

28    (A) gathering, interpreting and mapping geophysical data  
29 which may be used in locating and measuring the extent of  
30 subsurface resources, such as oil, gas and minerals, but may

1 also be used for conducting surveys for engineering purposes;

2 (B) using a variety of surveying techniques depending on the  
3 purpose of the survey, including magnetic surveys, gravity  
4 surveys, seismic surveys or electrical and electromagnetic  
5 surveys;

6 (C) aerial geophysical surveying;

7 (D) electrical geophysical surveying;

8 (E) electromagnetic geophysical surveying;

9 (F) geological surveying;

10 (G) gravity geophysical surveying;

11 (H) magnetic geophysical surveying;

12 (I) geophysical mapping services;

13 (J) radioactive geophysical surveying;

14 (K) remote sensing geophysical surveying;

15 (L) seismic geophysical surveying; or

16 (M) any other geophysical surveying and geophysical mapping  
17 services.

18 (viii) Surveying and mapping services, except those services  
19 under subparagraph (vii), including, but not limited to:

20 (A) surveying and mapping the surface of the earth,  
21 including the sea floor;

22 (B) surveying and mapping areas above or below the surface  
23 of the earth, such as the creation of view easements or  
24 segregating rights in parcels of land by creating underground  
25 utility easements, including, but not limited to:

26 (I) aerial surveying;

27 (II) cadastral surveying;

28 (III) cartographic surveying;

29 (IV) construction surveying;

30 (V) geographic information system-based mapping services;

1     (VI) geospatial mapping services;  
2     (VII) hydrographic mapping services;  
3     (VIII) hydrographic surveying services;  
4     (IX) land surveying services;  
5     (X) mapping services;  
6     (XI) photogrammetric mapping services;  
7     (XII) topographic mapping services;  
8     (XIII) topographic surveying services; or  
9     (XIV) any other surveying and mapping services.  
10    (ix) Physical, chemical and other analytical testing  
11 services, whether conducted onsite or in a laboratory,  
12 including, but not limited to:  
13     (A) acoustics or vibration testing;  
14     (B) assaying;  
15     (C) biological testing, except medical and veterinary  
16 testing;  
17     (D) calibration and certification testing;  
18     (E) electrical and electronic testing;  
19     (F) geotechnical testing;  
20     (G) mechanical testing;  
21     (H) nondestructive testing;  
22     (I) thermal testing;  
23     (J) automobile proving and testing ground services;  
24     (K) environmental testing;  
25     (L) services provided by fire insurance underwriters'  
26 laboratories;  
27     (M) film badge testing;  
28     (N) radiation testing;  
29     (O) food testing;  
30     (P) forensic services, other than medical;

1     (Q) geotechnical testing;  
2     (R) hydrostatic testing;  
3     (S) industrial testing;  
4     (T) laboratory testing, except medical and veterinary;  
5     (U) metallurgical testing;  
6     (V) pollution control testing, except automotive emissions;  
7     (W) product testing;  
8     (X) radiation dosimetry;  
9     (Y) radiographic testing;  
10    (Z) radiographing welded joints on pipes and fittings;  
11    (AA) radiographic inspection services;  
12    (BB) radon testing;  
13    (CC) seed testing;  
14    (DD) soil testing;  
15    (EE) thermal testing;  
16    (FF) vibration testing;  
17    (GG) x-ray inspection services; and  
18    (HH) any other similar testing service.  
19    (x) Interior design services, including, but not limited to:  
20    (A) planning, designing and administering projects in  
21    interior spaces to meet the physical and aesthetic needs of  
22    people using the spaces, taking into consideration building  
23    codes, health and safety regulations, traffic patterns and floor  
24    planning, mechanical and electrical needs and interior fittings  
25    and furniture;  
26    (B) hospitality design;  
27    (C) health care design;  
28    (D) institutional design;  
29    (E) commercial and corporate design;  
30    (F) residential design; and

1 (G) interior decorating consulting.

2 (xi) Industrial design services, including, but not limited  
3 to:

4 (A) creating and developing designs and specifications that  
5 optimize the use, value and appearance of their products,  
6 including the determination of the materials, construction,  
7 mechanisms, shape, color and surface finishes of the product,  
8 taking into consideration human characteristics and needs,  
9 safety, market appeal and efficiency in production,  
10 distribution, use and maintenance;

11 (B) automobile industrial design;

12 (C) furniture design;

13 (D) hand tool industrial design;

14 (E) industrial design consulting;

15 (F) packaging industrial design;

16 (G) tool design; and

17 (H) any other industrial design.

18 (xii) Graphic design services, including, but not limited  
19 to:

20 (A) planning, designing and managing the production of  
21 visual communication in order to convey specific messages or  
22 concepts, clarify complex information or project visual  
23 identities, including, but not limited to:

24 (I) The design of printed materials, packaging, advertising,  
25 signage systems and corporate identification; and

26 (II) generating drawings and illustrations requiring  
27 technical accuracy or interpretative skills;

28 (B) graphic and commercial art services;

29 (C) illustrating;

30 (D) visual communication design;

- 1 (E) corporate identification and logo design;
- 2 (F) graphic art and related services;
- 3 (G) graphic design;
- 4 (H) medical art and illustration services;
- 5 (I) silk screen design; and
- 6 (J) any other graphic design services.

7 (xiii) Specialized design services not listed under this  
8 paragraph, including, but not limited to:

- 9 (A) providing professional design services, except  
10 architectural, landscape architectural and engineering;
- 11 (B) interior, industrial and graphic design;
- 12 (C) clothing design;
- 13 (D) costume design;
- 14 (E) fashion design;
- 15 (F) float design;
- 16 (G) fur design;
- 17 (H) jewelry design;
- 18 (I) lighting design;
- 19 (J) shoe design;
- 20 (K) textile design; and
- 21 (L) any other similar specialized design services.

22 (xiv) Customer computer programming services, including, but  
23 not limited to, writing, modifying, testing and supporting  
24 software to meet the needs of a particular customer. The  
25 services include, but are not limited to:

- 26 (A) application software programming;
- 27 (B) software development;
- 28 (c) software analysis and design services;
- 29 (D) web page design; and
- 30 (E) any other similar computer programming services.

1 (xv) Customer systems design services, including, but not  
2 limited to:

3 (A) planning and designing computer systems that integrate  
4 computer hardware, software and communication technologies. The  
5 hardware and software components of the system and installation,  
6 training and support may be provided by the vendor of this  
7 service or be provided by third parties.

8 (B) computer-aided design (CAD) services;

9 (C) computer-aided engineering (CAE) design services;

10 (D) computer-aided manufacturing (CAM) design services;

11 (E) computer hardware and software consulting;

12 (F) computer systems integration analysis services;

13 (G) computer systems integration consulting;

14 (H) information management computer systems design services;

15 (I) local area network (LAN) computer systems design  
16 services;

17 (J) computer network systems design services;

18 (K) office automation computer design services; and

19 (L) other similar computer systems design services.

20 (xvi) Computer facilities management services, including,  
21 but not limited to, providing on-site management and operation  
22 of clients' computer systems or data processing facilities,  
23 including support services.

24 (xvii) Other computer-related services, including, but not  
25 limited to, disaster recovery services and software installation  
26 services.

27 (xviii) Administrative management and general consulting  
28 services including, but not limited to:

29 (A) providing operating advice and assistance to businesses  
30 and other organizations on administrative management issues,

1 such as financial planning and budgeting, equity and asset  
2 management, records management, office planning, strategic and  
3 organizational planning, site selection, new business startup,  
4 and business process improvement;

5 (B) general management consulting;

6 (C) administrative, business, business start-up and  
7 financial management;

8 (D) medical office management, records management,  
9 reorganizational, site location or selection and strategic  
10 planning services;

11 (E) human resource consulting;

12 (F) marketing consulting;

13 (G) process consulting;

14 (H) physical distribution consulting;

15 (I) logistics consulting; or

16 (J) other management consulting services.

17 (xix) Human resource consulting services, including, but not  
18 limited to:

19 (A) providing advice, assistance and consulting services to  
20 businesses and other organizations in human resource and  
21 personnel policies, practices and procedures;

22 (B) employee benefits planning, communication and  
23 administration;

24 (C) compensation systems planning;

25 (D) wage and salary administration;

26 (E) actuarial consulting, except insurance actuarial  
27 services;

28 (F) employee assessment services;

29 (G) labor relations consulting;

30 (H) organization development consulting; or

1 (I) any other similar human resource consulting services.

2 (xx) Marketing consulting services, including, but not  
3 limited to:

4 (A) providing operating advice, assistance and consulting  
5 services to businesses and other organizations on marketing  
6 issues, such as developing marketing objectives and policies,  
7 sales forecasting, new product development and pricing,  
8 licensing and franchise planning and marketing planning and  
9 strategy;

10 (B) customer service management consulting services;

11 (C) marketing management consulting services;

12 (D) sales management consulting services; and

13 (E) any other similar marketing consulting services.

14 (xxi) Process, physical distribution and logistics  
15 consulting services, including, but not limited to:

16 (A) providing operating advice and assistance to businesses  
17 and other organizations in:

18 (I) manufacturing operations improvement;

19 (II) productivity improvement;

20 (III) production planning and control;

21 (IV) quality assurance and quality control;

22 (V) inventory management;

23 (VI) distribution networks;

24 (VII) warehouse use, operations and utilization;

25 (VIII) transportation and shipment of goods and materials;

26 and

27 (IX) materials management and handling;

28 (B) customs consulting;

29 (C) efficiency management consulting;

30 (D) freight rate consulting;

1 (E) freight rate auditing;  
2 (F) freight traffic consulting;  
3 (G) materials management consulting;  
4 (H) tariff rate consulting;  
5 (I) tariff rate information services; and  
6 (J) any other similar process, physical distribution and  
7 logistics consulting services.

8 (xxii) Other management consulting services, including  
9 providing telecommunications and utility management consulting.

10 (xxiii) Environmental consulting services, including  
11 providing advice, assistance, consulting to businesses and other  
12 organizations on environmental issues, including the control of  
13 environmental contamination from pollutants, toxic substances,  
14 and hazardous materials and identifying problems, inspecting  
15 buildings for hazardous materials and measuring and evaluating  
16 risks and recommending solutions. The services include air and  
17 water quality consulting, asbestos contamination consulting,  
18 remediation consulting and environmental law consulting,  
19 providing sanitation or site remediation consulting services.

20 (xxiv) Other scientific and technical consulting services,  
21 including agricultural, agrology, agronomy, biological chemical,  
22 dairy herd, economic, energy, entomology, geochemical,  
23 horticultural, hydrology, livestock breeding, motion picture,  
24 nuclear energy, physics, radio, safety, security and any other  
25 similar scientific and technical consulting services.

26 (xxv) Research and development services in biotechnology,  
27 physical, engineering and life sciences, including conducting  
28 research and experimental development biotechnology and services  
29 involving the study of the use of microorganisms and cellular  
30 and biomolecular processes to develop or alter living or non-

1 living materials which may result in development of new  
2 biotechnology processes or in prototypes of new or genetically  
3 altered products that may be reproduced, utilized or implemented  
4 by various industries, including physical, engineering, life  
5 sciences, agriculture, electronics, environmental, bacteriology,  
6 biology, botany, computers, chemistry, entomology, food,  
7 fisheries, forests, genetics, geology, health, industry,  
8 mathematics, medicine, oceanography, pharmacy, physics,  
9 veterinary, cloning, DNA technologies, nanobiotechnology,  
10 nucleic acid chemistry, protein engineering, recombinant DNA,  
11 dentistry, electronics, experimental farms, fisheries, forestry,  
12 guided missile and space vehicles and parts, photonics and other  
13 allied subjects.

14 (xxvi) Research and development in social sciences and  
15 humanities, including conducting research and analyses in  
16 cognitive development, sociology, psychology, language,  
17 behavior, economic, archeological, business, demographic,  
18 historical and cultural preservation, sociology and any other  
19 social science and humanities research and development services.

20 (xxvii) Advertising services, including creating advertising  
21 campaigns and placing advertising in periodicals, newspapers and  
22 on radio and television, or other media, which includes advice,  
23 consulting, creative services, account management, production of  
24 advertising material, media planning, buying and placing  
25 advertising, distributing advertising or any other advertising  
26 services. Services involving direct mail advertising include  
27 direct mail advertising and creating, designing, preparing for  
28 mailing or distribution and any other similar services involving  
29 direct mail advertising. The term includes demonstration  
30 services, display letter services, mannequin decorating, sign

1 lettering and painting, welcoming services and window dressing  
2 or trimming services.

3 (xxviii) Public relations services design and implementation  
4 of public relations campaigns to promote the interests and image  
5 of any person, including lobbying, political consulting or any  
6 similar public relations consulting.

7 (xxix) Media representative services including selling media  
8 time or space for media owners, including magazine, newspaper,  
9 publishers, radio or television or any other similar media.

10 (xxx) Display advertising services including creating and  
11 designing public display advertising campaign materials  
12 including printed, painted, electronic displays, or placing the  
13 displays on indoor or outdoor billboards and panels, or on or  
14 within transit vehicles or facilities, shopping malls, retail or  
15 in-store displays and other display structures or sites.

16 (xxxii) Market research and public opinion polling services  
17 including systematically gathering, recording, tabulating and  
18 presenting marketing and public opinion data, including  
19 broadcast media rating services, marketing analysis services,  
20 opinion research services, political and public opinion polling,  
21 statistical sampling services and any other similar market  
22 research and public opinion polling services.

23 (xxxiii) Translation and interpretation services including  
24 translating written or other material and interpreting writing  
25 and speech from one language to another including sign language  
26 services.

27 (xxxiiii) Veterinary services including services provided by  
28 licensed veterinarians including providing and prescribing  
29 medicine and performing surgery and any other service provided  
30 by a veterinarian. The term includes testing services performed

1 by or for veterinarians.

2 (xxxiv) All professional, scientific and technical services,  
3 other than the services defined in this paragraph including:

4 (A) Appraisal services, excluding real estate.

5 (B) Arbitration and conciliation services, except by  
6 attorney or paralegal.

7 (C) Business brokering, except real estate brokering;  
8 commodity inspection services.

9 (D) Consumer credit counseling services.

10 (E) Credit repair services.

11 (F) Electronic communication verification content services.

12 (G) Estate assessment or appraisal services.

13 (H) Handwriting analysis services.

14 (I) Handwriting expert services.

15 (J) Marine surveying.

16 (K) Ship appraisal services.

17 (L) Mediation product services, except by lawyer, attorney,  
18 paralegal, family or social services.

19 (M) Meteorological services.

20 (N) Patent broker and marketing services.

21 (O) Patrolling and inspecting electric or gas transmission  
22 lines.

23 (P) Quantity surveying.

24 (Q) Weather forecasting services.

25 (7) Office administration services. Providing office  
26 administrative services, including financial planning, billing,  
27 recordkeeping, personnel, distribution or logistics for others  
28 on a contract or fee basis.

29 (8) Facilities support services. Providing staff to perform  
30 support services within a client's facilities, including

1 janitorial, maintenance, trash disposal, guard, security, mail  
2 routing, reception, laundry and related services. The term  
3 includes providing private jail services or operating  
4 correctional facilities on a contract or fee basis.

5 (9) Professional employment services. Providing human  
6 resources and human resource management services to client  
7 businesses by entities operating in a coemployment relationship  
8 with client businesses or organizations and are specialized in  
9 performing a wide range of human resource and personnel  
10 management duties, including payroll, payroll tax, benefits  
11 administration, workers' compensation, unemployment and human  
12 resource administration. Services include payroll, including  
13 withholding and remitting employment-related taxes, for some or  
14 all of the employees of the employees' clients, serving as the  
15 employer of those employees for benefits and related purposes or  
16 providing any similar services provided by a professional  
17 employment organization. The term includes employee leasing  
18 services, labor leasing services and staff leasing services.

19 (10) Business support services. Providing one or more of the  
20 following:

21 (i) Providing document preparation services, including  
22 letter or resume writing, document editing or proofreading,  
23 typing, word or data processing, desktop publishing, stenography  
24 except court reporting or stenotype recording, transcription and  
25 other secretarial services.

26 (ii) Answering telephone calls and relaying messages to  
27 clients.

28 (iii) Providing telemarketing services on a contract or fee  
29 basis for others, including promoting a client's product or  
30 services by telephone, taking orders by telephone or soliciting

1 contributions by telephone.

2 (iv) Providing mailbox rental and other postal and mailing  
3 services except direct mail advertising.

4 (v) Providing photocopying, duplicating, blueprinting,  
5 scanning and other document copying services.

6 (vi) Providing facsimile and on-site computer rental  
7 services.

8 (vii) Collecting payments for claims on behalf of or  
9 remitting payments collected for clients.

10 (viii) Compiling or providing information including credit  
11 and employment histories on individuals and credit histories on  
12 businesses.

13 (ix) Repossessing tangible assets for a creditor.

14 (x) Providing reporting and stenotype recording of live  
15 legal proceedings and transcribing recorded materials.

16 (11) Travel arrangements and reservation services.

17 Providing travel, tour or accommodations arrangement services,  
18 assembling and planning tours, marketing and promoting  
19 communities and facilities to businesses and leisure travelers  
20 through a range of activities, including assisting organizations  
21 in locating meeting and convention sites, providing travel  
22 information on area attractions, lodging accommodations and  
23 restaurants, providing maps and organizing group tours of local  
24 historical, recreational and cultural attractions, providing  
25 travel reservation services including airline, train, bus, ship,  
26 car rental, hotel, time share, restaurant and sports and  
27 theatrical ticket reservation services.

28 (12) Packaging and labeling services. Packaging or wrapping  
29 client-owned materials, including labeling and imprinting.  
30 Services include apparel folding and packaging, blister

1 packaging, kit assembling and packaging, folding and packaging  
2 services, gift wrapping services, mounting merchandise or cards,  
3 product sterilizing and packaging or shrink wrapping.

4 (13) Convention and trade show organizing. Organizing,  
5 promoting or managing events, including business and trade  
6 shows, conventions, conferences and meeting whether or not the  
7 vendor manages and provides the staff to operate the facilities  
8 in which these events take place. Events include automobile  
9 shows, craft fairs, flower shows, home shows, trade fairs, trade  
10 shows or other similar events.

11 (14) Other support services. Other support services,  
12 including day-to-day business and other organizational support  
13 services not otherwise defined in this subsection, including  
14 auctioneering, bartering services, bottle exchange services,  
15 cloth cutting, bolting or winding, parking meter coin pick-up  
16 services, coupon processing services, coupon redemption  
17 services, including clearinghouse services, diving services,  
18 document shredding, electric or other meter reading services,  
19 commercial firefighting, flagging services, float decorating  
20 services, inventory computing or taking service, license issuing  
21 services except services provided by the Commonwealth, printing  
22 broker services, tape slitting including cutting plastic or  
23 leather in widths, textile cutting, trading stamp promotion and  
24 redemption services or any other similar support service.

25 (15) Waste collection.

26 (i) Waste collection includes both:

27 (A) Collecting or hauling hazardous waste, nonhazardous  
28 waste or recyclable materials within a local area.

29 (B) Operating hazardous or nonhazardous waste transfer  
30 stations or landfills or recycling centers within a local area.

1 (ii) Services include ash collecting and hauling, garbage  
2 collection services, local garbage hauling, recyclable materials  
3 collection and local hauling, refuse and rubbish collection and  
4 local hauling, hazardous and radioactive collecting and hauling  
5 services and identifying, treating, packaging and labeling of  
6 any waste materials.

7 (iii) The term includes brush and rubble collection and  
8 local hauling, dump trucking of brush or rubble and any other  
9 similar waste hauling and local collection services.

10 (16) Services other than tuition and housing provided by  
11 junior colleges, colleges, universities, professional schools,  
12 business schools, computer training schools, management training  
13 schools, technical and trade schools and other schools. For  
14 purposes of this paragraph the following shall apply:

15 (i) Junior college shall mean schools providing academic, or  
16 academic and technical, courses in diverse settings and through  
17 diverse means, and granting associate degrees, certificates or  
18 diplomas below the baccalaureate level.

