

## AN ACT

1 Amending Titles 53 (Municipalities Generally) and 72 (Taxation  
2 and Fiscal Affairs) of the Pennsylvania Consolidated  
3 Statutes, eliminating school district property taxes;  
4 imposing county and school district taxes; establishing the  
5 School District Emergency Fund and the School District  
6 Property Tax Elimination Fund; consolidating Articles II and  
7 III of the Tax Reform Code of 1971; in preliminary provisions  
8 relating to sales and use tax, providing for definitions; in  
9 taxation generally relating to sales and use tax, providing  
10 for exclusions and for transfer to county sales and use tax  
11 accounts; and, in preliminary provisions relating to personal  
12 income tax, providing for definitions; and making related  
13 repeals.

14 This act may be referred to as the School Property Tax  
15 Elimination Act.

16 The General Assembly finds and declares as follows:

17 (1) School district property taxes are a fixed expense  
18 for property owners, which creates an unsustainable and  
19 regressive system of taxation impacting our fundamental  
20 rights of life, liberty and property. School district  
21 property taxes are not reflective of a property owner's  
22 ability to pay and are regressive in nature.

23 (2) The current rate of increase of school district

1 property taxes is unsustainable due to factors frequently  
2 beyond the control of local school officials and school  
3 boards, including underfunded pensions, rapidly escalating  
4 health care costs, more complex educational requirements for  
5 students and unfunded mandates.

6 (3) School district property taxes impact individuals  
7 differently. For example, if spouses are retired and one  
8 spouse passes away, the income reduction caused by the death  
9 is immediate, but the school district property tax burden  
10 remains unchanged. Other factors impacting older  
11 Pennsylvanians' ability to bear the burden of school district  
12 property taxes include the amount of financial assets in  
13 retirement, health, mobility and the proximity of family  
14 members. School district property taxes are problematic for  
15 working families as well, with young working families bearing  
16 the brunt of funding the State while managing such financial  
17 burdens as income taxes, exploding health care coverage costs  
18 and day care expenses.

19 (4) This Commonwealth faces an additional risk through  
20 its tax structure and limited job creation, as young working  
21 families continue to relocate from this Commonwealth, partly  
22 as a result of Pennsylvania's tax system being specifically  
23 geared to taxation of income from working citizens, with  
24 retirement income not being taxed.

25 (5) The Independent Fiscal Office reports that  
26 Pennsylvania is attracting more seniors as residents because  
27 of the tax status in this Commonwealth of retirement income,  
28 particularly when compared to neighboring states.

29 (6) The demographic changes to this Commonwealth, fueled  
30 by the combination of the exodus of younger people from this

1 Commonwealth and the migration of older people into this  
2 Commonwealth, have precipitated a growing financial crisis.

3 (7) School districts are fixed cost-intensive operations  
4 and seek stability in funding through property taxes, but the  
5 predictability and certainty of school district property  
6 taxes create contradictory impacts on property owners in  
7 meeting their tax obligations.

8 (8) School district property tax reform must be  
9 accomplished in an equitable manner in the form of the total  
10 elimination of school district property taxes for residential  
11 and commercial properties. Businesses in this Commonwealth  
12 alone cannot and should not bear the financial burden caused  
13 by the elimination of school district property taxes on  
14 residential property only. (See 53 Pa.C.S. § 9011(a).)

15 (9) School district property tax reform must also  
16 include rental properties, whereby each landlord must reduce  
17 rental payments required of each residential or commercial  
18 tenant in an amount equal to the reduction of taxes on real  
19 property attributable to a tenant's unit, and the rental  
20 amount specified in a lease must reflect any reduction in  
21 real property taxes as part of the school district property  
22 tax reform. (See 53 Pa.C.S. § 9017.)

23 (10) This act provides for the elimination of school  
24 district property taxes through the following:

25 (i) An increase in the sales, use and occupancy  
26 taxes, whereby an additional 2% tax shall be distributed  
27 to each county of this Commonwealth, which shall disburse  
28 money to school districts within the county from the  
29 School District Property Tax Elimination Fund. (See 53  
30 Pa.C.S. Ch. 90A Subchs. C and F.) For this purpose,

1 certain exclusions from taxation are eliminated,  
2 including clothing and certain food and beverages. (See  
3 the definitions of "sale at retail" and "use" in 72  
4 Pa.C.S. § 1102 and see 72 Pa.C.S. § 1321(17), (19) and  
5 (40), which effectuate these changes.)

6 (ii) The imposition by each school district of a  
7 local tax on the personal income of resident taxpayers of  
8 the county up to a maximum rate of 1.85%, the revenue  
9 from which shall be collected by and be solely for the  
10 use of school districts. (See 53 Pa.C.S. Ch. 90A Subch.  
11 D.) For this purpose, compensation is expanded to include  
12 taxation of old age or retirement benefits, with the  
13 exception of Social Security benefits. (See the  
14 definition of "compensation" in 72 Pa.C.S. § 2102, which  
15 effectuates these changes.)

16 (11) This act is not intended to reduce expenditures  
17 made to school districts in this Commonwealth. The purpose of  
18 this act is to shift a source of local school district  
19 funding away from school district property taxes in a manner  
20 that does not negatively impact school districts.

21 The General Assembly of the Commonwealth of Pennsylvania  
22 hereby enacts as follows:

23 Section 1. Title 53 of the Pennsylvania Consolidated  
24 Statutes is amended by adding chapters to read:

25 CHAPTER 90

26 SCHOOL DISTRICT PROPERTY TAX ELIMINATION

27 Subchapter

28 A. Preliminary Provisions

29 B. Administration

30 SUBCHAPTER A

1 PRELIMINARY PROVISIONS

2 Sec.

3 9001. Scope of chapter.

4 9002. Definitions.

5 § 9001. Scope of chapter.

6 This chapter relates to school district property tax  
7 elimination.

8 § 9002. Definitions.

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

12 "Base year." The first fiscal year of a school district  
13 beginning after June 30, 2021.

14 "Board." The School District Property Tax Elimination  
15 Appeals Board.

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

18 "Earned income tax." A tax on earned income and net profits  
19 levied under:

20 (1) the act of June 27, 2006 (1st Sp.Sess., P.L.1873,  
21 No.1), known as the Taxpayer Relief Act; or

22 (2) the act of October 15, 2008 (P.L.1615, No.130).

23 "Emergency fund." The School District Emergency Fund  
24 established under section 9013 (relating to School District  
25 Emergency Fund).

26 "Fund." The School District Property Tax Elimination Fund  
27 established under section 90A51 (relating to School District  
28 Property Tax Elimination Fund).

29 "Secretary." The Secretary of Education of the Commonwealth.

30 SUBCHAPTER B

1 ADMINISTRATION

2 Sec.

3 9011. Prohibition.

4 9012. School District Property Tax Elimination Appeals Board.

5 9013. School District Emergency Fund.

6 9014. Supplemental funding.

7 9015. Excess money.

8 9016. Effect on basic education funding allocation.

9 9017. Rent reductions.

10 9018. Training.

11 § 9011. Prohibition.

12 (a) General rule.--Except as provided in subsection (b), for  
13 the first fiscal year of a school district beginning after  
14 December 31, 2021, and each fiscal year of the school district  
15 thereafter, the school district may not levy, assess or collect  
16 real property taxes.

17 (b) Exception.--Subsection (a) shall not apply to the  
18 collection of delinquent taxes.

19 (c) Penalty.--During any attempt after the prohibition under  
20 subsection (a), by a school district to reinstate real property  
21 taxes or levy against real property, the school district may  
22 not:

23 (1) Receive any future disbursements through the fund.

24 (2) Impose a personal income tax under Subchapter D of  
25 Chapter 90A (relating to personal income tax).

26 § 9012. School District Property Tax Elimination Appeals Board.

27 (a) Establishment.--The School District Property Tax  
28 Elimination Appeals Board is established.

29 (b) Composition.--The board shall consist of the following  
30 members:

1       (1) Two representatives of the department, to be  
2 appointed by the secretary.

3       (2) A representative of the Pennsylvania State Education  
4 Association, to be appointed by the secretary.

5       (3) A representative of the Pennsylvania Association of  
6 School Business Officials, to be appointed by the secretary.

7       (4) A representative of the Pennsylvania School Boards  
8 Association, to be appointed by the secretary.

9       (5) An individual appointed by the President pro tempore  
10 of the Senate.