19 (ii) College, university and professional school services  
20 shall mean schools providing academic courses in diverse  
21 settings and through diverse means and granting degrees at  
22 baccalaureate or graduate levels.

23 (iii) Business school and computer and management training  
24 school services shall mean schools providing courses in diverse  
25 settings and through diverse means, in office procedures,  
26 secretarial and stenographic skills, basic office skills, office  
27 machine operation, reception, communications, computer training  
28 excluding computer repair but including computer programming,  
29 software packages, computerized business systems, computer  
30 electronics technology, computer operations, local area network

1 management and management, professional and career development.

2 (iv) Technical and trade school services shall mean schools  
3 providing vocational and technical training, in a variety of  
4 technical subjects and trades, including barbering, hair  
5 styling, cosmetic arts, aviation, flight and apprenticeship  
6 programs. These programs involve applied training as well as  
7 course work.

8 (v) Other school services shall mean schools providing  
9 instruction in:

10 (A) The arts, including dance, art, drama and music.

11 (B) Foreign language instruction including sign language.

12 (C) Preparation for standardized examinations or academic  
13 tutoring services.

14 (D) Automobile driving instruction.

15 (17) Home health care services. Providing skilled nursing  
16 services in the home, including the following:

17 (i) Personal care services.

18 (ii) Homemaker and companion services.

19 (iii) Physical therapy.

20 (iv) Medical social services.

21 (v) Providing medications.

22 (vi) Providing medical equipment and supplies.

23 (vii) Counseling.

24 (viii) Twenty-four-hour home care.

25 (ix) Occupation and vocational therapy.

26 (x) Dietary and nutritional services.

27 (xi) Speech therapy.

28 (x) Audiology.

29 (xi) High-tech care including intravenous therapy.

30 (18) Other ambulatory health care services. Providing

1 services which include outpatient care centers, medical  
2 laboratories and diagnostic imaging centers and home health care  
3 providers, including ambulatory health care services such as air  
4 or ground ambulance and rescue services, blood, sperm, placenta,  
5 eye and organ banks, health screening, employe drug testing,  
6 medical care management services, physical fitness evaluation  
7 and hearing testing services, smoking cessation services and  
8 pacemaker monitoring services. The term does not include offices  
9 of physicians, dentists and other health practitioners providing  
10 the services described in this paragraph.

11 (19) Nursing care facility services.

12 (i) Services as defined under paragraph (17) except the  
13 services provided at nursing care facilities, including  
14 convalescent homes, group homes for the disabled, nursing homes,  
15 hospices, rest homes, retirement homes and skilled nursing  
16 facilities, provided the establishments provide nursing  
17 facilities.

18 (ii) Providing inpatient nursing and rehabilitative services  
19 for an extended period of time to individuals requiring nursing  
20 care.

21 (19.1) Residential, intellectual and developmental  
22 disability, mental health and substance abuse facility services.  
23 Services provided by group homes and intermediate care  
24 facilities providing residential care services for persons  
25 diagnosed with intellectual and developmental disabilities and  
26 mental health and substance abuse illnesses.

27 (20) Continuing care retirement community and assisted  
28 living facility services for the elderly. Providing residential  
29 and personal care services, with or without on-site nursing  
30 care, for the elderly and other persons who:

1 (i) are unable to fully care for themselves; or

2 (ii) do not desire to live independently.

3 (21) Other residential care facility services. Providing  
4 residential care not provided by the facilities described in  
5 subclauses (1) through (20).

6 (22) Individual and family services. Providing  
7 nonresidential social assistance services for children and youth  
8 in such areas as adoption and foster care, drug prevention, life  
9 skills training and positive social development; nonresidential  
10 social assistance services to improve the quality of life for  
11 the elderly, persons diagnosed with intellectual and  
12 developmental disabilities or persons with disabilities in such  
13 areas as day care, nonmedical home care or homemaker services,  
14 social activities, group support, and companionship; and other  
15 nonresidential individual and family social assistance services.  
16 This subclause includes alcohol and drug counseling, ex-offender  
17 rehabilitation services, marriage counseling; family mediation  
18 services; parenting support services; referral services for  
19 personal and social problems; private parole officer services;  
20 traveler's aid services; social services; and any other similar  
21 individual or family services.

22 (23) Community food and housing and emergency and other  
23 relief services.

24 (i) Collecting, preparing and delivering food for the needy.

25 (ii) Distributing clothing and blankets to the poor.

26 (iii) Preparing and delivering meals to individuals who, by  
27 reason of age, disability, or illness, are unable to prepare  
28 meals for themselves.

29 (iv) Collecting and distributing salvageable or donated  
30 food.

1 (v) Preparing and providing meals at fixed or mobile  
2 locations, such as food banks and soup kitchens.

3 (vi) Providing community housing services such as short term  
4 emergency shelters for victims of domestic violence, sexual  
5 assault or child abuse; temporary residential shelters for the  
6 homeless, runaway youths and patients and families caught in  
7 medical crises; and transitional housing for low-income  
8 individuals and families.

9 (vii) Providing volunteer construction or repair of low-cost  
10 housing, in partnership with the homeowner, who may assist in  
11 construction or repair work.

12 (viii) Providing repair of homes for elderly or disabled  
13 homeowners.

14 (ix) Providing food, shelter, clothing, medical relief,  
15 resettlement and counseling to victims of domestic or  
16 international disasters or conflicts.

17 (24) Vocational rehabilitation services. Providing:

18 (i) vocational rehabilitation or habilitation services, such  
19 as job counseling, job training and work experience, to  
20 unemployed and underemployed individuals, individuals with  
21 disabilities, and individuals who have job market disadvantages  
22 because of lack of education, job skill or experience; and

23 (ii) providing training and employment to individuals with  
24 disabilities, including:

25 (A) vocational rehabilitation job training facilities other  
26 than entities identified in subclause (26); and

27 (B) sheltered workshops, such as work experience centers.

28 (25) Child day-care services. Providing day care for infants  
29 or children or babysitting, including:

30 (i) care for older children other than at school;

1 (ii) pre-kindergarten schooling; and  
2 (iii) any other similar child day-care service.  
3 (26) Performing arts company, group or theater services:  
4 (i) Providing live theatrical presentations including  
5 musicals, operas, plays and comedy, improvisational, mime and  
6 puppet shows.  
7 (ii) Providing live theatrical dance presentations.  
8 (iii) Providing live musical entertainment.  
9 (iv) Providing carnival traveling shows, circuses, ice  
10 skating shows and magic shows.  
11 (v) This subclause does not include live musical  
12 entertainment provided by any of the following:  
13 (A) An elementary or secondary school.  
14 (B) A nonprofit corporation or nonprofit incorporated  
15 association under Federal law or State law.  
16 (C) An entity which is authorized to do business in this  
17 Commonwealth as a nonprofit corporation or unincorporated  
18 association under the laws of this Commonwealth. This paragraph  
19 includes any youth or athletic, volunteer fire, ambulance,  
20 religious, charitable, fraternal, veterans or civic association  
21 and a separately chartered auxiliary of the association operated  
22 on a nonprofit basis.  
23 (27) Sports teams or club services.  
24 (i) Providing live sporting events before a paying audience.  
25 (ii) Operating racetracks.  
26 (iii) Independent athletes or professional or  
27 semiprofessional sports teams or clubs providing live sporting  
28 or racing events before a paying audience.  
29 (iv) Owners of racing participants, such as cars and horses,  
30 providing the participants in racing events or other spectator

1 sports events.

2 (v) Sports trainers providing specialized services to  
3 support participants in sports events or competitions.

4 (vi) This subclause does not include services provided by  
5 any of the following:

6 (A) An elementary or secondary school.

7 (B) A nonprofit corporation or nonprofit incorporated  
8 association under Federal law or State law.

9 (C) An entity which is authorized to do business in this  
10 Commonwealth as a nonprofit corporation or unincorporated  
11 association under the laws of this Commonwealth. This paragraph  
12 includes any youth or athletic, volunteer fire, ambulance,  
13 religious, charitable, fraternal, veterans or civic association  
14 and a separately chartered auxiliary of the association operated  
15 on a nonprofit basis.

16 (28) Promoting performing arts, sports, and similar events.

17 (i) Booking, organizing, promoting or managing live  
18 performing arts productions, sports events, fairs, concerts,  
19 festivals and similar events.

20 (ii) Providing the staff to, or management of, the operate  
21 facilities at which events referred to in subparagraph (i) are  
22 held.

23 (29) Agency or management for artist, athlete, entertainer  
24 and other public figure. Providing representation or management  
25 of any creative and performing artist, sports figure,  
26 entertainer or other public figure.

27 (30) Museum, historical site and similar institution  
28 services. Providing the preservation and exhibition of objects  
29 and sites of historical, cultural or educational value and  
30 natural wonders, such as provided by museums, including:

1           (i) art museums, halls of fame, herbariums,  
2           interactive museums, military museums, natural history  
3           and science museums, observatories, planetariums, science  
4           and technology museums, wax museums and traveling  
5           museums;

6           (ii) historical sites, such as archeological sites,  
7           battlefields, heritage and pioneer villages, historical  
8           forts, ships and sites;

9           (iii) zoos and plant exhibits, including animal  
10           safari parks, aquariums, arboretums and botanical  
11           gardens, petting zoos, wild animal parks and aviaries;  
12           and

13           (iv) natural areas, such as bird and wildlife  
14           sanctuaries, caverns, nature centers and parks and  
15           preserves, national parks and waterfalls. For purposes of  
16           this subclause, the purchase price of the service is  
17           typically a ticket or admission price.

18       (31) Amusement park and arcade services. Providing a variety  
19       of attractions, such as mechanical rides, water rides, games,  
20       shows, theme exhibits and picnic grounds. This subclause  
21       includes indoor play area services, electronic or other game  
22       arcades, billiard salon services, family fun centers, pinball  
23       machines, coin-operated games and rides and other similar  
24       amusement park or arcade services. For purposes of this  
25       subclause, the purchase price for amusement parks is typically a  
26       ticket or admission price.

27       (32) Other amusement and recreation industry services.

28       (i) Providing miniature golf courses, golf courses, driving  
29       ranges and golf courses along with dining facilities and other  
30       recreational facilities which are known as country clubs.

1 (ii) Providing downhill, cross-country or related skiing  
2 areas or operating equipment, such as ski lifts and tows.

3 (iii) Marinas, providing docking or storage facilities for  
4 pleasure craft owners, with or without one or more related  
5 activities. Examples are:

6 (A) retailing fuel and marine supplies; and

7 (B) repairing, maintaining or renting pleasure boats.

8 (iv) Providing fitness and recreational sports facilities  
9 featuring exercise and other active physical fitness  
10 conditioning or recreational sports activities, such as  
11 swimming, skating, or racquet sports.

12 (v) Providing bowling centers.

13 (vi) Services provided by amateur sports teams or clubs or  
14 other recreational clubs.

15 (vii) Providing other recreational and amusement services.

16 (33) Recreational vehicle park and recreational camp  
17 services.

18 (i) Providing recreational vehicle parks and campgrounds and  
19 recreational and vacation camps.

20 (ii) Providing sites to accommodate campers and their  
21 equipment, including tents, tent trailers, travel trailers and  
22 recreational vehicles.

23 (iii) Providing overnight recreational camps, such as  
24 children's camps, family vacation camps, hunting and fishing  
25 camps and outdoor adventure retreats which offer trail riding,  
26 white-water rafting, hiking and similar activities.

27 (34) Personal care services providing one or more of the  
28 following:

29 (i) Hair care, facials or applying makeup other than  
30 permanent makeup.

- 1 (ii) Cutting, trimming and styling male hair and shaving and  
2 trimming male beards.
- 3 (iii) Cutting, trimming, shampooing, coloring, waving or  
4 styling hair.
- 5 (iv) Nail care, such as manicures, pedicures and nail  
6 extensions.
- 7 (v) Nonmedical services to assist clients in attaining or  
8 maintaining a desired weight. This subparagraph includes saunas  
9 and steam baths.
- 10 (vi) Color consulting.
- 11 (vii) Day spa services.
- 12 (viii) Hair removal.
- 13 (ix) Ear piercing.
- 14 (x) Hair replacement, other than by a physician.
- 15 (xi) Massage.
- 16 (xii) Scalp treatments.
- 17 (xiii) Tanning services.
- 18 (xiv) Tattooing.
- 19 (xv) Other similar personal care service.
- 20 (35) Death care services. Providing for the preparation of  
21 the dead for burial or interment and conducting funerals. This  
22 subclause includes:
- 23 (i) providing facilities for wakes;
- 24 (ii) arranging transportation for the dead;
- 25 (iii) selling caskets and related merchandise;
- 26 (iv) operating sites or structures reserved for the  
27 interment of human or animal remains; and
- 28 (v) cremating the dead.
- 29 (36) Drycleaning and laundry services.
- 30 (i) Providing services at facilities with coin-operated or

1 similar self-service laundry and drycleaning equipment for  
2 customer use on the premises.

3 (ii) Supplying and servicing coin-operated or similar self-  
4 service laundry and drycleaning equipment for customer use in  
5 places of business operated by others, such as apartments and  
6 dormitories.

7 (iii) Providing drycleaning and laundering services.

8 (iv) Providing dropoff and pickup sites for laundries or  
9 drycleaners.

10 (v) Providing specialty cleaning services for specific types  
11 of garments and other textile items. Carpets and upholstery are  
12 not subject to this subparagraph. Items such as the following  
13 are subject to this subparagraph:

14 (A) Fur, leather or suede garments.

15 (B) Wedding gowns.

16 (C) Hats.

17 (D) Draperies and pillows.

18 (vi) Supplying, on a rental or contract basis, laundered  
19 items, including:

20 (A) uniforms, gowns and coats and related work clothing,  
21 including protective apparel;

22 (B) table linens;

23 (C) bed linens;

24 (D) towels;

25 (E) diapers;

26 (F) clean room apparel; and

27 (G) dust-control items, such as treated mops, shop towels,  
28 wiping towels, rugs, mats, dust tool covers and cloths.

29 (37) Other personal services.

30 (i) Providing pet care services, such as boarding, grooming,

1 sitting, and training pets.

2 (ii) Developing film or making photographic slides, prints,  
3 and enlargements.

4 (iii) One-hour photofinishing labs providing film developing  
5 or making photographic slides, prints and enlargements on a  
6 short turnaround or while-you-wait basis.

7 (iv) Providing parking spaces for motor vehicles, usually on  
8 an hourly, daily or monthly basis and offering valet parking  
9 services.

10 (v) Baby shoe bronzing.

11 (vi) Bail bonding.

12 (vii) Balloon-o-gram services.

13 (viii) Coin-operated machine blood pressure testing.

14 (ix) Locker services.

15 (x) Providing photographic machines.

16 (xi) Providing scales.

17 (xii) Shoeshine services.

18 (xiii) Check room services.

19 (xiv) Comfort station services.

20 (xv) Concierge services.

21 (xvi) Consumer buying services.

22 (xvii) Credit card notification services, such as lost or  
23 stolen reporting.

24 (xviii) Dating, social introduction and social escort  
25 services.

26 (xix) Discount buying services, including medical cards and  
27 similar negotiated discount plans for individuals.

28 (xx) Astrology, fortune-telling, numerology, palm reading,  
29 physic and phrenology services.

30 (xxi) Genealogical investigation services.

1       (xxii) House sitting.  
2       (xxiii) Identity theft protection services.  
3       (xxiv) Party planning and wedding planning.  
4       (xxv) Pay telephone services.  
5       (xxvi) Personal fitness training.  
6       (xxvii) Personal organizer services.  
7       (xxviii) Personal shopping services.  
8       (xxix) Porter services.  
9       (xxx) Singing telegram services.  
10      (xxxi) Wedding chapels. This subparagraph does not apply to  
11 churches.

12      (xxxii) Similar services.

13      (38) Real estate agent and broker services. Acting as an  
14 agent or broker in selling real estate for others or buying real  
15 estate for others or renting real estate for others. The  
16 services include auctioning real estate, real estate broker  
17 services, real estate agent services and any other similar  
18 services.

19      \* \* \*

20      (11) "[Premium cable or premium] Cable or video programming  
21 service." That portion of cable television services, video  
22 programming services, community antenna television services or  
23 any other distribution of television, video, audio or radio  
24 services which [meets all of the following criteria:

25      (1)] is transmitted with or without the use of wires to  
26 purchasers.;

27      (2) which consists substantially of programming  
28 uninterrupted by paid commercial advertising which includes, but  
29 is not limited to, programming primarily composed of  
30 uninterrupted full-length motion pictures or sporting events,

1 pay-per-view, paid programming or like audio or radio  
2 broadcasting; and

3 (3) does not constitute a component of a basic service tier  
4 provided by a cable television system or a cable programming  
5 service tier provided by a cable television system. A basic  
6 service tier shall include all signals of domestic television  
7 broadcast stations, any public, educational, governmental or  
8 religious programming and any additional video programming  
9 signals or service added to the basic service tier by the cable  
10 operator. The basic service tier shall also include a single  
11 additional lower-priced package of broadcast channels and access  
12 information channels which is a subset of the basic service tier  
13 as set forth above. A cable programming service tier includes  
14 any video programming other than: (i) the basic service tier;  
15 (ii) video programming offered on a pay-per-channel or pay-per-  
16 view basis; or (iii) a combination of multiple channels of pay-  
17 per-channel or pay-per-view programming offered as a package.]  
18 If a purchaser receives or agrees to receive [premium] cable or  
19 [premium] video programming service, then the following charges  
20 are included in the purchase price: charges for installation or  
21 repair of any [premium] cable or [premium] video programming  
22 service, upgrade to include additional [premium] cable or  
23 [premium] video programming service, downgrade to exclude all or  
24 some [premium] cable or [premium] video programming service,  
25 additional [premium] cable outlets in excess of ten or any other  
26 charge or fee related to [premium] cable or [premium] video  
27 programming services. The term shall not apply to transmissions  
28 by public television, public radio services or official Federal,  
29 State or local government cable services. Nor shall the term  
30 apply to local origination programming which provides a variety

1 of public service programs unique to the community, programming  
2 which provides coverage of public affairs issues which are  
3 presented without commentary or analysis, including United  
4 States Congressional proceedings, or programming which is  
5 substantially related to religious subjects. Nor shall the term  
6 "[premium] cable or [premium] video programming service" apply  
7 to subscriber charges for access to a video dial tone system or  
8 charges by a common carrier to a video programmer for the  
9 transport of video programming.

10 \* \* \*

11 (pp) "Building machinery and equipment." Generation  
12 equipment, storage equipment, conditioning equipment,  
13 distribution equipment and termination equipment, [which shall  
14 be limited to the following] located in a building unless  
15 specifically noted otherwise and part only of the following  
16 systems:

17 (1) air conditioning limited to heating, cooling,  
18 purification, humidification, dehumidification and ventilation;

19 (2) electrical;

20 (3) plumbing;

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

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

24 (6) control system limited to energy management, vehicular  
25 traffic and parking lot and building access;

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

28 (8) laboratory system;

29 (9) cathodic protection system; or

30 (10) [furniture,] cabinetry and kitchen equipment.

1 The term shall include boilers, chillers, air cleaners,  
2 humidifiers, fans, switchgear, pumps, telephones, speakers,  
3 horns, motion detectors, dampers, actuators, grills, registers,  
4 traffic signals, sensors, card access devices, guardrails,  
5 [medial devices,] floor troughs and grates and laundry  
6 equipment, together with integral coverings and enclosures,  
7 whether or not the item constitutes a fixture or is otherwise  
8 affixed to the real estate, whether or not damage would be done  
9 to the item or its surroundings upon removal or whether or not  
10 the item is physically located within a real estate structure.  
11 The term "building machinery and equipment" shall not include  
12 guardrail posts, pipes, fittings, pipe supports and hangers,  
13 valves, underground tanks, wire, conduit, receptacle and  
14 junction boxes, insulation, ductwork and coverings thereof, or  
15 foundations or supports for any building machinery and  
16 equipment, including light poles or bridge and road drainage  
17 equipment.