11       (6) An individual appointed by the Majority Leader of  
12 the Senate.

13       (7) An individual appointed by the Minority Leader of  
14 the Senate.

15       (8) An individual appointed by the Speaker of the House  
16 of Representatives.

17       (9) An individual appointed by the Majority Leader of  
18 the House of Representatives.

19       (10) An individual appointed by the Minority Leader of  
20 the House of Representatives.

21       (c) Chairperson.--The secretary shall appoint a chairperson  
22 of the board, who shall be one of the representatives of the  
23 department.

24       (d) Compensation.--Members of the board shall not be  
25 entitled to compensation for their services as members but shall  
26 be entitled to reimbursement for actual and necessary travel  
27 expenses.

28       (e) Vacancies.--A vacancy on the board shall be filled in  
29 the same manner as the original appointment.

30       (f) Quorum.--A majority of the appointed members of the

1 board shall constitute a quorum. Action may be taken by the  
2 board at a meeting upon a vote of a quorum of its members  
3 present in person or through electronic means.

4 (g) Meetings.--

5 (1) The board shall hold the board's first meeting  
6 within 30 days of the effective date of this section.

7 (2) The board shall meet at the call of the chairperson  
8 or as otherwise provided by the board.

9 (3) Meetings of the board shall be subject to the  
10 requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

11 (h) Administrative support.--The department shall provide  
12 administrative support, meeting space, data, research and any  
13 other assistance or information required by the board to carry  
14 out the board's duties.

15 (i) Duties.--The board shall:

16 (1) Provide information to counties and school districts  
17 regarding the use of the fund and the requirements under this  
18 chapter.

19 (2) During the base year and the first three fiscal  
20 years immediately following the base year, periodically  
21 evaluate the finances of each school district in this  
22 Commonwealth to determine whether the school district is  
23 negatively impacted as a result of the elimination of school  
24 district property taxes and the replacement of that revenue  
25 through disbursements from the fund.

26 (3) Make a determination as to a request for  
27 supplemental funding under section 9014 (relating to  
28 supplemental funding).

29 § 9013. School District Emergency Fund.

30 (a) Establishment.--The School District Emergency Fund is



1 established as a separate fund in the State Treasury.

2 (b) Purpose.--The emergency fund shall be used to make  
3 disbursements at a time and in a manner determined by the board  
4 in accordance with section 9014 (relating to supplemental  
5 funding).

6 (c) Amount.--The sum of \$500,000,000 is hereby appropriated  
7 from the General Fund to the School District Emergency Fund for  
8 the fiscal years July 1, 2021, to June 30, 2023, to carry out  
9 the provisions of this chapter. This appropriation shall be a  
10 continuing appropriation and shall not lapse until June 30,  
11 2022. The appropriation shall be allocated as follows:

12 (1) For fiscal year 2020-2021, \$250,000,000.

13 (2) For fiscal year 2021-2022, \$250,000,000.

14 § 9014. Supplemental funding.

15 (a) Application.--

16 (1) A school district that is negatively impacted as a  
17 result of the elimination of school district property taxes  
18 and the replacement of that revenue through disbursements  
19 from the fund may apply to the board for special  
20 consideration of additional supplemental funding to the  
21 school district because the school district:

22 (i) faces unforeseen or exigent financial  
23 circumstances, including, but not limited to, the absence  
24 of an income tax reciprocity agreement between the  
25 Commonwealth and another state; or

26 (ii) is subject to Article VI-A of the act of March  
27 10, 1949 (P.L.30, No.14), known as the Public School Code  
28 of 1949.

29 (2) The request for supplemental funding shall specify  
30 the reasons and amount of the request, along with any course

1 of action that may mitigate the request.

2 (b) Review and determination.--The board shall, in a timely  
3 manner, review the application under subsection (a) and  
4 determine the amount of supplemental funding to be received by  
5 the school district from the emergency fund.

6 (c) Absence of reciprocity agreement.--Upon application  
7 under subsection (a), money in the General Fund shall be paid to  
8 the school district to offset a revenue loss to the school  
9 district due to the absence of an income tax reciprocity  
10 agreement between the Commonwealth and another state. The board  
11 shall determine the amount of the payment based on the amount of  
12 residential real property tax levied and assessed by the school  
13 district in the base year.

14 (d) Notice.--The board shall notify the school district in  
15 writing of its determination.

16 § 9015. Excess money.

17 If, as a result of the disbursements made through the fund, a  
18 school district receives more money during a fiscal year than  
19 the amount under the school district budget approved by the  
20 school district's board of school directors for that fiscal  
21 year, the school district shall reduce the earned income tax  
22 imposed by the school district or reduce any indebtedness of the  
23 school district by the difference between the amount of the fund  
24 disbursements and the amount under the school district budget.

25 § 9016. Effect on basic education funding allocation.

26 This chapter is not intended to alter the basic education  
27 funding allocation.

28 § 9017. Rent reductions.

29 (a) Amount of reduction.--Each landlord shall reduce rental  
30 payments required of each residential or commercial tenant in an

1 amount equal to the reduction of taxes on real property  
2 attributable to the tenant's unit unless the landlord can  
3 confirm by a written disclosure that prior property tax  
4 increases over the past five years were not passed to each  
5 tenant. The amount of tax reduction attributable to each unit  
6 shall be based upon allocated square footage occupied or other  
7 reasonable criteria. The rental amount specified in a lease  
8 shall reflect any reduction in real property taxes under this  
9 chapter.

10 (b) Calculation.--The rental reduction per rental payment  
11 shall be calculated by dividing the total real property tax  
12 reduction applicable to the real property leased by the tenant  
13 by the number of payments required of the tenant during that tax  
14 year. In cases where more than one rental unit is situated upon  
15 a tract of real estate affected by the tax reduction, the  
16 landlord shall reduce the rent of each tenant in a proportion  
17 equal to the total amount of rent that the rental unit leased by  
18 the tenant bears to the total amount of rent of all rental units  
19 situated upon the tract of real estate.

20 (c) Time of reduction.--A landlord shall reduce the rental  
21 payments required of each tenant commencing with the first date  
22 on which the tenant is required to pay rent subsequent to the  
23 effective date of the elimination of the school real property  
24 tax and ending on the last date the tenant is required to pay  
25 rent under the lease. If a lease is on a month-to-month basis,  
26 rental payments shall only be reduced for the first month during  
27 which the tenant is required to pay rent subsequent to the  
28 effective date of the elimination of the school real property  
29 tax.

30 (d) Applicability.--This section shall apply to leases

1 entered into before, on or after the effective date of this  
2 section.

3 (e) Taxability.--Notwithstanding any other provision of law,  
4 a reduction in rent provided under this section shall not be  
5 taxable.

6 § 9018. Training.

7 The following may provide training regarding budget and  
8 financial management for school district officials as a result  
9 of the implementation of the fund:

10 (1) The board.

11 (2) An institution of higher education, as defined in  
12 section 118(c) of the act of March 10, 1949 (P.L.30, No.14),  
13 known as the Public School Code of 1949, that has expertise  
14 in financial management, budgeting, treasury operations and  
15 forecasting.

16 CHAPTER 90A

17 COUNTY AND SCHOOL DISTRICT TAXES

18 Subchapter

19 A. Preliminary Provisions

20 B. Subjects of Taxation

21 C. Sales and Use Tax

22 D. Personal Income Tax

23 E. Credits and Exemptions

24 F. Disbursement

25 SUBCHAPTER A

26 PRELIMINARY PROVISIONS

27 Sec.

28 90A01. Scope of chapter.

29 90A02. Definitions.

30 90A03. Scope and limitations.

1 § 90A01. Scope of chapter.

2 This chapter relates to county tax imposition.

3 § 90A02. Definitions.

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

7 "Base year." As defined in section 9002 (relating to  
8 definitions).

9 "Board of county commissioners." Includes the successor in  
10 function to the board of county commissioners in a county which  
11 has adopted a home rule charter under the former act of April  
12 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and  
13 Optional Plans Law, or under Subpart E of Part III (relating to  
14 home rule and optional plan government).

15 "County." A county-level municipality within this  
16 Commonwealth, regardless of classification. The term includes a  
17 county which has adopted a home rule charter or optional plan of  
18 government under the former Home Rule Charter and Optional Plans  
19 Law or under Subpart E of Part III.