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

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

27 (2) the United States; or

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

30 The term includes building machinery and equipment; developed

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

18 \* \* \*

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

20 (1) Thoroughbred and harness racing at which pari-mutuel  
21 wagering is conducted under the act of December 17, 1981

22 (P.L.435, No.135), known as the "Race Horse Industry Reform  
23 Act."

24 (2) Fair racing sanctioned by the State Harness Racing  
25 Commission.]

26 \* \* \*

27 (eee) "Dentist." Doctors of dental medicine or doctors of  
28 dental surgery, as defined in the act of May 1, 1933 (P.L.216,  
29 No.76), known as "The Dental Law."

30 (fff) "Physician." Medical doctors, as defined in the act

1 of December 20, 1985 (P.L.457, No.112), known as the "Medical  
2 Practice Act of 1985," or doctors of osteopathy, as defined in  
3 the act of October 5, 1978 (P.L.1109, No.261), known as the  
4 "Osteopathic Medical Practice Act."

5 Section 2. Section 202 of the act, amended September 9, 1971  
6 (P.L.437, No.105), October 4, 1978 (P.L.987, No.201), April 23,  
7 1998 (P.L.239, No.45), May 24, 2000 (P.L.106, No.23) and June  
8 29, 2002 (P.L.559, No.89), is amended to read:

9 Section 202. Imposition of Tax.--(a) There is hereby  
10 imposed upon each separate sale at retail of tangible personal  
11 property or services, as defined herein, within this  
12 Commonwealth a tax of six and six-tenths per cent of the  
13 purchase price, which tax shall be collected by the vendor from  
14 the purchaser, and shall be paid over to the Commonwealth as  
15 herein provided.

16 (b) There is hereby imposed upon the use, on and after the  
17 effective date of this article, within this Commonwealth of  
18 tangible personal property purchased at retail on or after the  
19 effective date of this article, and on those services described  
20 herein purchased at retail on and after the effective date of  
21 this article, a tax of six and six-tenths per cent of the  
22 purchase price, which tax shall be paid to the Commonwealth by  
23 the person who makes such use as herein provided, except that  
24 such tax shall not be paid to the Commonwealth by such person  
25 where he has paid the tax imposed by subsection (a) of this  
26 section or has paid the tax imposed by this subsection (b) to  
27 the vendor with respect to such use. The tax at the rate of six  
28 and six-tenths per cent imposed by this subsection shall not be  
29 deemed applicable where the tax has been incurred under the  
30 provisions of the "Tax Act of 1963 for Education."

1 (c) Notwithstanding any other provisions of this article,  
2 the tax with respect to telecommunications service within the  
3 meaning of clause (m) of section 201 of this article shall,  
4 except for telegrams paid for in cash at telegraph offices, be  
5 computed at the rate of six and six-tenths per cent upon the  
6 total amount charged to customers for such services,  
7 irrespective of whether such charge is based upon a flat rate or  
8 upon a message unit charge, but in no event shall charges for  
9 telephone calls paid for by inserting money into a telephone  
10 accepting direct deposits of money to operate be subject to this  
11 tax. A telecommunications service provider shall have no  
12 responsibility or liability to the Commonwealth for billing,  
13 collecting or remitting taxes that apply to services, products  
14 or other commerce sold over telecommunications lines by third-  
15 party vendors. To prevent actual multistate taxation of  
16 interstate telecommunications service, any taxpayer, upon proof  
17 that the taxpayer has paid a similar tax to another state on the  
18 same interstate telecommunications service, shall be allowed a  
19 credit against the tax imposed by this section on the same  
20 interstate telecommunications service to the extent of the  
21 amount of such tax properly due and paid to such other state.

22 (d) Notwithstanding any other provisions of this article,  
23 the sale or use of food and beverages dispensed by means of coin  
24 operated vending machines shall be taxed at the rate of six and  
25 six-tenths per cent of the receipts collected from any such  
26 machine which dispenses food and beverages heretofore taxable.

27 (e) (1) Notwithstanding any provisions of this article, the  
28 sale or use of prepaid telecommunications evidenced by the  
29 transfer of tangible personal property shall be subject to the  
30 tax imposed by subsections (a) and (b).

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

5 (3) Notwithstanding clause (2), the sale or use of prepaid  
6 telecommunications service not evidenced by the transfer of  
7 tangible personal property shall be taxed at the rate of six and  
8 six-tenths per cent of the receipts collected on each sale if  
9 the service provider elects to collect the tax imposed by this  
10 article on receipts of each sale. The service provider shall  
11 notify the department of its election and shall collect the tax  
12 on receipts of each sale until the service provider notifies the  
13 department otherwise.

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

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

24 (3) Notwithstanding clause (2), the sale or use of prepaid  
25 mobile telecommunications service not evidenced by the transfer  
26 of tangible personal property shall be taxed at the rate of six  
27 and six-tenths per cent of the receipts collected on each sale  
28 if the service provider elects to collect the tax imposed by  
29 this article on receipts of each sale. The service provider  
30 shall notify the department of its election and shall collect

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

3 (f) Notwithstanding any other provision of this article, tax  
4 with respect to sales of prebuilt housing shall be imposed on  
5 the prebuilt housing builder at the time of the prebuilt housing  
6 sale within this Commonwealth and shall be paid and reported by  
7 the prebuilt housing builder to the department in the time and  
8 manner provided in this article: Provided, however, That a  
9 manufacturer of prebuilt housing may, at its option, precollect  
10 the tax from the prebuilt housing builder at the time of sale to  
11 the prebuilt housing builder. In any case where prebuilt housing  
12 is purchased and the tax is not paid by the prebuilt housing  
13 builder or precollected by the manufacturer, the prebuilt  
14 housing purchaser shall remit tax directly to the department if  
15 the prebuilt housing is used in this Commonwealth without regard  
16 to whether the prebuilt housing becomes a real estate structure.

17 (g) Notwithstanding any other provisions of this article and  
18 in accordance with the Mobile Telecommunications Sourcing Act (4  
19 U.S.C. § 116), the sale or use of mobile telecommunications  
20 services which are deemed to be provided to a customer by a home  
21 service provider under section 117(a) and (b) of the Mobile  
22 Telecommunications Sourcing Act shall be subject to the tax of  
23 six per cent of the purchase price, which tax shall be collected  
24 by the home service provider from the customer, and shall be  
25 paid over to the Commonwealth as herein provided if the  
26 customer's place of primary use is located within this  
27 Commonwealth, regardless of where the mobile telecommunications  
28 services originate, terminate or pass through. For purposes of  
29 this subsection, words and phrases used in this subsection shall  
30 have the same meanings given to them in the Mobile

1 Telecommunications Sourcing Act.

2 Section 3. Section 203 of the act is amended to read:

3 Section 203. Computation of Tax.--[The amount of tax imposed  
4 by section 202 of this article shall be computed as follows:

5 (a) If the purchase price is ten cents (10¢) or less, no tax  
6 shall be collected.

7 (b) If the purchase price is eleven cents (11¢) or more but  
8 less than eighteen cents (18¢), one cent (1¢) shall be  
9 collected.

10 (c) If the purchase price is eighteen cents (18¢) or more  
11 but less than thirty-five cents (35¢), two cents (2¢) shall be  
12 collected.

13 (d) If the purchase price is thirty-five cents (35¢) or more  
14 but less than fifty-one cents (51¢), three cents (3¢) shall be  
15 collected.

16 (e) If the purchase price is fifty-one cents (51¢) or more  
17 but less than sixty-eight cents (68¢), four cents (4¢) shall be  
18 collected.

19 (f) If the purchase price is sixty-eight cents (68¢) or more  
20 but less than eighty-five cents (85¢), five cents (5¢) shall be  
21 collected.

22 (g) If the purchase price is eighty-five cents (85¢) or more  
23 but less than one dollar and one cent (\$1.01), six cents (6¢)  
24 shall be collected.

25 (h) If the purchase price is more than one dollar (\$1.00),  
26 six per centum of each dollar of purchase price plus the above  
27 bracket charges upon any fractional part of a dollar in excess  
28 of even dollars shall be collected.] The amount of tax due shall  
29 be rounded to the nearest whole cent.

30 Section 4. Section 204 heading, (4), (5), (11), (13), (17),

1 (29), (30), (31), (32), (33), (34), (35), (36), (37), (38),  
2 (39), (41), (45), (50), (53), (55), (57), (58), (61), (63),  
3 (64), (65) and (66) of the act, amended or added August 31, 1971  
4 (P.L.362, No.93), July 20, 1974 (P.L.535, No.183), October 17,  
5 1974 (P.L.756, No.255), December 14, 1977 (P.L.322, No.93),  
6 October 27, 1979 (P.L.242, No.79), December 8, 1980 (P.L.1117,  
7 No.195), October 22, 1981 (P.L.314, No.109), December 19, 1985  
8 (P.L.354, No.100), December 13, 1991 (P.L.373, No.40), June 16,  
9 1994 (P.L.279, No.48), June 30, 1995 (P.L.139, No.21), May 7,  
10 1997 (P.L.85, No.7), April 23, 1998 (P.L.239, No.45), May 24,  
11 2000 (P.L.106, No.23), June 22, 2001 (P.L.353, No.23), June 29,  
12 2002 (P.L.559, No.89), December 23, 2003 (P.L.250, No.46), July  
13 6, 2006 (P.L.319, No.67), November 29, 2006 (P.L.1630, No.189)  
14 and July 2, 2012 (P.L.751, No.85), are amended and the section  
15 is amended by adding paragraphs to read:

16 Section 204. [Exclusions] Exemptions from Tax.--The tax  
17 imposed by section 202 shall not be imposed upon any of the  
18 following:

19 \* \* \*

20 [(4) The sale at retail or use of disposable diapers; pre-  
21 moistened wipes; incontinence products; colostomy deodorants;  
22 toilet paper; sanitary napkins, tampons or similar items used  
23 for feminine hygiene; or toothpaste, toothbrushes or dental  
24 floss.]

25 (5) The sale at retail or use of steam, natural and  
26 manufactured and bottled gas, fuel oil, electricity [or  
27 intrastate subscriber line charges, basic local telephone  
28 service or telegraph service] when purchased directly by the  
29 user thereof solely for his own residential use [and charges for  
30 telephone calls paid for by inserting money into a telephone

1 accepting direct deposits of money to operate].

2 \* \* \*

3 (11) The sale at retail, or use of gasoline and other motor  
4 fuels, the sales of which are otherwise subject to excise taxes  
5 under [the act of May 21, 1931 (P.L.194), known as the "Liquid  
6 Fuels Tax Act," and the act of January 14, 1952 (P.L.1965),  
7 known as the "Fuel Use Tax Act."] 75 Pa.C.S. Ch. 90 (relating to  
8 liquid fuels and fuels tax).

9 \* \* \*

10 (13) The sale at retail, or use of wrapping paper, wrapping  
11 twine, bags, cartons, tape, rope, labels, nonreturnable  
12 containers and all other wrapping supplies, unless returnable,  
13 when such use is incidental to the delivery of any personal  
14 property, except that any charge for wrapping or packaging shall  
15 be subject to tax at the rate imposed by section 202, unless the  
16 property wrapped or packaged will be [resold] sold by the  
17 purchaser of the wrapping or packaging service.

18 \* \* \*

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

20 (A) hospital beds, iron lungs, kidney machines;

21 (B) prescription [or non-prescription medicines,] drugs  
22 [or];

23 (C) medical supplies[,];

24 (D) crutches and wheelchairs for the use of [cripples and  
25 invalids, artificial limbs, artificial eyes and artificial  
26 hearing devices when designed to be worn on the person of the  
27 purchaser or user, false teeth and materials used by a dentist  
28 in dental treatment, eyeglasses when especially designed or  
29 prescribed by an ophthalmologist, oculist or optometrist for the  
30 personal use of the owner or purchaser and artificial braces and

1 supports designed solely for the use of crippled persons]

2 individuals with disabilities; or

3 (E) any [other] therapeutic, prosthetic or artificial device  
4 designed for the use of a particular individual with a physical  
5 incapacity, such as artificial limbs, eyes and hearing devices,  
6 false teeth, prescription eyeglasses, braces and supports to  
7 correct or alleviate a physical incapacity[, including but not  
8 limited to hospital beds, iron lungs, and kidney machines].

9 \* \* \*

10 (29) The sale at retail or use of food and beverages for  
11 human consumption, except that this exclusion shall not apply  
12 with respect to--

13 (i) Soft drinks;

14 (ii) Malt and brewed beverages and spirituous and vinous  
15 liquors;

16 (iii) Food or beverages, whether sold for consumption on or  
17 off the premises or on a "take-out" or "to go" basis or  
18 delivered to the purchaser or consumer, when purchased (A) from  
19 persons engaged in the business of catering; or (B) from persons  
20 engaged in the business of operating establishments from which  
21 ready-to-eat food and beverages are sold, including, but not  
22 limited to, restaurants, cafes, lunch counters, private and  
23 social clubs, taverns, dining cars, hotels, night clubs, fast  
24 food operations, pizzerias, fairs, carnivals, lunch carts, ice  
25 cream stands, snack bars, cafeterias, employe cafeterias,  
26 theaters, stadiums, arenas, amusement parks, carryout shops,  
27 coffee shops and other establishments whether mobile or  
28 immobile. For purposes of this clause, a bakery, a pastry shop,  
29 a donut shop, a delicatessen, a grocery store, a supermarket, a  
30 farmer's market, a convenience store or a vending machine shall

1 not be considered an establishment from which food or beverages  
2 ready to eat are sold except for the sale of meals, sandwiches,  
3 food from salad bars, hand-dipped or hand-served iced based  
4 products including ice cream and yogurt, hot soup, hot pizza and  
5 other hot food items, brewed coffee and hot beverages. For  
6 purposes of this subclause, beverages shall not include malt and  
7 brewed beverages and spirituous and vinous liquors but shall  
8 include soft drinks. The sale at retail of food and beverages at  
9 or from a primary or secondary school or church in the ordinary  
10 course of the activities of such organization is not subject to  
11 tax. For purposes of this clause, the term "primary and  
12 secondary school" is limited to a school with any of the grades  
13 kindergarten through twelve.

14 (iv) Candy and gum regardless of the location from which the  
15 candy and gum are sold.

16 [(30) The sale at retail or use of newspapers. For purposes  
17 of this section, the term "newspaper" shall mean a "legal  
18 newspaper" or a publication containing matters of general  
19 interest and reports of current events which qualifies as a  
20 "newspaper of general circulation" qualified to carry a "legal  
21 advertisement" as those terms are defined in 45 Pa.C.S. § 101  
22 (relating to definitions), not including magazines. This  
23 exclusion shall also include any printed advertising materials  
24 circulated with such newspaper regardless of where or by whom  
25 such printed advertising material was produced.

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

28 (32) The sale at retail or use of flags of the United States  
29 of America and the Commonwealth of Pennsylvania.

30 (33) The sale at retail or use of textbooks for use in

1 schools, colleges and universities, either public or private  
2 when purchased in behalf of or through such schools, colleges or  
3 universities provided such institutions of learning are  
4 recognized by the Department of Education.

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

8 (35) The sale at retail or use of mail order catalogs and  
9 direct mail advertising literature or materials, including  
10 electoral literature or materials, such as envelopes, address  
11 labels and a one-time license to use a list of names and mailing  
12 addresses for each delivery of direct mail advertising  
13 literature or materials, including electoral literature or  
14 materials, through the United States Postal Service.]

15 (36) The sale at retail or use of rail [transportation  
16 equipment] cars and locomotives used in the movement of  
17 personalty.

18 [(37) The sale at retail of buses to be used under contract  
19 with school districts that are replacements for buses destroyed  
20 or lost in the flood of 1977 for a period ending December 31,  
21 1977 in the counties of Armstrong, Bedford, Cambria, Indiana,  
22 Jefferson, Somerset and Westmoreland, or the use of such buses.

23 (38) The sale at retail of horses, if at the time of  
24 purchase, the seller is directed to ship or deliver the horse to  
25 an out-of-State location, whether or not the charges for  
26 shipment are paid for by the seller or the purchaser; the seller  
27 shall obtain a bill of lading, either from the carrier or from  
28 the purchaser, who, in turn has obtained the bill of lading from  
29 the carrier, reflecting delivery to the out-of-State address to  
30 which the horse has been shipped. The seller shall execute a

1 "Certificate of Delivery to Destination Outside of the  
2 Commonwealth" for each bill of lading reflecting out-of-State  
3 delivery. The seller shall be required to retain the certificate  
4 of delivery form to justify the noncollection of sales tax with  
5 respect to the transaction to which the form relates.

6 In transactions where a horse is sold by the seller and  
7 delivered to a domiciled person, agent or corporation prior to  
8 its being delivered to an out-of-State location, the  
9 "Certificate of Delivery to Destination Outside of the  
10 Commonwealth" form must have attached to it bills of lading both  
11 for the transfer to the domiciled person, agent or corporation  
12 and from the aforementioned to the out-of-State location.]

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

16 \* \* \*

17 [(41) The sale at retail of supplies and materials to  
18 tourist promotion agencies, which receive grants from the  
19 Commonwealth, for distribution to the public as promotional  
20 material or the use of such supplies and materials by said  
21 agencies for said purposes.]

22 \* \* \*

23 [(45) The sale at retail or use of materials used in the  
24 construction and erection of objects purchased by not-for-profit  
25 organizations for purposes of commemoration and memorialization  
26 of historical events, provided that the object is erected upon  
27 publicly owned property or property to be conveyed to a public  
28 entity upon the commemoration or memorialization of the  
29 historical event.]

30 \* \* \*

1 [(50) The sale at retail or use of subscriptions for  
2 magazines. The term "magazine" refers to a periodical published  
3 at regular intervals not exceeding three months and which are  
4 circulated among the general public, containing matters of  
5 general interest and reports of current events published for the  
6 purpose of disseminating information of a public character or  
7 devoted to literature, the sciences, art or some special  
8 industry. This exclusion shall also include any printed  
9 advertising material circulated with the periodical or  
10 publication regardless of where or by whom the printed  
11 advertising material was produced.]

12 \* \* \*

13 [(53) The sale at retail or use of candy or gum regardless  
14 of the location from which the candy or gum is sold.

15 (55) The sale at retail or use of horses to be used  
16 exclusively for commercial racing activities and the sale at  
17 retail and use of feed, bedding, grooming supplies, riding tack,  
18 farrier services, portable stalls and sulkeys for horses used  
19 exclusively for commercial racing activities.]

20 \* \* \*

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

24 (i) transferred pursuant to a construction contract for any  
25 charitable organization, volunteer firemen's organization,  
26 volunteer firefighters' relief association, nonprofit  
27 educational institution or religious organization for religious  
28 purposes, provided that the building machinery and equipment and  
29 services thereto are not used in any unrelated trade or  
30 business; or

1 (ii) transferred to the United States or the Commonwealth or  
2 its instrumentalities or political subdivisions[; or].

3 [(58) The sale at retail or use of a personal computer, a  
4 peripheral device or an Internet access device, or a service  
5 contract or single-user licensed software purchased in  
6 conjunction with a personal computer, peripheral device or  
7 Internet access device, during the exclusion period by an  
8 individual purchaser for nonbusiness use. The exclusion does not  
9 include a sale at retail or use of, leasing, rental or repair of  
10 a personal computer, peripheral device or Internet access  
11 device; mainframe computers; network servers; local area network  
12 hubs; routers and network cabling; network operating systems;  
13 multiple-user licensed software; minicomputers; hand-held  
14 computers; personal digital assistants without Internet access;  
15 hardware word processors; graphical calculators; video game  
16 consoles; telephones; digital cameras; pagers; compact discs  
17 encoded with music or movies; and digital versatile discs  
18 encoded with music or movies. For purposes of this clause, the  
19 phrase "exclusion period" means the period of time from August  
20 5, 2001, to and including August 12, 2001, and from February 17,  
21 2002, to and including February 24, 2002. For purposes of this  
22 clause, "purchaser" means an individual who places an order and  
23 pays the purchase price by cash or credit during the exclusion  
24 period even if delivery takes place after the exclusion period.]