20 "County sales and use tax account." The separate account  
21 established in the fund for each county under section 90A52(b)  
22 (relating to payments to counties).

23 "Current year." The calendar year or fiscal year for which  
24 the tax is levied.

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

26 "Domicile." As defined in section 501 of the act of December  
27 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling  
28 Act.

29 "Fund." The School District Property Tax Elimination Fund  
30 established under section 90A51 (relating to School District

1 Property Tax Elimination Fund).

2 "Governing body." The board of county commissioners,  
3 including the successor in function to the board of county  
4 commissioners in a county which has adopted a home rule charter  
5 under the former Home Rule Charter and Optional Plans Law or  
6 under Subpart E of Part III.

7 "Individual." As defined in 72 Pa.C.S. § 2102 (relating to  
8 definitions).

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

11 "Ordinance." Includes a resolution.

12 "Personal income." Income enumerated in 72 Pa.C.S. § 2203  
13 (relating to classes of income) as returned to and ascertained  
14 by the Department of Revenue, subject, however, to any  
15 correction thereof for fraud, evasion or error as finally  
16 ascertained by the Commonwealth.

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

19 "Taxpayer." An individual required under this chapter to  
20 file a tax return or to pay a tax.

21 § 90A03. Scope and limitations.

22 It is the intent of this chapter to require each county and  
23 school district to levy, assess and collect taxes.

24 SUBCHAPTER B

25 SUBJECTS OF TAXATION

26 Sec.

27 90A11. General tax authorization.

28 90A12. Continuity of tax.

29 § 90A11. General tax authorization.

30 (a) County.--Each county shall by ordinance levy, assess and

1 collect or provide for the levying, assessment and collection of  
2 taxes on the subjects specified under this chapter within the  
3 geographical limits of the county.

4 (b) School district.--Each school district shall by  
5 resolution levy, assess and collect or provide for the levying,  
6 assessment and collection of taxes on the subjects specified  
7 under this chapter within the geographical limits of the school  
8 district.

9 § 90A12. Continuity of tax.

10 Each tax levied under this chapter shall continue in force on  
11 a calendar or fiscal year basis, as the case may be, without  
12 annual reenactment unless the rate of tax is increased or the  
13 tax is subsequently repealed.

14 SUBCHAPTER C

15 SALES AND USE TAX

16 Sec.

17 90A21. Construction.

18 90A22. Imposition.

19 90A23. Situs.

20 90A24. Licenses.

21 90A25. Rules and regulations; collection costs.

22 90A26. Procedure and administration.

23 § 90A21. Construction.

24 The tax imposed by the governing body under this subchapter  
25 shall be in addition to any tax imposed by the Commonwealth  
26 under 72 Pa.C.S. Pt. II Subpt. A (relating to sales and use  
27 tax). Except for the differing situs provisions under section  
28 90A23 (relating to situs), the provisions of 72 Pa.C.S. Pt. II  
29 Subpt. A shall apply to the tax.

30 § 90A22. Imposition.

1 (a) Sales.--Each governing body shall, beginning October 1,  
2 2021, levy and assess on each separate sale at retail of  
3 tangible personal property or services, as defined in 72 Pa.C.S.  
4 § 1102 (relating to definitions), within the boundaries of the  
5 county, a tax on the purchase price. The tax shall be collected  
6 by the vendor from the purchaser and shall be paid over to the  
7 Commonwealth.

8 (b) Use.--Each governing body shall, beginning October 1,  
9 2021, levy and assess a tax on the use, within the county, of  
10 tangible personal property purchased at retail and on services  
11 purchased at retail, as defined in 72 Pa.C.S. § 1102 (relating  
12 to definitions), on the purchase price. The tax shall be paid  
13 over to the Commonwealth by the person who makes the use. The  
14 use tax imposed under this subchapter shall not be paid over to  
15 the Commonwealth by any person who has paid the tax imposed  
16 under:

17 (1) Subsection (a).

18 (2) This subsection to the vendor with respect to the  
19 use.

20 (c) Occupancy.--In any county within which a tax authorized  
21 by subsection (a) is imposed, there shall be levied, assessed  
22 and collected an excise tax on the rent on each occupancy of a  
23 room in a hotel in the county. The tax shall be collected by the  
24 operator or owner from the occupant and paid over to the  
25 Commonwealth.