25 \* \* \*

26 [(61) The sale at retail to or use of food and nonalcoholic  
27 beverages by an airline which will transfer the food or  
28 nonalcoholic beverages to passengers in connection with the  
29 rendering of the airline service.]

30 \* \* \*

1 [(63) The sale at retail or use of separately stated fees  
2 paid pursuant to 13 Pa.C.S. § 9525 (relating to fees).

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

10 (i) is necessitated by a disaster emergency, as defined in  
11 35 Pa.C.S. § 7102 (relating to definitions); and

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

15 (65) The sale at retail or use of investment metal bullion  
16 and investment coins. "Investment metal bullion" means any  
17 elementary precious metal which has been put through a process  
18 of smelting or refining, including, but not limited to, gold,  
19 silver, platinum and palladium, and which is in such state or  
20 condition that its value depends upon its content and not its  
21 form. "Investment metal bullion" does not include precious metal  
22 which has been assembled, fabricated, manufactured or processed  
23 in one or more specific and customary industrial, professional,  
24 aesthetic or artistic uses. "Investment coins" means numismatic  
25 coins or other forms of money and legal tender manufactured of  
26 gold, silver, platinum, palladium or other metal and of the  
27 United States or any foreign nation with a fair market value  
28 greater than any nominal value of such coins. "Investment coins"  
29 does not include jewelry or works of art made of coins, nor does  
30 it include commemorative medallions.]

1 (66) The sale at retail or use of copies of an official  
2 document sold by a government agency or a court. For the  
3 purposes of this clause, the following terms or phrases shall  
4 have the following meanings:

5 (i) "court" includes:

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

8 (B) a "court of common pleas" as defined in 42 Pa.C.S. §  
9 102;

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

11 (ii) "government agency" means an "agency" as defined in  
12 section [1 of the act of June 21, 1957 (P.L.390, No.212),  
13 referred to as the "Right-to-Know Law"] 102 of the act of  
14 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law;

15 (iii) "official document" means a "record" as defined in  
16 section 1 of the "Right-to-Know Law." The term shall include  
17 notes of court testimony, deposition transcripts, driving  
18 records, accident reports, birth and death certificates, deeds,  
19 divorce decrees and other similar documents.

20 \* \* \*

21 (70) The sale at retail or use of tuition.

22 (71) The sale at retail or use of any the following  
23 business, professional or technical services as defined in  
24 section 201(dd) performed by a business and rendered to another  
25 business:

26 (i) Legal services.

27 (ii) Architectural; engineering; building inspection;  
28 surveying and mapping, including geophysical; physical; chemical  
29 and other analytical testing; and related services.

30 (iii) Accounting, auditing and bookkeeping services.

1 (iv) Interior, industrial, graphic and specialized design  
2 services.

3 (v) Advertising, public relations, media representative,  
4 display advertising and related services.

5 (vi) Services to buildings and dwellings.

6 (vii) Administrative management, human resource, marketing,  
7 process, physical distribution, logistics, scientific,  
8 environmental, technical and other consulting services.

9 (viii) Research and development services, including social  
10 sciences.

11 (ix) Market research and public opinion polling, translation  
12 and interpretation, veterinary and all other professional,  
13 scientific and technical services.

14 (x) Administrative, office facilities support, professional  
15 employment, business support, travel arranging and reservation,  
16 packaging and labeling, convention and trade show organizing and  
17 other support services.

18 (xi) Custom programming, design and data processing,  
19 computer facilities management and other computer-related  
20 services.

21 (72) The sale at retail or use of legal services relating to  
22 family law or criminal law.

23 (73) The sale at retail or use of motion picture film rented  
24 or licensed from a distributor for the purpose of commercial  
25 exhibition.

26 (74) The sale at retail or use of services provided by  
27 individuals under 18 years of age and not on behalf of another  
28 person.

29 (75) The sale at retail or use of services provided by  
30 employees to their employers in exchange for wages and salaries

1 when such services are rendered in the ordinary course of the  
2 employment.

3 (76) The sale at retail or use of tangible personal property  
4 or services transferred to a patient and paid for by Medicare  
5 Part B.

6 Section 4.1. Section 205 of the act, amended June 9, 1978  
7 (P.L.463, No.62), and July 12, 2006 (P.L.1137, No.116), is  
8 amended to read:

9 Section 205. Alternate Imposition of Tax; Credits.--(a) If  
10 any person actively and principally engaged in the business of  
11 selling new or used motor vehicles, trailers or semi-trailers,  
12 and registered with the department in the "dealer's class,"  
13 acquires a motor vehicle, trailer or semi-trailer for the  
14 purpose of resale, and prior to such resale, uses the motor  
15 vehicle, trailer or semi-trailer for a taxable use under this  
16 act, the person may pay a tax equal to six and six-tenths per  
17 cent of the fair rental value of the motor vehicle, trailer or  
18 semi-trailer during such use. This section shall not apply to  
19 the use of a vehicle as a wrecker, parts truck, delivery truck  
20 or courtesy car.

21 (b) A commercial aircraft operator who acquires an aircraft  
22 for the purpose of resale, or lease, or is entitled to claim  
23 another valid exemption at the time of purchase, and subsequent  
24 to such purchase, periodically uses the same aircraft for a  
25 taxable use under this act, may elect to pay a tax equal to six  
26 and six-tenths per cent of the fair rental value of the aircraft  
27 during such use.

28 Section 5. Sections 206 and 208 of the act, amended July 9,  
29 2013 (P.L.270, No.52), are amended to read:

30 Section 206. Credit Against Tax.--(a) A credit against the

1 tax imposed by section 202 shall be granted with respect to  
2 tangible personal property or services purchased for use outside  
3 the Commonwealth equal to the tax paid to another state by  
4 reason of the imposition by such other state of a tax similar to  
5 the tax imposed by this article: Provided, however, That no such  
6 credit shall be granted unless such other state grants  
7 substantially similar tax relief by reason of the payment of tax  
8 under this article [or under the Tax Act of 1963 for Education].

9 Section 208. Licenses.--(a) Every person maintaining a  
10 place of business in this Commonwealth, selling or leasing  
11 services or tangible personal property, the sale or use of which  
12 is subject to tax and who has not hitherto obtained a license  
13 from the department, shall, prior to the beginning of business  
14 thereafter, make application to the department, on a form  
15 prescribed by the department, for a license. If such person  
16 maintains more than one place of business in this Commonwealth,  
17 the license shall be issued for the principal place of business  
18 in this Commonwealth.

19 (b) The department shall, after the receipt of an  
20 application, issue the license applied for under subsection (a)  
21 of this section, provided said applicant shall have filed all  
22 required State tax reports and paid any State taxes not subject  
23 to a timely perfected administrative or judicial appeal or  
24 subject to a duly authorized deferred payment plan. Such license  
25 shall be nonassignable. [All licensees as of the effective date  
26 of this subsection shall be required to file for renewal of said  
27 license on or before January 31, 1992. Licenses issued through  
28 April 30, 1992, shall be based on a staggered renewal system  
29 established by the department. Thereafter, any] Any license  
30 issued shall be valid for a period of five years.

1 (b.1) If an applicant for a license or any person holding a  
2 license has not filed all required State tax reports and paid  
3 any State taxes not subject to a timely perfected administrative  
4 or judicial appeal or subject to a duly authorized deferred  
5 payment plan, the department may refuse to issue, may suspend or  
6 may revoke said license. The department shall notify the  
7 applicant or licensee of any refusal, suspension or revocation.  
8 Such notice shall contain a statement that the refusal,  
9 suspension or revocation may be made public. Such notice shall  
10 be made by first class mail. An applicant or licensee aggrieved  
11 by the determination of the department may file an appeal  
12 pursuant to the provisions for administrative appeals in this  
13 article, except that the appeal must be filed within thirty days  
14 of the date of the notice. In the case of a suspension or  
15 revocation which is appealed, the license shall remain valid  
16 pending a final outcome of the appeals process. Notwithstanding  
17 sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the  
18 act or any other provision of law to the contrary, if no appeal  
19 is taken or if an appeal is taken and denied at the conclusion  
20 of the appeal process, the department may disclose, by  
21 publication or otherwise, the identity of a person and the fact  
22 that the person's license has been refused, suspended or revoked  
23 under this subsection. Disclosure may include the basis for  
24 refusal, suspension or revocation.

25 (c) A person that maintains a place of business in this  
26 Commonwealth for the purpose of selling or leasing services or  
27 tangible personal property, the sale or use of which is subject  
28 to tax, without having a valid license at the time of the sale  
29 or lease shall be guilty of a summary offense and, upon  
30 conviction thereof, be sentenced to pay a fine of not less than

1 three hundred dollars (\$300) nor more than one thousand five  
2 hundred (\$1,500) and, in default thereof, to undergo  
3 imprisonment of not less than five days nor more than thirty  
4 days. The penalties imposed by this subsection shall be in  
5 addition to any other penalties imposed by this article. For  
6 purposes of this subsection, the offering for sale or lease of  
7 any service or tangible personal property, the sale or use of  
8 which is subject to tax, during any calendar day shall  
9 constitute a separate violation. The Secretary of Revenue may  
10 designate employes of the department to enforce the provisions  
11 of this subsection. The employes shall exhibit proof of and be  
12 within the scope of the designation when instituting proceedings  
13 as provided by the Pennsylvania Rules of Criminal Procedure.

14 (d) Failure of any person to obtain a license shall not  
15 relieve that person of liability to pay the tax imposed by this  
16 article.

17 Section 6. Section 209 of the act, amended May 2, 1974  
18 (P.L.269, No.75), is amended to read:

19 Section 209. Definitions.--(a) For the purposes of this  
20 part V only, the following words, terms and phrases shall have  
21 the meaning ascribed to them in this subsection, except where  
22 the context clearly indicates a different meaning:

23 (1) "Hotel." A building or buildings in which the public  
24 may, for a consideration, obtain sleeping accommodations. The  
25 term "hotel" shall not include any charitable, educational or  
26 religious institution summer camp for children, hospital or  
27 nursing home.

28 (2) "Occupant." A person (other than a "permanent resident,"  
29 as defined herein,) who, for a consideration, uses, possesses or  
30 has a right to use or possess any room or rooms in a hotel under

1 any lease, concession, permit, right of access, license or  
2 agreement.

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

9 (4) "Operator." Any person operating a hotel.

10 (5) "Permanent resident." Any occupant who has occupied or  
11 has the right to occupancy of [any room or] the same number of  
12 rooms in a hotel for at least thirty consecutive days.

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

19 (b) The following words, terms and phrases and words, terms  
20 and phrases of similar import, when used in parts IV and VI of  
21 this article for the purposes of those parts only, shall, in  
22 addition to the meaning ascribed to them by section 201 of this  
23 article, have the meaning ascribed to them in this subsection,  
24 except where the context clearly indicates a different meaning:

25 (1) "Maintaining a place of business in this Commonwealth,"  
26 being the operator of a hotel in this Commonwealth.

27 (2) "Purchase at retail," occupancy.

28 (3) "Purchase price," rent.

29 (4) "Purchaser," occupant.

30 (5) "Sale at retail," the providing of occupancy to an

1 occupant by an operator.

2 (6) "Tangible personal property," occupancy.

3 (7) "Vendor," operator.

4 (8) "Services," occupancy.

5 (9) "Use," occupancy.

6 Section 7. Section 210 of the act is amended to read:

7 Section 210. Imposition of Tax.--There is hereby imposed an  
8 excise tax of six and six tenths per cent of the rent upon every  
9 occupancy of a room or rooms in a hotel in this Commonwealth,  
10 which tax shall be collected by the operator from the occupant  
11 and paid over to the Commonwealth as herein provided.

12 Section 8. Section 217 of the act, amended July 2, 2012  
13 (P.L.751, No.85), is amended to read:

14 Section 217. Time for Filing Returns.--(a) Quarterly and  
15 Monthly Returns:

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

21 (2) For the year in which this article becomes effective,  
22 and in each year thereafter, a return shall be filed monthly  
23 with respect to each month by every licensee whose actual tax  
24 liability for the third calendar quarter of the preceding year  
25 equals or exceeds six hundred dollars (\$600) and is less than  
26 twenty-five thousand dollars (\$25,000). Such returns shall be  
27 filed on or before the twentieth day of the next succeeding  
28 month with respect to which the return is made. Any licensee  
29 required to file monthly returns hereunder shall be relieved  
30 from filing quarterly returns.

1 (3) With respect to every licensee whose actual tax  
2 liability for the third calendar quarter of the preceding year  
3 equals or exceeds twenty-five thousand dollars (\$25,000) and is  
4 less than one hundred thousand dollars (\$100,000), the licensee  
5 shall, on or before the twentieth day of each month, file a  
6 single return consisting of all of the following:

7 (i) Either of the following:

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

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

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

27 (4) With respect to each month by every licensee whose  
28 actual tax liability for the third calendar quarter of the  
29 preceding year equals or exceeds one hundred thousand dollars  
30 (\$100,000), the licensee shall, on or before the twentieth day

1 of each month, file a single return consisting of the amounts  
2 under clause (3) (i) (A) and (ii).

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

5 (6) The department shall determine whether the amounts  
6 reported under clause (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 and  
9 the payments for these types of filers by electronic means  
10 approved by the department.

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

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

21 (b) Annual Returns. [For the calendar year 1971, and for  
22 each year thereafter, no] No annual return shall be filed,  
23 except as may be required by rules and regulations of the  
24 department promulgated and published at least sixty days prior  
25 to the end of the year with respect to which the returns are  
26 made. Where such annual returns are required licensees shall not  
27 be required to file such returns prior to the twentieth day of  
28 the year succeeding the year with respect to which the returns  
29 are made.

30 (c) Other Returns. Any person, other than a licensee, liable

1 to pay to the department any tax under this article, shall file  
2 a return on or before the twentieth day of the month succeeding  
3 the month in which such person becomes liable for the tax.

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

9 Section 9. Sections 225, 227 and 233 of the act are amended  
10 to read:

11 Section 225. Tax Held in Trust for the Commonwealth.--All  
12 taxes collected by any person from purchasers in accordance with  
13 this article and all taxes collected by any person from  
14 purchasers under color of this article which have not been  
15 properly refunded by such person to the purchaser shall  
16 constitute a trust fund for the Commonwealth, and such trust  
17 shall be enforceable against such person, his representatives  
18 and any person (other than a purchaser to whom a refund has been  
19 made properly) receiving any part of such fund without  
20 consideration, or knowing that the taxpayer is committing a  
21 breach of trust: Provided, however, That any person receiving  
22 payment of a lawful obligation of the taxpayer from such fund  
23 shall be presumed to have received the same in good faith and  
24 without any knowledge of the breach of trust. Notwithstanding  
25 any other provision of law, the department may enforce this  
26 section within ten years of the date the tax was collected. Any  
27 person, other than a taxpayer, against whom the department makes  
28 any claim under this section shall have the same right to  
29 petition and appeal as is given taxpayers by any provisions of  
30 this part.

1 Section 227. Discount.--[If] Subject to subsection (b), if a  
2 return is filed by a licensee and the tax shown to be due  
3 thereon less any discount is paid all within the time  
4 prescribed, the licensee shall be entitled, as compensation for  
5 the expense of collecting and remitting the tax and as a  
6 consideration of the prompt payment of the tax, to credit and  
7 apply against the tax payable by him a discount of the lesser  
8 of:

9 (1) one per cent of the amount of the tax collected [by him  
10 on and after the effective date of this article, as compensation  
11 for the expense of collecting and remitting the same and as a  
12 consideration of the prompt payment thereof]; or

13 (2) as follows:

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

15 (ii) seventy-five dollars per return for a quarterly filer;

16 or

17 (iii) one hundred and fifty dollars per return for a  
18 semiannual filer.

19 Section 233. Assessment to Recover Erroneous Refunds.--The  
20 department may, within two years of the granting of any refund  
21 or credit, or within the period in which an assessment could  
22 have been filed by the department with respect to the  
23 transaction pertaining to which the refund was granted,  
24 whichever period shall last occur, file an assessment to recover  
25 any refund or part thereof or credit or part thereof which was  
26 erroneously made or allowed for any reason.

27 Section 10. Section 247.1(b) of the act, amended July 25,  
28 2007 (P.L.373, No.55), is amended to read:

29 Section 247.1. Refund of Sales Tax Attributed to Bad Debt.--

30 \* \* \*

1 (b) The refund authorized by this section shall be limited  
2 to the sales tax paid to the department that is attributed to  
3 the bad debt, less any discount under section 227 of this act.  
4 Partial payments by the purchaser shall first be applied to and  
5 prorated between the original purchase price and the sales tax  
6 due on the sale before being applied to any other charge, fee or  
7 interest. Payments made on any transaction which includes both  
8 taxable and nontaxable components shall be allocated  
9 proportionally between the taxable and nontaxable components.

10 \* \* \*

11 Section 11. Section 252 of the act, amended October 18, 2006  
12 (P.L.1149, No.119), is amended to read:

13 Section 252. Refunds.--[The] (a) Except for a refund under  
14 subsection (b), the department shall, pursuant to the provisions  
15 of Article XXVII, refund all taxes, interest and penalties paid  
16 to the Commonwealth under the provisions of this article and to  
17 which the Commonwealth is not rightfully entitled. Such refunds  
18 shall be made to the person, his heirs, successors, assigns or  
19 other personal representatives, who actually paid the tax:  
20 Provided, That no refund shall be made under this section with  
21 respect to any payment made by reason of an assessment with  
22 respect to which a taxpayer has filed a petition for  
23 reassessment pursuant to section 2702 of Article XXVII to the  
24 extent that said petition has been determined adversely to the  
25 taxpayer by a decision which is no longer subject to further  
26 review or appeal: Provided further, That nothing contained  
27 herein shall be deemed to prohibit a taxpayer who has filed a  
28 timely petition for reassessment from amending it to a petition  
29 for refund where the petitioner has paid the tax assessed.

30 (b) The following shall apply to a construction contract:

1 (1) Notwithstanding any other provision of this act, a  
2 refund may not be paid by the department for sales tax paid on a  
3 transaction which the claimant alleges was a construction  
4 contract. If the claimant alleges the transaction was a  
5 construction contract, the claimant may request a refund from  
6 the construction contractor within one year from the date the  
7 tax was paid.

8 (2) If the tax was not properly due, the construction  
9 contractor may refund the sales tax paid to the purchaser under  
10 paragraph (1) if the vendor issues a credit memorandum to the  
11 purchaser stating the amount of sales tax refunded.

12 (3) If a credit memorandum is issued, the construction  
13 contractor may take a credit for the sales tax refunded on the  
14 vendor's next sales tax return if the vendor pays the proper  
15 amount of use tax due on the same return. The amount of credit  
16 may not exceed the amount of tax due on the returns. Unused  
17 credits may be carried forward to subsequent returns.

18 (4) If the department subsequently determined that the  
19 transaction was subject to tax, the department may assess either  
20 or both the construction contractor and purchaser within the  
21 time period for assessment in section 258.

22 Section 12. The act is amended by adding a section to read:

23 Section 262. Assessment After Refunds.--Notwithstanding any  
24 other provision of this act, if a sales or use tax refund is  
25 granted, the department may assess another party to the  
26 transaction on which the refund was granted within three years  
27 of the date of the refund.

28 Section 13. (Reserved).

29 Section 14. Section 268(b) of the act, amended June 29, 2002  
30 (P.L.559, No.89), is amended and the section is amended by

1 adding a subsection to read:

2 Section 268. Crimes.--\* \* \*

3 (b) Other Crimes. (1) Except as otherwise provided by  
4 subsection (a) of this section, any person who advertises or  
5 holds out or states to the public or to any purchaser or user,  
6 directly or indirectly, that the tax or any part thereof imposed  
7 by this article will be absorbed by such person, or that it will  
8 not be added to the purchase price of the tangible personal  
9 property or services described in subclauses (2), (3), (4) and  
10 (11) through [(18)] (20) of clause (k) of section 201 of this  
11 article sold or, if added, that the tax or any part thereof will  
12 be refunded, other than when such person refunds the purchase  
13 price because of such property being returned to the vendor, and  
14 any person selling or leasing tangible personal property or said  
15 services the sale or use of which by the purchaser is subject to  
16 tax hereunder, who shall wilfully fail to collect the tax from  
17 the purchaser and timely remit the same to the department, and  
18 any person who shall wilfully fail or neglect to timely file any  
19 return or report required by this article or any taxpayer who  
20 shall refuse to timely pay any tax, penalty or interest imposed  
21 or provided for by this article, or who shall wilfully fail to  
22 preserve his books, papers and records as directed by the  
23 department, or any person who shall refuse to permit the  
24 department or any of its authorized agents to examine his books,  
25 records or papers, or who shall knowingly make any incomplete,  
26 false or fraudulent return or report, or who shall do, or  
27 attempt to do, anything whatever to prevent the full disclosure  
28 of the amount or character of taxable sales purchases or use  
29 made by himself or any other person, or shall provide any person  
30 with a false statement as to the payment of tax with respect to

1 particular tangible personal property or said services, or shall  
2 make, utter or issue a false or fraudulent exemption  
3 certificate, shall be guilty of a misdemeanor, and, upon  
4 conviction thereof, shall be sentenced to pay a fine not  
5 exceeding one thousand dollars (\$1000) and costs of prosecution,  
6 or undergo imprisonment not exceeding one year, or both:  
7 Provided, however, That any person maintaining a place of  
8 business outside this Commonwealth may absorb the tax with  
9 respect to taxable sales made in the normal course of business  
10 to customers present at such place of business without being  
11 subject to the above penalty and fines: and Provided further,  
12 That advertising tax-included prices shall be permissible, if  
13 the prepaid services are sold by the service provider, for  
14 prepaid telecommunications services not evidenced by the  
15 transfer of tangible personal property or for prepaid mobile  
16 telecommunications services.

17 [(2) The penalties imposed by this section shall be in  
18 addition to any other penalties imposed by any provision of this  
19 article.]

20 (c) (1) Notwithstanding any other provision of this part,  
21 any person who purchases, installs or uses in this Commonwealth  
22 an automated sales suppression device or zapper or phantomware  
23 with the intent to defeat or evade the determination of an  
24 amount due under this part commits a misdemeanor.

25 (i) Any person who, for commercial gain, sells, purchases,  
26 installs, transfers or possesses in this Commonwealth an  
27 automated sales suppression device or zapper or phantom-ware  
28 with the knowledge that the sole purpose of the device is to  
29 defeat or evade the determination of an amount due under this  
30 part commits an offense which shall be punishable by a fine

1 specified under subparagraph (ii) or by imprisonment for not  
2 more than one year, or by both. A person who uses an automated  
3 sales suppression device or zapper or phantomware shall be  
4 liable for all taxes, interest and penalties due as a result of  
5 the use of that device.

6 (ii) If a person is guilty of an offense under paragraph (1)  
7 and the person sold, installed, transferred or possessed not  
8 more than three automated sales suppression devices or zappers  
9 or phantomware, the person commits an offense punishable by a  
10 fine of not more than five thousand dollars (\$5,000).

11 (iii) If a person commits an offense under paragraph (1) and  
12 the person sold, installed, transferred or possessed more than  
13 three automated sales suppression devices or zappers or  
14 phantomware, the person commits an offense punishable by a fine  
15 of not more than ten thousand dollars (\$10,000).

16 (2) This subsection shall not apply to a corporation that  
17 possesses an automated sales suppression device or zapper or  
18 phantomware for the sole purpose of developing hardware or  
19 software to combat the evasion of taxes by use of automated  
20 sales suppression devices or zappers or phantomware.

21 (3) For purposes of this subsection:

22 "Automated sales suppression device" or "zapper" means a  
23 software program carried on a memory stick or removable compact  
24 disc, accessed through an Internet link or through any other  
25 means, that falsifies the electronic records of electronic cash  
26 registers and other point-of-sale systems, including, but not  
27 limited to, transaction data and transaction reports.

28 "Electronic cash register" means a device that keeps a  
29 register or supporting document through the means of an  
30 electronic device or computer system designed to record

1 transaction data for the purpose of computing, compiling or  
2 processing retail sales transaction data in whatever manner.

3 "Phantomware" means a hidden programming option, which is  
4 either preinstalled or installed at a later time, embedded in  
5 the operating system of an electronic cash register or hardwired  
6 into the electronic cash register that can be used to create a  
7 virtual second till or may eliminate or manipulate a transaction  
8 record that may or may not be preserved in digital formats to  
9 represent the true or manipulated record of transactions in the  
10 electronic cash register.

11 "Transaction data" includes information regarding items  
12 purchased by a customer, the price for each item, a taxability  
13 determination for each item, a segregated tax amount for each of  
14 the taxed items, the amount of cash or credit tendered, the net  
15 amount returned to the customer in change, the date and time of  
16 the purchase, the name, address and identification number of the  
17 vendor and the receipt or invoice number of the transaction.

18 (d) This section shall not preclude prosecution under any  
19 other law.

20 (e) The penalties imposed by this section shall be in  
21 addition to any other penalties imposed by any provision of this  
22 article.

23 Section 15. Section 271(d) of the act is amended to read:

24 Section 271. Keeping of Records.--\* \* \*

25 (d) Keeping of Separate Records. Any [person doing business  
26 as a retail dealer] vendor who at the same time is engaged in  
27 another business or businesses which do not involve the making  
28 of sales taxable under this article, shall keep separate books  
29 and records of his businesses so as to show the sales taxable  
30 under this article separately from his sales not taxable

1 hereunder. If any such person fails to keep such separate books  
2 and records, he shall be liable for tax at the rate designated  
3 in section 202 of this article upon the entire purchase price of  
4 sales from both or all of his businesses.

5 \* \* \*

6 Section 16. Section 302 of the act, amended December 23,  
7 2003 (P.L.250, No.46), is amended to read:

8 Section 302. Imposition of Tax.--(a) Every resident  
9 individual, estate or trust shall be subject to, and shall pay  
10 for the privilege of receiving each of the classes of income  
11 hereinafter enumerated in section 303, a tax upon each dollar of  
12 income received by that resident during that resident's taxable  
13 year at the rate of [three and seven hundredths] three and seven  
14 tenths per cent.

15 (b) Every nonresident individual, estate or trust shall be  
16 subject to, and shall pay for the privilege of receiving each of  
17 the classes of income hereinafter enumerated in section 303 from  
18 sources within this Commonwealth, a tax upon each dollar of  
19 income received by that nonresident during that nonresident's  
20 taxable year at the rate of [three and seven hundredths] three  
21 and seven tenths per cent.

22 Section 17. Section 303(a)(7) of the act, amended July 21,  
23 1983 (P.L.63, No.29), is amended to read:

24 Section 303. Classes of Income.--(a) The classes of income  
25 referred to above are as follows:

26 \* \* \*

27 (7) Gambling and lottery winnings [other than prizes of the  
28 Pennsylvania State Lottery].

29 \* \* \*

30 Section 18. Section 304 of the act, amended December 13,

1 1991 (P.L.373, No.40) and December 23, 2003 (P.L.250, No.46), is  
2 amended to read:

3 Section 304. Special Tax Provisions for Poverty.--(a) The  
4 General Assembly, in recognition of the powers contained in  
5 section 2(b)(ii) of Article VIII of the Constitution of the  
6 Commonwealth of Pennsylvania which provides therein for the  
7 establishing as a class or classes of subjects of taxation the  
8 property or privileges of persons who, because of poverty are  
9 determined to be in need of special tax provisions hereby  
10 declares as its legislative intent and purpose to implement such  
11 power under such constitutional provision by establishing  
12 special tax provisions as hereinafter provided in this act.

13 (b) The General Assembly having determined that there are  
14 persons within this Commonwealth whose incomes are such that  
15 imposition of a tax thereon would deprive them and their  
16 dependents of the bare necessities of life and having further  
17 determined that poverty is a relative concept inextricably  
18 joined with actual income and the number of people dependent  
19 upon such income deems it to be a matter of public policy to  
20 provide special tax provisions for that class of persons  
21 hereinafter designated to relieve their economic burden.

22 (c) For the taxable year 1974 and each year thereafter any  
23 claimant who meets the following standards of eligibility  
24 established by this act as the test for poverty shall be deemed  
25 a separate class of subject of taxation, and, as such, shall be  
26 entitled to the benefit of the special provisions of this act.

27 (d) Any claim for special tax provisions hereunder shall be  
28 determined in accordance with the following:

29 (1) If the poverty income of the claimant during an entire  
30 taxable year is [six thousand five hundred dollars (\$6,500)]

1 eight thousand seven hundred dollars (\$8,700) or less, or, in  
2 the case of a married claimant, if the joint poverty income of  
3 the claimant and the claimant's spouse during an entire taxable  
4 year is [thirteen thousand dollars (\$13,000)] seventeen thousand  
5 four hundred dollars (\$17,400) or less, the claimant shall be  
6 entitled to a refund or forgiveness of any moneys which have  
7 been paid over to (or would except for the provisions of this  
8 act be payable to) the Commonwealth under the provisions of this  
9 article, with an additional income allowance of nine thousand  
10 five hundred dollars (\$9,500) for each dependent of the  
11 claimant. For purposes of this subsection, a claimant shall not  
12 be considered to be married if:

13 (i) The claimant and the claimant's spouse file separate  
14 returns; and

15 (ii) The claimant and the claimant's spouse live apart at  
16 all times during the last six months of the taxable year or are  
17 separated pursuant to a written separation agreement.

18 (2) If the poverty income of the claimant during an entire  
19 taxable year does not exceed the poverty income limitations  
20 prescribed by clause (1) by more than the dollar category  
21 contained in subclauses (i), (ii), (iii), (iv), (v), (vi),  
22 (vii), (viii) or (ix) of this clause, the claimant shall be  
23 entitled to a refund or forgiveness based on the per centage  
24 prescribed in such subclauses of any moneys which have been paid  
25 over to (or would have been except for the provisions herein be  
26 payable to) the Commonwealth under this article:

27 (i) Ninety per cent if not in excess of two hundred fifty  
28 dollars (\$250).

29 (ii) Eighty per cent if not in excess of five hundred  
30 dollars (\$500).

1 (iii) Seventy per cent if not in excess of seven hundred  
2 fifty dollars (\$750).

3 (iv) Sixty per cent if not in excess of one thousand dollars  
4 (\$1,000).

5 (v) Fifty per cent if not in excess of one thousand two  
6 hundred fifty dollars (\$1,250).

7 (vi) Forty per cent if not in excess of one thousand five  
8 hundred dollars (\$1,500).

9 (vii) Thirty per cent if not in excess of one thousand seven  
10 hundred fifty dollars (\$1,750).

11 (viii) Twenty per cent if not in excess of two thousand  
12 dollars (\$2,000).

13 (ix) Ten per cent if not in excess of two thousand two  
14 hundred fifty dollars (\$2,250).

15 (3) If an individual has a taxable year of less than twelve  
16 months, the poverty income thereof shall be annualized in such  
17 manner as the department may prescribe.

18 Section 19. The act is amended by adding a section to read:

19 Section 360. Restricted Account and Transfers to the  
20 Property Tax Relief Fund.--There is established in the General  
21 Fund a restricted account to be known as the Property Tax and  
22 Rent Relief Account that shall be for property tax and rent  
23 relief. The Secretary of the Budget shall annually certify and  
24 the Department of Revenue shall make equal monthly transfers  
25 from revenue collected under this article to the restricted  
26 account under this section. Beginning October 2016 and each  
27 October thereafter, the revenue in the restricted account under  
28 this section shall be transferred to the Property Tax Relief  
29 Fund. The Secretary of the Budget shall annually certify the  
30 amount that the department is to transfer to the fund for each

1 calendar year.

2 Section 20. Section 401(3)1(a) and (t), 2(a)(16.1) and 4(c)  
3 (1)(A) and (5) of the act, amended or added May 12, 1999  
4 (P.L.26, No.4), October 9, 2009 (P.L.451, No.48) and July 9,  
5 2013 (P.L.270, No.52), are amended, clause (3) is amended by  
6 adding subclauses, clause (3)4(c)(2)(B) is amended by adding a  
7 subparagraph, clause (3)4(c) is amended by adding paragraphs and  
8 the section is amended by adding clauses to read:

9 Section 401. Definitions.--The following words, terms, and  
10 phrases, when used in this article, shall have the meaning  
11 ascribed to them in this section, except where the context  
12 clearly indicates a different meaning:

13 \* \* \*

14 (3) "Taxable income." 1. (a) In case the entire business  
15 of the corporation is transacted within this Commonwealth, for  
16 any taxable year which begins on or after January 1, 1971,  
17 taxable income for the calendar year or fiscal year as returned  
18 to and ascertained by the Federal Government or that is not  
19 required to file a return with the Federal Government, or in the  
20 case of a corporation participating in the filing of  
21 consolidated returns to the Federal Government, the taxable  
22 income which would have been returned to and ascertained by the  
23 Federal Government if separate returns had been made to the  
24 Federal Government for the current and prior taxable years,  
25 subject, however, to any correction thereof, for fraud, evasion,  
26 or error as finally ascertained by the Federal Government.

27 \* \* \*

28 (t) (1) Except as provided in paragraph (2), (3) or (4) for  
29 taxable years beginning after December 31, 2014, and in addition  
30 to any authority the department has on the effective date of

1 this paragraph to deny a deduction related to a fraudulent or  
2 sham transaction, no deduction shall be allowed for an  
3 intangible expense or cost, or an interest expense or cost,  
4 paid, accrued or incurred directly or indirectly in connection  
5 with one or more transactions with an affiliated entity. In  
6 calculating taxable income under this paragraph, when the  
7 taxpayer is engaged in one or more transactions with an  
8 affiliated entity that was subject to tax in this Commonwealth  
9 or another state or possession of the United States on a tax  
10 base that included the intangible expense or cost, or the  
11 interest expense or cost, paid, accrued or incurred by the  
12 taxpayer, the taxpayer shall receive a credit against tax due in  
13 this Commonwealth in an amount equal to the apportionment factor  
14 of the taxpayer in this Commonwealth multiplied by the greater  
15 of the following:

16 (A) the tax liability of the affiliated entity with respect  
17 to the portion of its income representing the intangible expense  
18 or cost, or the interest expense or cost, paid, accrued or  
19 incurred by the taxpayer; or

20 (B) the tax liability that would have been paid by the  
21 affiliated entity under subparagraph (A) if that tax liability  
22 had not been offset by a credit.

23 The credit issued under this paragraph shall not exceed the  
24 taxpayer's liability in this Commonwealth attributable to the  
25 net income taxed as a result of the adjustment required by this  
26 paragraph.

27 (2) The adjustment required by paragraph (1) shall not apply  
28 to a transaction that did not have as the principal purpose the  
29 avoidance of tax due under this article and was done at arm's  
30 length rates and terms.

1 (3) The adjustment required by paragraph (1) shall not apply  
2 to a transaction between a taxpayer and an affiliated entity  
3 domiciled in a foreign nation which has in force a comprehensive  
4 income tax treaty with the United States providing for the  
5 allocation of all categories of income subject to taxation, or  
6 the withholding of tax, on royalties, licenses, fees and  
7 interest for the prevention of double taxation of the respective  
8 nations' residents and the sharing of information.

9 (4) The adjustment required by paragraph (1) shall not apply  
10 to a transaction where an affiliated entity directly or  
11 indirectly paid, accrued or incurred a payment to a person who  
12 is not an affiliated entity, if the payment is paid, accrued or  
13 incurred on the intangible expense or cost, or interest expense  
14 or cost, and is equal to or less than the taxpayer's  
15 proportional share of the transaction. The taxpayer's  
16 proportional share shall be based on relative sales, assets,  
17 liabilities or another reasonable method.

18 (5) The adjustment required under paragraph (1) shall not  
19 apply to a transaction between the taxpayer and an affiliated  
20 entity if the taxpayer and the affiliated entity file a combined  
21 report in this State and the intangible expense or cost or  
22 interest expense or cost are eliminated pursuant to the  
23 definition of "combined business income" in section 401(15).

24 2. In case the entire business of any corporation, other  
25 than a corporation engaged in doing business as a regulated  
26 investment company as defined by the Internal Revenue Code of  
27 1986, is not transacted within this Commonwealth, the tax  
28 imposed by this article shall be based upon such portion of the  
29 taxable income of such corporation for the fiscal or calendar  
30 year, as defined in subclause 1 hereof, and may be determined as

1 follows:

2 (a) Division of Income.

3 \* \* \*

4 (16.1) (A) Sales from the sale, lease, rental or other use  
5 of real property, if the real property is located in this State.  
6 If a single parcel of real property is located both in and  
7 outside this State, the sale is in this State based upon the  
8 percentage of original cost of the real property located in this  
9 State.

10 (B) (I) Sales from the rental, lease or licensing of  
11 tangible personal property, if the customer first obtained  
12 possession of the tangible personal property in this State.

13 (II) If the tangible personal property is subsequently taken  
14 out of this State, the taxpayer may use a reasonably determined  
15 estimate of usage in this State to determine the extent of sale  
16 in this State.

17 (C) (I) Sales from the sale of service, if the service is  
18 delivered to a location in this State. If the service is  
19 delivered both to a location in and outside this State, the sale  
20 is in this State based upon the percentage of total value of the  
21 service delivered to a location in this State.

22 (II) If the state or states of assignment under unit (I)  
23 cannot be determined for a customer who is an individual that is  
24 not a sole proprietor, a service is deemed to be delivered at  
25 the customer's billing address.

26 (III) If the state or states of assignment under unit (I)  
27 cannot be determined for a customer, except for a customer under  
28 unit (II), a service is deemed to be delivered at the location  
29 from which the services were ordered in the customer's regular  
30 course of operations. If the location from which the services

1 were ordered in the customer's regular course of operations  
2 cannot be determined, a service is deemed to be delivered at the  
3 customer's billing address.

4 (D) Sales from the licensing of intangible property are in  
5 this State if a licensee utilized the property in this State. If  
6 the property was used both inside and outside this State, the  
7 sale is in this State in proportion to the utilization of the  
8 intangible property in this State to the utilization of the  
9 intangible property everywhere.

10 \* \* \*

11 4. \* \* \*

12 (c) (1) The net loss deduction shall be the lesser of:

13 (A) (I) For taxable years beginning before January 1, 2007,  
14 two million dollars (\$2,000,000);

15 (II) For taxable years beginning after December 31, 2006,  
16 the greater of twelve and one-half per cent of taxable income as  
17 determined under subclause 1 or, if applicable, subclause 2 or  
18 three million dollars (\$3,000,000);

19 (III) For taxable years beginning after December 31, 2008,  
20 the greater of fifteen per cent of taxable income as determined  
21 under subclause 1 or, if applicable, subclause 2 or three  
22 million dollars (\$3,000,000);

23 (IV) For taxable years beginning after December 31, 2009,  
24 the greater of twenty per cent of taxable income as determined  
25 under subclause 1 or, if applicable, subclause 2 or three  
26 million dollars (\$3,000,000);

27 (V) For taxable years beginning after December 31, 2013, the  
28 greater of twenty-five per cent of taxable income as determined  
29 under subclause 1 or, if applicable, subclause 2 or four million  
30 dollars (\$4,000,000);

1 (VI) For taxable years beginning after December 31, 2014,  
2 the greater of thirty per cent of taxable income as determined  
3 under subclause 1 or, if applicable, subclause 2 or five million  
4 dollars (\$5,000,000); [or]

5 (VII) For taxable years beginning after December 31, 2015,  
6 the greater of twelve and one-half per cent of taxable income as  
7 determined under subclause 1 or, if applicable, subclause 2 or  
8 three million dollars (\$3,000,000); or

9 \* \* \*

10 (2) \* \* \*

11 (B) The earliest net loss shall be carried over to the  
12 earliest taxable year to which it may be carried under this  
13 schedule. The total net loss deduction allowed in any taxable  
14 year shall not exceed:

15 \* \* \*

16 (VII) The greater of twelve and one-half per cent of the  
17 taxable income as determined under subclause 1 or, if  
18 applicable, subclause 2 or three million dollars (\$3,000,000)  
19 for taxable years beginning after December 31, 2015.