26 (d) Rate and uniformity.--

27 (1) The tax under subsections (a), (b) and (c) shall be  
28 imposed at a rate of 2%.

29 (2) The tax imposed by subsections (a), (b) and (c)  
30 shall be uniform.



1 (e) Computation.--The tax imposed under this section shall  
2 be computed in the same manner under section 503(e)(2) of the  
3 act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
4 Intergovernmental Cooperation Authority Act for Cities of the  
5 First Class.

6 (f) Deposit.--Taxes collected under this section shall be  
7 deposited into the fund.

8 § 90A23. Situs.

9 (a) General rule.--Except as provided under subsections (b)  
10 and (c), the situs of sales at retail or uses, including leases,  
11 of motor vehicles, aircraft, motorcraft and utility services  
12 shall be determined in the manner specified by section 504 of  
13 the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
14 Intergovernmental Cooperation Authority Act for Cities of the  
15 First Class, and 72 Pa.C.S. Pt. II Subpt. A (relating to sales  
16 and use tax).

17 (b) Premium cable services.--The sale or use of premium  
18 cable service shall be deemed to occur at the service address in  
19 the county which is the address where the customer cable  
20 connection is located. This subsection shall determine the situs  
21 of premium cable service for the purpose of all local sales  
22 taxes, including those imposed under Chapter 5 of the  
23 Pennsylvania Intergovernmental Cooperation Authority Act for  
24 Cities of the First Class and under Subdivision (e) of Article  
25 XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as  
26 the Second Class County Code.

27 (c) Telecommunications service.--The situs of  
28 telecommunications service under this chapter shall be  
29 determined in accordance with regulations adopted by the  
30 department, which shall be uniform among all counties, and shall

1 be consistent with regulations promulgated under Subdivision (e)  
2 of Article XXXI-B of the Second Class County Code, 72 Pa.C.S.  
3 Pt. II Subpt. A and Chapter 5 of the Pennsylvania  
4 Intergovernmental Cooperation Authority Act for Cities of the  
5 First Class.  
6 § 90A24. Licenses.

7 A license for the collection of the tax imposed by this  
8 subchapter shall be issued in the same manner as is provided for  
9 in section 505 of the act of June 5, 1991 (P.L.9, No.6), known  
10 as the Pennsylvania Intergovernmental Cooperation Authority Act  
11 for Cities of the First Class. Licensees shall be entitled to  
12 the same discount as provided in 72 Pa.C.S. § 1526 (relating to  
13 discount).

14 § 90A25. Rules and regulations; collection costs.

15 (a) Regulations.--Rules and regulations shall be applicable  
16 to the taxes imposed under section 90A23 (relating to situs) in  
17 the same manner as is provided under section 506(1) and (2) of  
18 the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
19 Intergovernmental Cooperation Authority Act for Cities of the  
20 First Class.

21 (b) Administrative costs.--The department, to cover its  
22 costs of administration under this subchapter, shall be entitled  
23 to retain a sum equal to the costs of administration. When the  
24 annual operating budget for the department is submitted to the  
25 General Assembly, the department shall also submit to the  
26 chairperson and minority chairperson of the Appropriations  
27 Committee of the Senate and to the chairperson and minority  
28 chairperson of the Appropriations Committee of the House of  
29 Representatives a report of the actual sums retained for costs  
30 of collection in the preceding fiscal year, together with all

1 supporting details.

2 § 90A26. Procedure and administration.

3 Prior to adopting an ordinance imposing a tax under this  
4 chapter, the governing body shall give public notice of its duty  
5 to adopt the ordinance in the manner provided by section 306 of  
6 the Local Tax Enabling Act.

7 SUBCHAPTER D

8 PERSONAL INCOME TAX

9 Sec.

10 90A31. Construction.

11 90A32. Local personal income tax.

12 90A33. Collections.

13 90A34. Rules and regulations.

14 90A35. Procedure and administration.

15 § 90A31. Construction.

16 The tax imposed by the school district under this subchapter  
17 shall be in addition to any tax imposed by the Commonwealth  
18 under 72 Pa.C.S. Pt. II Subpt. B (relating to personal income  
19 tax). Except for the differing provisions under sections 90A41  
20 (relating to credits), 90A42 (relating to low-income tax  
21 provisions) and 90A43 (relating to regulations), the provisions  
22 of 72 Pa.C.S. Pt. II Subpt. B shall apply to the tax.