20 (3) Any member of a unitary business that has an unused net  
21 loss from taxable years that began prior to January 1, 2016, or  
22 that generated net losses while a member of a unitary business  
23 may only use the net loss for taxable years beginning after  
24 December 31, 2015, and only to the extent of the member's  
25 apportionable share of combined business income. The net loss  
26 may not be used by other members of the same unitary business.

27 (4) Any net loss realized for a taxable year that begins  
28 after December 31, 2015, which is unused by a corporation which  
29 subsequently becomes a member of another unitary business may  
30 only be used by that corporation.

1 \* \* \*

2 5. (a) For taxable years beginning after December 31, 2015,  
3 business income of a unitary business that consists of two or  
4 more corporations shall be the combined business income of all  
5 members of the unitary business, as determined on a water's edge  
6 basis.

7 (b) Each member of a unitary business shall apportion the  
8 combined business income of the unitary business by multiplying  
9 the combined business income of the unitary business by the  
10 member's sales factor, the numerator of which shall be the  
11 member's sales attributable to this State and denominator of  
12 which shall be the combined sales of all members of the unitary  
13 business. In computing the sales of each member for purposes of  
14 apportionment, the following are excluded from the numerator and  
15 denominator:

16 (1) Receipts from transactions between or among members of  
17 the unitary business that are deferred under 26 CFR 1.1502-13  
18 (relating to intercompany transactions).

19 (2) Business income of certain entities excluded from the  
20 definition of "combined business income."

21 (3) Dividends excluded from the definition of "combined  
22 business income."

23 (c) For taxable years beginning after December 31, 2015, any  
24 member of the group that would otherwise apportion the member's  
25 business income under section 401(3)2.(b), (c), (d) or (e) shall  
26 convert the member's apportionment formula into a single sales  
27 fraction, as prescribed by the department.

28 (d) Nonbusiness income of each member of a unitary business  
29 shall be allocated as provided in paragraphs (5), (6), (7) and  
30 (8) of phrase (a) of subclause 2 of the definition of "taxable

1 income."

2 (e) The taxable income of a member of a unitary business  
3 shall include the member's apportioned share of the combined  
4 business income of the unitary business plus the member's  
5 nonbusiness income or loss allocated to this State, minus the  
6 member's net loss deduction.

7 (f) The Secretary of Revenue shall make adjustments to  
8 insure that a corporation does not incur an unfair penalty nor  
9 realize an unfair benefit because the corporation is required to  
10 compute the corporation's combined business income as provided  
11 in this subclause. Fairness shall be measured by whether the  
12 corporation's income allocated and apportioned to this State  
13 fairly reflects the corporation's share of the unitary business  
14 conducted in this State in the taxable year.

15 6. (a) In any case of two or more organizations, trades or  
16 businesses, regardless of whether they are incorporated,  
17 organized in the United States or affiliated, owned or  
18 controlled, directly or indirectly, by the same interests, the  
19 Secretary of Revenue may distribute, apportion or allocate gross  
20 income, deductions, credits or allowances between or among the  
21 organizations, trades or businesses, if the Secretary of Revenue  
22 determines that the distribution, apportionment or allocation is  
23 necessary to prevent evasion of taxes or clearly to reflect the  
24 income of any of the organizations, trades or businesses.

25 (b) In the case of any transfer or license of intangible  
26 property within the meaning of section 936(h)(3)(B) of the  
27 Internal Revenue Code (26 U.S.C. § 936(h)(3)(B)), the income  
28 with respect to the transfer or license shall be commensurate  
29 with the income attributable to the intangible property.

30 (c) In making distributions, apportionment and allocations

1 under this section, the Secretary of Revenue shall generally  
2 follow the rules, regulations and procedures of the Internal  
3 Revenue Service in making audits under section 482 of the  
4 Internal Revenue Code (26 U.S.C. § 482) consistent with this act  
5 and 61 Pa. Code (relating to revenue).

6 (d) No inference shall be drawn from an Internal Revenue  
7 Service failure to audit international transactions pursuant to  
8 section 482 of the Internal Revenue Code or Subchapter N of  
9 Chapter 1 of Subtitle A of the Internal Revenue Code (26 U.S.C.  
10 Subt. A Ch. 1 Subch. N) and it shall not be presumed that any of  
11 the transactions were correctly reported.

12 \* \* \*

13 (5) "Taxable year." [The] 1. Except as set forth in  
14 subclause 2, the taxable year which the corporation, or any  
15 consolidated group with which the corporation participates in  
16 the filing of consolidated returns, actually uses in reporting  
17 taxable income to the Federal Government[.], or which the  
18 corporation would have used in reporting taxable income to the  
19 Federal Government had it been required to report its taxable  
20 income to the Federal Government. With regard to the tax imposed  
21 by Article IV of this act (relating to the Corporate Net Income  
22 Tax), the terms "annual year," "fiscal year," "annual or fiscal  
23 year," "tax year" and "tax period" shall be the same as the  
24 corporation's taxable year, as defined in this [paragraph]  
25 subclause or subclause 2.

26 2. Each member of a unitary business shall have a common  
27 taxable year for purposes of computing tax due under this  
28 article. The taxable year for the purposes shall be the common  
29 taxable year adopted, in a manner prescribed by the department,  
30 by all members of a unitary business. The common taxable year

1 must be used by each member of the unitary business in the year  
2 of adoption and each future year unless otherwise permitted by  
3 the department.

4 \* \* \*

5 (11) "Tax haven." Means:

6 1. A jurisdiction that at the beginning of a taxable year is  
7 a tax haven as identified by the Organization for Economic Co-  
8 operation and Development.

9 2. Bermuda.

10 3. The Cayman Islands.

11 4. The Bailiwick of Jersey.

12 5. The Grand Duchy of Luxembourg.

13 (12) "Unitary business." A single economic enterprise that  
14 is made up of separate parts of a single corporation, of a  
15 commonly controlled group of corporations, or both, that are  
16 sufficiently interdependent, integrated and interrelated through  
17 their activities so as to provide a synergy and mutual benefit  
18 that produces a sharing or exchange of value among them and a  
19 significant flow of value to the separate parts. A unitary  
20 business shall include only those parts and corporations which  
21 may be included as a unitary business under the Constitution of  
22 the United States.

23 (13) "Water's-edge basis." A system of reporting that  
24 includes the business income and apportionment factors of  
25 certain entities of a unitary business, described as follows:

26 1. The business income and apportionment factors of any  
27 member incorporated in the United States or formed under the  
28 laws of any state of the United States, the District of  
29 Columbia, any territory or possession of the United States or  
30 the Commonwealth of Puerto Rico.

1       2. The business income and apportionment factors of any  
2 member, regardless of the place incorporated or formed, if the  
3 average of its property, payroll and sales factors within the  
4 United States is twenty per cent or more.

5       3. The business income and apportionment factor of any  
6 member which is a domestic international sales corporation as  
7 described in sections 991, 992, 993 and 994 of the Internal  
8 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 991, 992,  
9 993 and 994); a foreign sales corporation as described in former  
10 sections 921, 922, 923, 924, 925, 926 and 927 of the Internal  
11 Revenue Code of 1986 (formerly 26 U.S.C. §§ 921, 922, 923, 924,  
12 925, 926 and 927); or any member which is an export trade  
13 corporation, as described in sections 970 and 971 of the  
14 Internal Revenue Code of 1986 (26 U.S.C. §§ 970 and 971).

15       4. Any member not described in subclauses 1, 2 and 3 shall  
16 include the portion of the member's business income derived from  
17 or attributable to sources within the United States, as  
18 determined under the Internal Revenue Code of 1986 without  
19 regard to Federal treaties, and the member's apportionment  
20 factors related to the business income.

21       5. Any member that is a "controlled foreign corporation" as  
22 defined in section 957 of the Internal Revenue Code of 1986 (26  
23 U.S.C. § 957), to the extent the business income of that member  
24 is income defined in section 952 of the Internal Revenue Code of  
25 1986 (26 U.S.C. § 952), Subpart F income, not excluding lower-  
26 tier subsidiaries' distributions of the income which were  
27 previously taxed, determined without regard to Federal treaties,  
28 and the apportionment factors related to that income; any item  
29 of income received by a controlled foreign corporation and the  
30 apportionment factors related to the income shall be excluded if

1 the corporation establishes to the satisfaction of the Secretary  
2 of Revenue that such income was subject to an effective rate of  
3 income tax imposed by a foreign country greater than ninety per  
4 cent of the maximum rate of tax specified in section 11 of the  
5 Internal Revenue Code of 1986 (26 U.S.C. § 11). The effective  
6 rate of income tax determination shall be based upon the  
7 methodology set forth under 26 CFR 1.954-1 (relating to foreign  
8 base company income).

9 6. The business income and apportionment factors of any  
10 member that is not described in subclause 1, 2, 3, 4 and 5 and  
11 that is doing business in a tax haven. The business income and  
12 apportionment factors of a corporation doing business in a tax  
13 haven shall be excluded if the corporation establishes to the  
14 satisfaction of the Secretary of Revenue that its income was  
15 subject to an effective rate of income tax imposed by a country  
16 greater than ninety per cent of the maximum rate of tax  
17 specified in section 11 of the Internal Revenue Code of 1986 (26  
18 U.S.C. § 11).

19 (14) "Commonly controlled group." For a corporation, the  
20 corporation is a member of a group of two or more corporations  
21 and more than fifty per cent of the voting stock, or controlling  
22 interest, of each member of the group is directly or indirectly  
23 owned by a common owner or by common owners, either corporate or  
24 noncorporate, or by one or more of the member corporations of  
25 the group.

26 (15) "Combined business income." The aggregate taxable  
27 income or loss of all members of a unitary business, subject to  
28 apportionment except:

29 1. Income from an intercompany transaction between members  
30 of a unitary business shall be deferred in a manner similar to

1 26 CFR 1.1502-13.

2 2. Dividends paid by one member of a unitary business to  
3 another to the extent the dividends are included in business  
4 income of the payee corporation.

5 3. Income of the following corporations shall not be  
6 included in the determination of combined business income:

7 (a) any entity subject to taxation under Article VII, VIII,  
8 IX or XV;

9 (b) any entity specified in the definition of "institution"  
10 in section 701.5 that would be subject to taxation under Article  
11 VII if it were doing business in this Commonwealth as defined in  
12 section 701.5;

13 (c) any entity commonly known as a title insurance company  
14 that would be subject to taxation under Article VIII were it  
15 incorporated in this State;

16 (d) any entity specified as an insurance company,  
17 association or exchange in Article IX that would be subject to  
18 taxation under Article IX were it transacting insurance business  
19 in this State;

20 (e) any entity specified in the definition of "institution"  
21 in section 1501 that would be subject to taxation under Article  
22 XV were it located, as defined in section 1501, in this State;

23 or

24 (f) any entity that is a "small corporation", as defined in  
25 section 301(s.2).

26 (16) "Member." A corporation that is a member of the  
27 unitary business. The term does not include a corporation listed  
28 in clause (15)3.

29 Section 21. Section 402(b) of the act, amended June 29, 2002  
30 (P.L.559, No.89), is amended to read:

1 Section 402. Imposition of Tax.--\* \* \*

2 (b) The annual rate of tax on corporate net income imposed  
3 by subsection (a) for taxable years beginning for the calendar  
4 year or fiscal year on or after the dates set forth shall be as  
5 follows:

6 Taxable Year	Tax Rate
----------------	----------

7 [January 1, 1995, and each 8 taxable year thereafter	9.99%]
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9 <u>January 1, 1995, through taxable</u> 10 <u>years ending December 31,</u>	
--	--

11 <u>2015</u>	<u>9.99%</u>
----------------	--------------

12 <u>January 1, 2016, to December 31,</u>	
--	--

13 <u>2016</u>	<u>5.99%</u>
----------------	--------------

14 <u>January 1, 2017, to December 31,</u>	
--	--

15 <u>2017</u>	<u>5.49%</u>
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16 <u>January 1, 2018, to December 31,</u>	
--	--

17 <u>2018, and each taxable year</u> 18 <u>thereafter</u>	<u>4.99%</u>
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19 \* \* \*

20 Section 22. Section 403 of the act is amended by adding  
21 subsections to read:

22 Section 403. Reports and Payment of Tax.--\* \* \*

23 (a.1) The following apply:

24 (1) Each corporation that is a member of a unitary business  
25 that consists of two or more corporations, unless excluded by  
26 the provisions of this article, shall file as part of a combined  
27 annual report. The corporations of the unitary business shall  
28 designate one member that is subject to tax under this article  
29 to file the combined annual report and to act as agent on behalf  
30 of all other members of the unitary business. Each corporation

1 that is a member of a unitary business shall be liable for its  
2 tax liability under this article. The agent shall be liable for  
3 the aggregate amount of the unitary business' tax liability  
4 pursuant to this article.

5 (2) The oath or affirmation of the designated member's  
6 president, vice president or other principal officer, and of its  
7 treasurer or assistant treasurer shall constitute the oath or  
8 affirmation of each corporation that is a member of that unitary  
9 business.

10 (3) The designated member shall transmit to the department  
11 upon a form prescribed by the department, an annual combined  
12 report under oath or affirmation of the designated member's  
13 president, vice president or other principal officer, and of the  
14 designated treasurer or assistant treasurer.

15 (4) In addition to the information required in subsection  
16 (a), the report shall include:

17 (i) Each corporation included in the unitary business.

18 (ii) Necessary data, both in the aggregate and for each  
19 corporation of the unitary business, that includes the  
20 computation of tax liability for each corporation of the unitary  
21 business.

22 (iii) Any other information that the department may require.

23 (a.2) A corporation that is a member of a unitary business  
24 of two or more corporations must compute the corporation's  
25 business income and apportionment factors on a water's-edge  
26 basis.

27 \* \* \*

28 Section 23. Section 404 of the act is amended to read:

29 Section 404. Consolidated Reports.--The department shall not  
30 permit any corporation owning or controlling, directly or

1 indirectly, any of the voting capital stock of another  
2 corporation or of other corporations, subject to the provisions  
3 of this article, to make a consolidated report[, showing the  
4 combined net income].

5 Section 24. Sections 701, 701.1 and 701.4(3)(xiii) of the  
6 act, amended July 9, 2013 (P.L.270, No.52), are amended to read:

7 Section 701. Imposition of Tax.--(a) Every institution  
8 doing business in this Commonwealth shall, on or before March 15  
9 in each and every year, make to the Department of Revenue a  
10 report in writing, verified as required by law, setting forth  
11 the full number of shares of the capital stock subscribed for or  
12 issued, as of the preceding January 1, by such institution, and  
13 the taxable amount of such shares of capital stock determined  
14 pursuant to section 701.1.

15 (b) It shall be the duty of the Department of Revenue to  
16 assess such shares for the calendar years beginning January 1,  
17 1971 through January 1, 1983, at the rate of fifteen mills and  
18 for the calendar years beginning January 1, 1984 through January  
19 1, 1988, at the rate of one and seventy-five one thousandths per  
20 cent and for the calendar year beginning January 1, 1989, at the  
21 rate of 10.77 per cent and for the calendar years beginning  
22 January 1, 1990, [through January 1, 2013,] and each year  
23 thereafter at the rate of 1.25 per cent [and for the calendar  
24 year beginning January 1, 2014, and each calendar year  
25 thereafter at the rate of 0.89 per cent] upon each dollar of  
26 taxable amount thereof, the taxable amount of each share of  
27 stock to be ascertained and fixed pursuant to section 701.1, and  
28 dividing this amount by the number of shares.

29 (c) It shall be the duty of every institution doing business  
30 in this Commonwealth, at the time of making every report

1 required by this section, to compute the tax and to pay the  
2 amount of said tax to the State Treasurer, through the  
3 Department of Revenue either from its general fund, or from the  
4 amount of said tax collected from its shareholders. Provided,  
5 That in case any institution shall collect, annually, from the  
6 shareholders thereof said tax, according to the provisions of  
7 this article, that have been subscribed for or issued, and pay  
8 the same into the State Treasury, through the Department of  
9 Revenue, the shares, and so much of the capital and profits of  
10 such institution as shall not be invested in real estate, shall  
11 be exempt from local taxation under the laws of this  
12 Commonwealth; and such institution shall not be required to make  
13 any report to the local assessor or county commissioners of its  
14 personal property owned by it in its own right for purposes of  
15 taxation and shall not be required to pay any tax thereon.

16 Section 701.1. Ascertainment of Taxable Amount; Exclusion of  
17 United States Obligations.--(a) The taxable amount of shares  
18 shall be ascertained and fixed by the book value of total bank  
19 equity capital as determined by the Reports of Condition at the  
20 end of the preceding calendar year in accordance with the  
21 requirements of the Board of Governors of the Federal Reserve  
22 System, the Comptroller of the Currency, the Federal Deposit  
23 Insurance Corporation or other applicable regulatory authority.  
24 If an institution does not file the Reports of Condition, book  
25 values shall be determined by generally accepted accounting  
26 principles as of the end of the preceding calendar year.

27 (b) A deduction for the value of United States obligations  
28 shall be provided from the taxable amount of shares in an amount  
29 equal to the same percentage of total bank equity capital as the  
30 book value of obligations of the United States bears to the book

1 value of the total assets[, except that, for the value of shares  
2 reported on tax returns due on March 15, 2008, and thereafter].  
3 In computing the deduction for United States obligations, any  
4 goodwill recorded as a result of the use of purchase accounting  
5 for an acquisition or combination as described in this section  
6 and occurring after June 30, 2001, [may] shall be subtracted  
7 from the book value of total bank equity capital and disregarded  
8 in determining the deduction provided for obligations of the  
9 United States. For purposes of this article, United States  
10 obligations shall be obligations coming within the scope of 31  
11 U.S.C. § 3124 (relating to exemption from taxation). [In the  
12 case of institutions which do not file such Reports of  
13 Condition, book values shall be determined by generally accepted  
14 accounting principles as of the end of the preceding calendar  
15 year.]

16 (b.1) A deduction for goodwill shall be provided from the  
17 taxable amount of shares in an amount equal to the value of  
18 goodwill recorded as a result of the use of purchase accounting  
19 for an acquisition or combination as described in this section  
20 and occurring after June 30, 2001.

21 (c) For purposes of this section:

22 (1) a mere change in identity, form or place of organization  
23 of one institution, however effected, shall be treated as if a  
24 single institution had been in existence prior to as well as  
25 after such change; and

26 (2) if there is a combination of two or more institutions  
27 into one, the book values and deductions for United States  
28 obligations from the Reports of Condition of the constituent  
29 institutions shall be combined. For purposes of this section, a  
30 combination shall include any acquisition required to be

1 accounted for by using the purchase method in accordance with  
2 generally accepted accounting principles or a statutory merger  
3 or consolidation.

4 Section 701.4. Apportionment.--An institution may apportion  
5 its taxable amount of shares determined under section 701.1 in  
6 accordance with this subsection if the institution is subject to  
7 tax in another state based on or measured by net worth, gross  
8 receipts, net income or some similar base of taxation, or if it  
9 could be subject to such tax, whether or not such a tax has in  
10 fact been enacted. The following shall apply:

11 \* \* \*

12 (3) The receipts factor is a fraction, the numerator of  
13 which is total receipts located in this Commonwealth and the  
14 denominator of which is the total receipts located in all  
15 states. The method of calculating receipts for purposes of the  
16 denominator shall be the same as the method used in determining  
17 receipts for purposes of the numerator. The location of receipts  
18 shall be determined as follows:

19 \* \* \*

20 (xiii) The following shall apply to receipts from an  
21 institution's investment assets and activity and trading assets  
22 and activity:

23 (A) Interest, dividends, net gains equal to zero or above,  
24 and other income from investment assets and activities and from  
25 trading assets and activities shall be included in the receipts  
26 factor. Investment assets and activities and trading assets and  
27 activities shall include investment securities, trading account  
28 assets, Federal funds, securities purchased and sold under  
29 agreements to resell or repurchase, options, futures contracts,  
30 forward contracts and notional principal contracts such as

1 swaps, equities and foreign currency transactions. For the  
2 investment and trading assets and activities under subclauses  
3 (I) and (II), the receipts factor shall include the amounts  
4 under subclauses (I) and (II). The following shall apply:

5 (I) The receipts factor shall include the amount by which  
6 interest from Federal funds sold and securities purchased under  
7 resale agreements exceeds interest expense on Federal funds  
8 purchased and securities sold under repurchase agreements.

9 (II) The receipts factor shall include the amount by which  
10 interest, dividends, gains and other income from trading assets  
11 and activities, including assets and activities in the matched  
12 book, in the arbitrage book and foreign currency transactions,  
13 exceed amounts paid in lieu of interest, amounts paid in lieu of  
14 dividends and losses from the assets and activities.

15 (B) The numerator of the receipts factor shall include  
16 [interest, dividends, net gains, equal to zero or above, and  
17 other income from investment assets and activities and from  
18 trading assets and activities] the receipts under clause (A)  
19 that are attributable to this Commonwealth using one of the  
20 following alternative methods:

21 (I) Method 1. The numerator shall be determined by  
22 multiplying the total amount of receipts [from trading assets  
23 and activities] under clause (A) by a fraction, the numerator of  
24 which is the total amount of all other receipts attributable to  
25 this Commonwealth and the denominator of which is the total  
26 amount of all other receipts.

27 (II) Method 2. The numerator shall be determined by  
28 multiplying the total amount of receipts under clause (A) by a  
29 fraction, the numerator of which is the average value of the  
30 assets which generate the receipts which are properly assigned

1 to a regular place of business of the institution within this  
2 Commonwealth and the denominator of which is the average value  
3 of all such assets.

4 (C) Upon the election by the institution to use one of the  
5 methods under clause (B), the institution shall use the method  
6 on all subsequent returns unless the institution receives prior  
7 permission from the Department of Revenue to use a different  
8 method.

9 (D) The following shall apply:

10 (I) An institution electing to use Method 2 shall have the  
11 burden of proving that an investment asset or activity or  
12 trading asset or activity was properly assigned to a regular  
13 place of business outside of this Commonwealth by demonstrating  
14 that the day-to-day decisions regarding the asset or activity  
15 occurred at a regular place of business outside this  
16 Commonwealth.

17 (II) If the day-to-day decisions regarding an investment  
18 asset or activity or trading asset or activity occur at more  
19 than one regular place of business and one regular place of  
20 business is in this Commonwealth and one regular place of  
21 business is outside this Commonwealth, the asset or activity  
22 shall be considered to be located at the regular place of  
23 business of the institution where the investment or trading  
24 policies or guidelines with respect to the asset or activity are  
25 established.

26 (III) Unless the institution demonstrates to the contrary,  
27 the investment or trading policies and guidelines under  
28 subclause (II) shall be presumed to be established at the  
29 commercial domicile of the institution.

30 [(E) Receipts apportioned under this subparagraph shall be

1 separately apportioned for:

2 (I) interest, dividends, net gains and other income from  
3 investment assets and activities in an investment account;

4 (II) interest from Federal funds sold and purchased and from  
5 securities purchased under resale agreements and securities sold  
6 under repurchase agreements; and

7 (III) interest, dividends, gains and other income from  
8 trading assets and activities, including assets and activities  
9 in the matched book, in the arbitrage book and foreign currency  
10 transactions.]

11 \* \* \*

12 Section 25. The definitions of "doing business in this  
13 Commonwealth" and "receipts" in section 701.5 of the act,  
14 amended July 9, 2013 (P.L.270, No.52), are amended to read:

15 Section 701.5. Definitions.--The following words, terms and  
16 phrases when used in this article shall have the meaning  
17 ascribed to them in this section, except where the context  
18 clearly indicates a different meaning:

19 \* \* \*

20 "Doing business in this Commonwealth." As follows:

21 (1) An institution is engaged in doing business in this  
22 Commonwealth and is subject to the tax imposed under this  
23 article if it satisfies any of the following requirements [and  
24 generates gross receipts apportioned to this Commonwealth under  
25 section 701.4 in excess of \$100,000]:

26 (i) The institution has an office or branch in this  
27 Commonwealth.

28 (ii) One or more employes, representatives, independent  
29 contractors or agents of the institution conduct business  
30 activities of the institution in this Commonwealth.

1 (iii) A person, including an employe, representative,  
2 independent contractor, agent or affiliate of the institution,  
3 or an employe, representative, independent contractor or agent  
4 of an affiliate of the institution, directly or indirectly  
5 solicits business in this Commonwealth by or for the benefit of  
6 the institution, through:

7 (A) person-to-person contact, mail, telephone or other  
8 electronic means; or

9 (B) the use of advertising published, produced or  
10 distributed in this Commonwealth.

11 (iv) The institution owns, leases or uses real or personal  
12 property in this Commonwealth to conduct its business  
13 activities.

14 (v) The institution holds a security interest, mortgage or  
15 lien in real or personal property located in this Commonwealth.

16 (vi) A basis exists under section 701.4 to apportion the  
17 institution's receipts to this Commonwealth.

18 (vii) The institution has a physical presence in this  
19 Commonwealth for a period of more than one day during the tax  
20 year or conducts an activity sufficient to create a nexus in  
21 this Commonwealth for tax purposes under the Constitution of the  
22 United States.

23 (2) The term shall not include:

24 (i) The use by the institution of a professional performing  
25 a service on behalf of the institution in this Commonwealth if  
26 the services are not significantly associated with the  
27 institution's ability to establish and maintain a market in this  
28 Commonwealth.

29 (ii) The mere use of financial intermediaries in this  
30 Commonwealth by an institution for the processing or transfer of

1 checks, credit card receivables, commercial paper and similar  
2 items.

3 \* \* \*

4 "Receipts." [As follows:

5 (1) Except as provided under paragraph (2), an item included  
6 in taxable income returned to and ascertained by the Federal  
7 Government.

8 (2) If consolidated returns are filed with the Federal  
9 Government, an item that would be included in taxable income  
10 returned to and ascertained by the Federal Government if a  
11 separate return had been made to the Federal Government by the  
12 institution, including the taxable income of a subsidiary of the  
13 institution that are disregarded entities for purposes of  
14 Federal taxation.] The total of all items of income reported on  
15 the income statement of the institution's Reports of Condition  
16 or, if the institution does not file a Reports of Condition, on  
17 an income statement completed in accordance with generally  
18 accepted accounting principles.

19 \* \* \*

20 Section 26. Sections 1206 and 1206.1 of the act, amended  
21 October 9, 2009 (P.L.451, No.48), are amended to read:

22 Section 1206. Incidence and Rate of Tax.--An excise tax is  
23 hereby imposed and assessed upon the sale or possession of  
24 cigarettes within this Commonwealth at the rate of [eight]  
25 thirteen cents per cigarette.

26 Section 1206.1. Floor Tax.--(a) The following apply:

27 (1) A person who possesses cigarettes on which the tax  
28 imposed by section 1206 has been paid as of the effective date  
29 of this section shall pay an additional tax at a rate of [one  
30 and twenty-five hundredths] five cents per cigarette. The tax

1 shall be paid and reported on a form prescribed by the  
2 department within ninety days of the effective date of this  
3 section.

4 (2) On or after the effective date of this paragraph, a  
5 person that possesses little cigars in a package which is  
6 similar to a package of cigarettes other than little cigars and  
7 which contains twenty to twenty-five little cigars shall pay a  
8 tax at the rate of [eight] five cents per little cigar. The tax  
9 shall be paid and reported on a form prescribed by the  
10 department within ninety days of the effective date of this  
11 paragraph.

12 (3) [After January 3, 2010,] On or after October 1, 2015, a  
13 retailer that possesses little cigars on which the tax imposed  
14 by this article has not been paid shall pay a tax at the rate of  
15 [eight] five cents per little cigar. The tax shall be paid and  
16 reported on a form prescribed by the department within ninety  
17 days of the effective date of this paragraph.

18 (b) If a cigarette dealer fails to file the report required  
19 by subsection (a) or fails to pay the tax imposed by subsection  
20 (a), the department may, in addition to the interest and  
21 penalties provided in section 1278, do any of the following:

22 (1) Impose an administrative penalty equal to the amount of  
23 tax evaded or not paid. The penalty shall be added to the tax  
24 evaded or not paid and assessed and collected at the same time  
25 and in the same manner as the tax.

26 (2) Suspend or revoke a cigarette dealer's license.

27 (c) In addition to any penalty imposed under subsection (b),  
28 a person who wilfully omits, neglects or refuses to comply with  
29 a duty imposed under subsection (a) commits a misdemeanor and  
30 shall, upon conviction, be sentenced to pay a fine of not less

1 than two thousand five hundred dollars (\$2,500) nor more than  
2 five thousand dollars (\$5,000), to serve a term of imprisonment  
3 not to exceed thirty days or both.

4 Section 27. The act is amended by adding an article to read:

5 ARTICLE XII-A

6 TOBACCO PRODUCTS TAX

7 Section 1201-A. Definitions.

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

11 "Cigar." Any roll of tobacco wrapped in tobacco.

12 "Cigarette." As defined in section 1201.

13 "Consumer." An individual who purchases tobacco products for  
14 personal use and not for resale.

15 "Contraband." Any tobacco product for which the tax imposed  
16 by this article has not been paid.

17 "Dealer." A wholesaler or retailer. Nothing in this article  
18 shall preclude any person from being a wholesaler or retailer,  
19 provided the person meets the requirements for a license in each  
20 category of dealer.

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

22 "Electronic cigarettes." As follows:

23 (1) An electronic oral device, such as one composed of a  
24 heating element and battery or electronic circuit, or both,  
25 which provides a vapor of nicotine or any other substance and  
26 the use or inhalation of which simulates smoking.

27 (2) The term includes:

28 (i) A device as described in paragraph (1),  
29 notwithstanding whether the device is manufactured,  
30 distributed, marketed or sold as an e-cigarette, e-cigar

1 and e-pipe or under any other product, name or  
2 description.

3 (ii) A liquid or substance placed in an electronic  
4 cigarette.

5 "Manufacturer." A person that produces tobacco products.

6 "Person." An individual, unincorporated association,  
7 company, corporation, joint stock company, group, agency,  
8 syndicate, trust or trustee, receiver, fiduciary, partnership,  
9 conservator, any political subdivision of the Commonwealth or  
10 any other state. If used in any of the provisions of this  
11 article prescribing or imposing penalties, the term "person" as  
12 applied to a partnership, unincorporated association or other  
13 joint venture, shall mean the partners or members of the  
14 partnership, unincorporated association or other joint venture,  
15 and as applied to a corporation, shall mean each officer and  
16 director of the corporation.

17 "Purchase price." The total value of anything paid or  
18 delivered, or promised to be paid or delivered, money or  
19 otherwise, in complete performance of a sale or purchase,  
20 without any deduction on account of the cost or value of the  
21 property sold, cost or value of transportation, cost or value of  
22 labor or service, interest or discount paid or allowed after the  
23 sale is consummated, any other taxes imposed by the Commonwealth  
24 or any other expense.

25 "Retailer." A person that purchases or receives tobacco  
26 products from any source for the purpose of sale to a consumer,  
27 or who owns, leases or otherwise operates one or more vending  
28 machines for the purpose of sale of tobacco products to the  
29 ultimate consumer. The term includes a vending machine operator  
30 or a person that buys, sells, transfers or deals in tobacco

1 products and is not licensed as a tobacco products wholesaler  
2 under this article.

3 "Roll-your-own tobacco." Any tobacco which, because of the  
4 tobacco's appearance, type, packaging or labeling, is suitable  
5 for use and is likely to be offered to, or purchased by,  
6 consumers as tobacco for making cigarettes.

7 "Sale." Any transfer of ownership, custody or possession of  
8 tobacco products for consideration; any exchange, barter or  
9 gift; or any offer to sell or transfer the ownership, custody or  
10 possession of tobacco products for consideration.

11 "Taxpayer." Any person subject to tax under this article.

12 "Tobacco products." Cigars, cigarillos, cheroots, stogies,  
13 periques, granulated, plug cut, crimp cut, ready rubbed and  
14 other smoking tobacco, roll-your-own tobacco, snuff, dry snuff,  
15 snuff flour, cavendish, plug and twist tobacco, fine-cut and  
16 other chewing tobaccos, shorts, refuse scraps, clippings,  
17 cuttings and sweepings of tobacco and other kinds and forms of  
18 tobacco, prepared in such manner as to be suitable for chewing  
19 or ingesting or for smoking in a pipe or otherwise, or both for  
20 chewing and smoking, including e-cigarettes. The term does not  
21 include any item subject to the tax under section 1202.

22 "Unclassified importer." A person in this Commonwealth that  
23 acquires a tobacco product from any source on which the tax  
24 imposed by this article was not paid and that is not a person  
25 otherwise required to be licensed under the provisions of this  
26 article. The term includes, but is not limited to, consumers who  
27 purchase tobacco products using the Internet or mail order  
28 catalogs for personal possession or use in this Commonwealth.

29 "Vending machine operator." A person who places or services  
30 one or more tobacco product vending machines whether owned,

1 leased or otherwise operated by the person at locations from  
2 which tobacco products are sold to the consumer. The owner or  
3 tenant of the premises upon which a vending machine is placed  
4 shall not be considered a vending machine operator if the  
5 owner's or tenant's sole remuneration therefrom is a flat rental  
6 fee or commission based upon the number or value of tobacco  
7 products sold from the machine, unless the owner or tenant  
8 actually owns the vending machine or leases the vending machine  
9 under an agreement whereby any profits from the sale of the  
10 tobacco products directly inure to the owner's or tenant's  
11 benefit.

12 "Wholesaler." A person engaged in the business of selling  
13 tobacco products that receives, stores, sells, exchanges or  
14 distributes tobacco products to retailers or other wholesalers  
15 in this Commonwealth or retailers who purchase from a  
16 manufacturer or from another wholesaler who has not paid the tax  
17 imposed by this article.

18 Section 1202-A. Incidence and rate of tax.

19 (a) Imposition.--A tobacco products tax is hereby imposed on  
20 the dealer, manufacturer or any person at the time the tobacco  
21 product is first sold to a retailer in this Commonwealth at the  
22 rate of 40% on the purchase price charged to the retailer for  
23 the purchase of any tobacco product. The tax shall be collected  
24 from the retailer by whomever sells the tobacco product to the  
25 retailer and remitted to the department. Any person required to  
26 collect this tax shall separately state the amount of tax on an  
27 invoice or other sales document.

28 (b) Retailer.--If the tax is not collected by the seller  
29 from the retailer, the tax is imposed on the retailer at the  
30 time of purchase at the same rate as in subsection (a) based on

1 the retailer's purchase price of the tobacco products. The  
2 retailer shall remit the tax to the department.

3 (c) Unclassified importer.--The tax is imposed on an  
4 unclassified importer at the time of purchase at the same rate  
5 as in subsection (a) based on the unclassified importer's  
6 purchase price of the tobacco products. The unclassified  
7 importer shall remit the tax to the department.

8 (d) Exceptions.--The tax shall not be imposed on any tobacco  
9 products that:

- 10 (1) are exported for sale outside this Commonwealth; or  
11 (2) are not subject to taxation by the Commonwealth  
12 pursuant to any laws of the United States.

13 Section 1203-A. Floor tax.

14 (a) Payment.--Any retailer that, as of the effective date of  
15 this article, possesses tobacco products subject to the tax  
16 imposed by section 1202-A, shall pay the tax on the tobacco  
17 products in accordance with the rates specified in section 1202-  
18 A. The tax shall be paid and reported on a form prescribed by  
19 the department within 90 days of the effective date of this  
20 section.

21 (b) Administrative penalty; license.--If a retailer fails to  
22 file the report required by subsection (a) or fails to pay the  
23 tax imposed by subsection (a), the department may, in addition  
24 to the interest and penalties provided in section 1215-A, do any  
25 of the following:

26 (1) Impose an administrative penalty equal to the amount  
27 of tax evaded or not paid. The penalty shall be added to the  
28 tax evaded or not paid and assessed and collected at the same  
29 time and in the same manner as the tax.

30 (2) Suspend, revoke or refuse to issue the retailer's

1 license.

2 (c) Criminal penalty.--In addition to any penalty imposed  
3 under subsection (b), a person that willfully omits, neglects or  
4 refuses to comply with a duty imposed under subsection (a)  
5 commits a misdemeanor and shall, if convicted, be sentenced to  
6 pay a fine of not less than \$2,500 nor more than \$5,000, to  
7 serve a term of imprisonment not to exceed 30 days, or both.

8 Section 1204-A. Remittance of tax to department.

9 Wholesalers, retailers, unclassified importers and  
10 manufacturers shall file monthly reports on a form prescribed by  
11 the department by the 20th day of the month following the sale  
12 or purchase of tobacco products from any other source on which  
13 the tax levied by this article has not been paid. The tax is due  
14 at the time the report is due. The department may required the  
15 filing of reports and payment of tax on a less frequent basis at  
16 its discretion.

17 Section 1205-A. (Reserved).

18 Section 1206-A. Procedures for claiming refund.

19 A claim for a refund of tax imposed by this article under  
20 section 3003.1 and Article XXVII shall be in the form and  
21 contain the information prescribed by the department by  
22 regulation.

23 Section 1207-A. Sales or possession of tobacco product when tax  
24 not paid.

25 (a) Sales or possession.--Any person who sells or possesses  
26 any tobacco product for which the proper tax has not been paid  
27 commits a summary offense and shall, upon conviction, be  
28 sentenced to pay costs of prosecution and a fine of not less  
29 than \$100 not more than \$1,000 or to imprisonment for not more  
30 than 60 days, or both, at the discretion of the court. Any

1 tobacco products purchased from a wholesaler properly licensed  
2 under this article shall be presumed to have the proper taxes  
3 paid.

4 (b) Tax evasion.--Any person that shall falsely or  
5 fraudulently, maliciously, intentionally or willfully with  
6 intent to evade the payment of the tax imposed by this article  
7 sells or possesses any tobacco product for which the proper tax  
8 has not been paid commits a felony and shall, upon conviction,  
9 be sentenced to pay costs of prosecution and a fine of not more  
10 than \$15,000 or to imprisonment for not more than five years, or  
11 both, at the discretion of the court.

12 Section 1208-A. Assessment.

13 The department is authorized to make the inquiries,  
14 determinations and assessments of the tax, including interest,  
15 additions and penalties, imposed by this article.

16 Section 1209-A. (Reserved).

17 Section 1210-A. (Reserved).

18 Section 1211-A. Failure to file return.

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

22 Section 1212-A. False or fraudulent return.

23 Where the taxpayer willfully files a false or fraudulent  
24 return with intent to evade the tax imposed by this article, the  
25 amount of tax due may be assessed and collected at any time.

26 Section 1213-A. Extension of limitation period.

27 Notwithstanding any other provision of this article, where,  
28 before the expiration of the period prescribed for the  
29 assessment of a tax, a taxpayer has consented, in writing, that  
30 the period be extended, the amount of tax due may be assessed at

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

4 Section 1214-A. Failure to furnish information, returning false  
5 information or failure to permit inspection.

6 (a) Penalty.--Any taxpayer who fails to keep or make any  
7 record, return, report, inventory or statement, or keeps or  
8 makes any false or fraudulent record, return, report, inventory  
9 or statement required by this article commits a misdemeanor and  
10 shall, upon conviction, be sentenced to pay costs of prosecution  
11 and a fine of \$500 and to imprisonment for not more than one  
12 year, or both, at the discretion of the court.

13 (b) Examination.--The department is authorized to examine  
14 the books and records, the stock of tobacco products and the  
15 premises and equipment of any taxpayer in order to verify the  
16 accuracy of the payment of the tax imposed by this article. The  
17 person subject to an examination shall give to the department or  
18 its duly authorized representative, the means, facilities and  
19 opportunity for the examination. Willful refusal to cooperate  
20 with or permit an examination to the satisfaction of the  
21 department shall be sufficient grounds for the suspension or  
22 revocation of a taxpayer's license. In addition, a person who  
23 willfully refuses to cooperate with or permit an examination to  
24 the satisfaction of the department commits a misdemeanor and  
25 shall, upon conviction, be sentenced to pay costs of prosecution  
26 and a fine of \$500 or to imprisonment for not more than one  
27 year, or both, at the discretion of the court.

28 (c) Records; dealer or manufacturer.--A dealer or  
29 manufacturer shall keep and maintain for a period of four years  
30 records in the form prescribed by the department. The records

1 shall be maintained at the location for which the license is  
2 issued.

3 (d) Reports.--A dealer or manufacturer shall file reports at  
4 times and in the form prescribed by the department.

5 (e) Records; manufacturer or wholesaler.--A manufacturer or  
6 wholesaler located or doing business in this Commonwealth who  
7 sells tobacco products to a wholesale license holder in this  
8 Commonwealth shall keep records showing:

9 (1) The number and kind of tobacco products sold.

10 (2) The date the tobacco products were sold.

11 (3) The name and license number of the dealer the  
12 tobacco products were sold to.

13 (4) The total weight of each of the tobacco products  
14 sold to the license holder.

15 (5) The place where the tobacco products were shipped.

16 (6) The name of the common carrier.

17 (f) Manufacturer or wholesaler.--A manufacturer or  
18 wholesaler shall file with the department, on or before the 20th  
19 of each month, a report showing the information listed in  
20 subsection (e) for the previous month.

21 Section 1215-A. Other violations; peace officers; fines.

22 Sections 1278, 1279, 1280 and 1291 are incorporated by  
23 reference into and shall apply to the tax imposed by this  
24 article.

25 Section 1216-A. Sales reporting.

26 For purposes of reporting sales of roll-your-own tobacco  
27 under the act of June 22, 2000 (P.L.394, No.54), known as the  
28 Tobacco Settlement Agreement Act, 0.09 ounces of tobacco shall  
29 constitute one individual unit sold.

30 Section 1217-A. (Reserved).

1 Section 1218-A. (Reserved).

2 Section 1219-A. Records of shipments and receipts of tobacco  
3 products required.

4 The department may, in its discretion, require reports from  
5 any common or contract carrier who transports tobacco products  
6 to any point or points within this Commonwealth, and from any  
7 bonded warehouseman or bailee who has in the possession of the  
8 warehouseman or bailee any tobacco products. The reports shall  
9 contain the information concerning shipments of tobacco products  
10 that the department determines to be necessary for the  
11 administration of this article. All common and contract  
12 carriers, bailees and warehousemen shall permit the examination  
13 by the department or its authorized agents of any records  
14 relating to the shipment or receipt of tobacco products.

15 Section 1220-A. Licensing of dealers and manufacturers.

16 (a) Prohibition.--No person, unless all sales of tobacco  
17 products are exempt from Pennsylvania tobacco products tax,  
18 shall sell, transfer or deliver any tobacco products in this  
19 Commonwealth without first obtaining the proper license provided  
20 for in this article.

21 (b) Application.--An applicant for a dealer's or  
22 manufacturer's license shall complete and file an application  
23 with the department. The application shall be in the form and  
24 contain information prescribed by the department and shall set  
25 forth truthfully and accurately the information desired by the  
26 department. If the application is approved, the department shall  
27 license the dealer or manufacturer for a period of one year and  
28 the license may be renewed annually thereafter.

29 Section 1221-A. Licensing of manufacturers.

30 Any manufacturer doing business within this Commonwealth

1 shall first obtain a license to sell tobacco products by  
2 submitting an application to the department containing the  
3 information requested by the department and designating a  
4 process agent. If a manufacturer designates no process agent,  
5 the manufacturer shall be deemed to have made the Secretary of  
6 State its agent for the service of process in this Commonwealth.  
7 Section 1222-A. Licensing of wholesalers.

8 (a) Requirements.--Applicants for a wholesale license or  
9 renewal of that license shall meet the following requirements:

10 (1) The premises on which the applicant proposes to  
11 conduct business are adequate to protect the revenue.

12 (2) The applicant is a person of reasonable financial  
13 stability and reasonable business experience.

14 (3) The applicant, or any shareholder controlling more  
15 than 10% of the stock if the applicant is a corporation or  
16 any officer or director if the applicant is a corporation,  
17 shall not have been convicted of any crime involving moral  
18 turpitude.

19 (4) The applicant shall not have failed to disclose any  
20 material information required by the department, including  
21 information that the applicant has complied with this article  
22 by providing a signed statement under penalty of perjury.

23 (5) The applicant shall not have made any material false  
24 statement in the application.

25 (6) The applicant shall not have violated any provision  
26 of this article.

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

1 (b) Multiple locations.--The wholesale license shall be  
2 valid for one specific location only. Wholesalers with more than  
3 one location shall obtain a license for each location.

4 Section 1223-A. Licensing of retailers.

5 Applicants for retail license or renewal of that license  
6 shall meet the following requirements:

7 (1) The premises in which the applicant proposes to  
8 conduct business are adequate to protect the revenues.

9 (2) The applicant shall not have failed to disclose any  
10 material information required by the department.

11 (3) The applicant shall not have any material false  
12 statement in the application.

13 (4) The applicant shall not have violated any provision  
14 of this article.

15 (5) The applicant shall have filed all required State  
16 tax reports and paid any State taxes not subject to a timely  
17 perfected administrative or judicial appeal or subject to a  
18 duly authorized deferred payment plan.

19 Section 1224-A. License for tobacco products vending machines.

20 Each tobacco products vending machine shall have a current  
21 retail license which shall be conspicuously and visibly placed  
22 on the machine. There shall be conspicuously and visibly placed  
23 on every tobacco products vending machine the name and address  
24 of the owner and the name and address of the operator.

25 Section 1225-A. License fees and issuance and display of  
26 license.

27 (a) At the time of making any application or license renewal  
28 application:

29 (1) An applicant for a tobacco products manufacturers  
30 license shall pay the department a license fee of \$1,500.

1           (2) An applicant for a wholesale tobacco products  
2 dealer's license shall pay to the department a license fee of  
3 \$1,500.

4           (3) An applicant for a retail tobacco products dealer's  
5 license shall pay to the department a license fee of \$25.

6           (4) An applicant for a vending machine tobacco products  
7 dealer's license shall pay to the department a license fee of  
8 \$25.

9           (b) Proration.--Fees shall not be prorated.

10          (c) Issuance and display.--On approval of the application  
11 and payment of the fees, the department shall issue the proper  
12 license which must be conspicuously displayed at the location  
13 for which it has been issued.

14 Section 1226-A. Electronic filing.

15          The department may at its discretion require that any or all  
16 returns, reports or registrations that are required to be filed  
17 under this article be filed electronically. Failure to  
18 electronically file any return, report, registration or other  
19 information the department may direct to be filed electronically  
20 shall subject the taxpayer to a penalty of 5% of the tax due on  
21 the return, up to a maximum of \$1,000, but not less than \$10.  
22 This penalty shall be assessed at any time and collected in the  
23 manner provided in this article. This penalty shall be in  
24 addition to any civil penalty imposed in this article for  
25 failure to furnish information or file a return. The criminal  
26 penalty for failure to file a return electronically shall be the  
27 same as the criminal penalty for failure to furnish information  
28 or file a return under this article.

29 Section 1227-A. Expiration of license.

30          (a) Expiration.--A license shall expire on the last day of

1 June next succeeding the date upon which it was issued unless  
2 the department at an earlier date suspends, surrenders or  
3 revokes the license.

4 (b) Violation.--After the expiration date of the license or  
5 sooner if the license is suspended, surrendered or revoked, it  
6 shall be illegal for any dealer to engage directly or indirectly  
7 in the business heretofore conducted by the dealer for which the  
8 license was issued. Any licensee who shall, after the expiration  
9 date of the license, engage in the business theretofore  
10 conducted by the licensee either by way of purchase, sale,  
11 distribution or in any other manner directly or indirectly  
12 engaged in the business of dealing with tobacco products for  
13 profit shall be in violation of this article and be subject to  
14 the penalties provided in this article.

15 Section 1228-A. Administration powers and duties.

16 (a) Department.--The administration of this article is  
17 hereby vested in the department. The department shall adopt  
18 rules and regulations for the enforcement of this article. The  
19 department may impose fees as may be necessary to cover the  
20 costs incurred in administering this section.

21 (b) Joint administration.--The department is authorized to  
22 jointly administer this article with other provisions of this  
23 act, including joint reporting of information, forms, returns,  
24 statements, documents or other information submitted to the  
25 department.

26 Section 1229-A. Sales without license.

27 (a) Penalty.--Any person who shall, without being the holder  
28 of a proper unexpired dealer's license, engage in purchasing,  
29 selling, distributing or in any other manner directly or  
30 indirectly engaging in the business of dealing with tobacco

1 products for profit commits a summary offense and shall, upon  
2 conviction, be sentenced to pay costs of prosecution and a fine  
3 of not less than \$250 nor more than \$1,000, or to imprisonment  
4 for not more than 30 days, or both, at the discretion of the  
5 court.

6 (b) Prima facie evidence.--Open display of tobacco products  
7 in any manner shall be prima facie evidence that the person  
8 displaying such tobacco products is directly or indirectly  
9 engaging in the business of dealing with tobacco products for  
10 profit.

11 Section 1230-A. Violations and penalties.

12 (a) Suspension.--The license of any person who violates this  
13 article may be suspended after due notice and opportunity for a  
14 hearing for a period of not less than five days or more than 30  
15 days for a first violation and shall be revoked or suspended for  
16 any subsequent violation.

17 (b) Fine.--In addition to the provisions of subsection (a),  
18 upon adjudication of a first violation, the person shall be  
19 fined not less than \$2,500 nor more than \$5,000. For subsequent  
20 violations, the person shall, upon adjudication thereof, be  
21 fined not less than \$5,000 nor more than \$15,000.

22 (c) Civil penalty.--A person who violates section 1214-A  
23 (b), (c), or (d), or 1225-A(c), shall be subject to a civil  
24 penalty not to exceed \$300 per violation but shall not be  
25 subject to subsections (a) and (b).

26 Section 1231-A. Property rights.

27 (a) Incorporation.--Subject to subsection (b), section 1285  
28 is incorporated by reference into and shall apply to this  
29 article.

30 (b) Alterations.--

1           (1) References in section 1285 to cigarettes shall apply  
2 to tobacco products in this article.

3           (2) References in section 1285 to 2,000 or more  
4 unstamped cigarettes shall apply to tobacco products worth at  
5 least \$500 in this article.

6           (3) References in section 1285 to more than 200  
7 unstamped cigarettes shall apply to tobacco products worth at  
8 least \$50 in this article.

9 Section 1232-A. Sample of tobacco products.

10          (a) Samples.--The department shall, by regulation, govern  
11 the receipt, distribution of and payment of tax on sample  
12 tobacco products issued for free distribution.

13          (b) Construction.--Nothing in this article or the  
14 regulations promulgated under this article shall prohibit the  
15 bringing into this Commonwealth by a manufacturer samples of  
16 tobacco products to be delivered and distributed only through  
17 licensed dealers or the manufacturers or their sales  
18 representatives. The tax shall be paid by the manufacturer  
19 provided all such packs bear the legend "all applicable State  
20 taxes have been paid." Under no circumstances shall any untaxed  
21 tobacco products be sold within this Commonwealth.

22 Section 1233-A. Labeling and packaging.

23          It shall be unlawful to knowingly possess, sell, give,  
24 transfer or deliver to any person, any tobacco product where the  
25 packaging of which has been modified or altered by a person  
26 other than the original manufacturer. Modification or alteration  
27 shall include the placement of a sticker, writing or mark to  
28 cover information on the packages. For purposes of this section,  
29 a tobacco product package shall not be construed to have been  
30 modified or altered by a person other than the manufacturer if

1 the most recent modification or alteration was made by the  
2 manufacturer or person authorized by the manufacturer and  
3 approved by the department.

4 Section 1234-A. Information exchange.

5 The department is authorized to exchange information with any  
6 other Federal, State or local enforcement agency for purposes of  
7 enforcing this article.

8 Section 28. Section 3003.3(d) of the act, amended October  
9 18, 2006 (P.L.1149, No.119), is amended and the section is  
10 amended by adding a subsection to read:

11 Section 3003.3. Underpayment of Estimated Tax.--\* \* \*

12 (d) Notwithstanding the provisions of the preceding  
13 subsections and except as provided under subsection (d.1),  
14 interest with respect to any underpayment of any installment of  
15 estimated tax shall not be imposed if the total amount of all  
16 payments of estimated tax made on or before the last date  
17 prescribed for the payment of such installment equals or exceeds  
18 the amount which would have been required to be paid on or  
19 before such date if the estimated tax were an amount equal to  
20 the tax computed at the rates applicable to the taxable year,  
21 including any minimum tax imposed, but otherwise on the basis of  
22 the facts shown on the report of the taxpayer for, and the law  
23 applicable to, the safe harbor base year, adjusted for any  
24 changes to sections 401, 601, 602 and 1101 enacted for the  
25 taxable year, if a report showing a liability for tax was filed  
26 by the taxpayer for the safe harbor base year. If the total  
27 amount of all payments of estimated tax made on or before the  
28 last date prescribed for the payment of such installment does  
29 not equal or exceed the amount required to be paid per the  
30 preceding sentence, but such amount is paid after the date the

1 installment was required to be paid, then the period of  
2 underpayment shall run from the date the installment was  
3 required to be paid to the date the amount required to be paid  
4 per the preceding sentence is paid. Provided, that if the total  
5 tax for the safe harbor base year exceeds the tax shown on such  
6 report by ten per cent or more, the total tax adjusted to  
7 reflect the current tax rate shall be used for purposes of this  
8 subsection. In the event that the total tax for the safe harbor  
9 base year exceeds the tax shown on the report by ten per cent or  
10 more, interest resulting from the utilization of such total tax  
11 in the application of the provisions of this subsection shall  
12 not be imposed if, within forty-five days of the mailing date of  
13 each assessment, payments are made such that the total amount of  
14 all payments of estimated tax equals or exceeds the amount which  
15 would have been required to be paid on or before such date if  
16 the estimated tax were an amount equal to the total tax adjusted  
17 to reflect the current tax rate. In any case in which the  
18 taxable year for which an underpayment of estimated tax may  
19 exist is a short taxable year, in determining the tax shown on  
20 the report or the total tax for the safe harbor base year, the  
21 tax will be reduced by multiplying it by the ratio of the number  
22 of installment payments made in the short taxable year to the  
23 number of installment payments required to be made for the full  
24 taxable year.

25 (d.1) With respect to any underpayment of an installment of  
26 estimated corporate net income tax for any tax year that begins  
27 in year 2016 or 2017 by a corporation required to file a  
28 combined report under section 403(a.1)(1), interest shall not be  
29 imposed if the total amount of each payment of estimated  
30 corporate net income tax made on or before the last date

1 prescribed for the payment of the installment equals or exceeds  
2 the amount which would have been required to be paid on or  
3 before the date if the estimated tax were an amount equal to the  
4 combined tax shown on the reports of all the members of the  
5 unitary business for the safe harbor base year computed at the  
6 rate applicable to the taxable year.

7 Section 29. Notwithstanding any other provision of law, any  
8 additional revenue collected under the act of June 5, 1991  
9 (P.L.9, No.6), known as the Pennsylvania Intergovernmental  
10 Cooperation Authority Act for Cities of the First Class, that is  
11 generated by the amendment of Article II of the act shall be  
12 transferred to a city of the first class in accordance with the  
13 act of December 18, 1984 (P.L.1005, No.205), known as the  
14 Municipal Pension Plan Funding Standard and Recovery Act.

15 Section 30. For tax on services defined in section 201(dd),  
16 (eee) and (fff) of the act, if contracts for the sale of the  
17 services have been entered into prior to the effective date of  
18 this section, the tax under Article II of the act shall be  
19 prorated as follows:

- 20 (1) Determine the total value of the contract.  
21 (2) Multiply the total value of the contract by the  
22 ratio of:  
23 (i) the remaining term of the contract on the  
24 effective date of this section; to  
25 (ii) the total term of the contract.

26 Section 31. Notwithstanding the provisions of the act of  
27 December 31, 1965 (P.L.1257, No.511), known as The Local Tax  
28 Enabling Act, and the act of August 5, 1932 (1st Sp.Sess.,  
29 P.L.45, No.45), referred to as the Sterling Act, the amendments  
30 of Article II contained in this act shall not preempt any tax

1 imposed by a unit of local government as of the effective date  
2 of this act unless specifically provided in this act.

3 Section 32. The amendment of the following provisions shall  
4 apply to taxes imposed under Article VII of the act for calendar  
5 years beginning after December 31, 2013:

6 (1) Section 701(b) of the act.

7 (2) Section 701.1 of the act.

8 (3) Section 701.4(3)(xiii) of the act.

9 (4) The definitions of "doing business in this  
10 Commonwealth" and "receipts" in section 701.5 of the act.

11 Section 33. The amendment of section 304 of the act shall  
12 apply to tax years beginning after December 31, 2014.

13 Section 34. The amendment or addition of the following  
14 provisions shall apply to taxable years beginning after December  
15 31, 2015:

16 (1) The following provisions of section 401 of the act:

17 (i) Clause (3):

18 (A) 1(a) and (t),

19 (B) 2(a)(16.1) and (f).

20 (C) 4(c)(1)(A), (2)(B)(VII), (3) and (4).

21 (ii) Clauses (5), (11), (12), (13), (14), (15) and  
22 (16).

23 (2) Section 402(b) of the act.

24 (3) Section 403(a.1) and (a.2) of the act.

25 (4) Section 404 of the act.

26 (5) Section 3003.3(d) and (d.1) of the act.

27 Section 35. This act shall take effect as follows:

28 (1) The following provisions shall take effect  
29 immediately:

30 (i) This section.

1           (ii) The amendment or addition of sections 302, 303,  
2           304, 360, 701, 701.1 and 701.4(3)(xiii) and the  
3           definitions of "doing business in this Commonwealth" and  
4           "receipts" in section 701.5 of the act.

5           (2) The amendment of sections 302 and 303 of the act  
6           shall take effect July 1, 2015.

7           (3) The following provisions shall take effect October  
8           1, 2015, or immediately, whichever is later:

9                   (i) Section 32 of this act.

10                   (ii) The amendment or addition of sections 1206,  
11                   1206.1 and Article XII-A of the act.

12           (4) The following provisions shall take effect January  
13           1, 2016, or immediately, whichever is later:

14                   (i) Sections 30 and 31 of this act.

15                   (ii) The amendment or addition of sections 201(a),  
16                   (b), (c), (f), (g), (i), (k), (m), (o), (w), (y), (dd),  
17                   (ll), (pp), (qq), (tt), (eee) and (fff), 202, 203, 204  
18                   heading, (4), (5), (11), (13), (17), (29), (30), (31),  
19                   (32), (33), (34), (35), (36), (37), (38), (39), (41),  
20                   (45), (50), (53), (55), (57), (58), (61), (63), (64),  
21                   (65), (66), (70), (71), (72) (73), (74), (75) and (76),  
22                   206, 208, 209, 210, 217, 225, 227, 233, 247.1(b), 252,  
23                   262, 265, 266(c), 268(b) and (c), 271(d) and 281.3 of the  
24                   act.

25           (5) The remainder of this act shall take effect July 1,  
26           2015, or immediately, whichever is later.