23 § 90A32. Local personal income tax.

24 Each school district shall adopt a resolution to, beginning  
25 October 1, 2021, levy, assess and collect a local tax on the  
26 personal income of resident taxpayers of the county up to a  
27 maximum rate of 1.85%.

28 § 90A33. Collections.

29 Each school district imposing a tax under section 90A32  
30 (relating to local personal income tax) shall designate the tax

1 officer who is appointed under section 507 of the Local Tax  
2 Enabling Act, or otherwise by law, as the collector of the tax.  
3 In the performance of the tax collection duties under this  
4 subchapter, the designated tax officer shall have all the same  
5 powers, rights, responsibilities and duties for the collection  
6 of the taxes which may be imposed under the Local Tax Enabling  
7 Act or as otherwise provided by law.

8 § 90A34. Rules and regulations.

9 Taxes imposed under section 90A32 (relating to local personal  
10 income tax) shall be subject to the rules and regulations  
11 adopted by the department under Article III of the Tax Reform  
12 Code.

13 § 90A35. Procedure and administration.

14 Prior to adopting the resolution imposing the tax under  
15 section 90A32 (relating to local personal income tax), the  
16 school district shall give public notice of its duty to adopt  
17 the resolution in the manner provided by section 306 of the  
18 Local Tax Enabling Act.

19 SUBCHAPTER E

20 CREDITS AND EXEMPTIONS

21 Sec.

22 90A41. Credits.

23 90A42. Low-income tax provisions.

24 90A43. Regulations.

25 § 90A41. Credits.

26 The provisions of section 317 of the Local Tax Enabling Act  
27 shall be used to determine any credits under the provisions of  
28 this chapter for any taxes imposed under section 90A32 (relating  
29 to local personal income tax) on the earned income portion of  
30 the personal income tax.

1 § 90A42. Low-income tax provisions.

2 The provisions of 72 Pa.C.S. § 2204 (relating to special tax  
3 provisions for poverty) shall be applied by each school district  
4 which levies a tax under section 90A32 (relating to local  
5 personal income tax.

6 § 90A43. Regulations.

7 Each school district may adopt regulations for the processing  
8 of claims under this subchapter.

9 SUBCHAPTER F

10 DISBURSEMENT

11 Sec.

12 90A51. School District Property Tax Elimination Fund.

13 90A52. Payments to counties.

14 90A53. Payments by counties.

15 § 90A51. School District Property Tax Elimination Fund.

16 (a) Establishment.--The School District Property Tax  
17 Elimination Fund is established as a separate fund in the State  
18 Treasury.

19 (b) Purpose.--The fund shall be used to make disbursements  
20 at a time and in a manner determined by the Department of  
21 Education in consultation with the department and in accordance  
22 with Chapter 90 (relating to school district property tax  
23 elimination) for the purpose of eliminating school district  
24 property taxes.

25 (c) Sources.--The following shall be deposited into the  
26 fund:

27 (1) Money deposited under section 90A22(f) (relating to  
28 imposition).

29 (2) Money appropriated or transferred to the fund.

30 (3) Return on money in the fund.

1           (4) Grants, gifts, donations and other payments from a  
2           person or governmental entity to the fund.

3   § 90A52. Payments to counties.

4           (a) Initial amounts.--During the first three fiscal years  
5           immediately following the base year, the State Treasurer shall  
6           make distributions to each county, on behalf of school districts  
7           within the county, from the fund in an amount equivalent to the  
8           total real property tax revenues collected by the school  
9           districts during the base year, without regard to the amount of  
10           money contained in the fund at the time of the distributions.  
11           The General Assembly shall appropriate as much money as  
12           necessary to allow the fund to remain solvent to make the  
13           distributions.

14           (b) County accounts.--For each county the (proper name)  
15           County Sales and Use Tax Account is established as a separate  
16           account within the fund.

17           (c) Subsequent amounts.--For the fourth fiscal year  
18           immediately following the base year, and each fiscal year  
19           thereafter, the following apply:

20           (1) Taxes imposed under section 90A22 (relating to  
21           imposition) shall be received by the department and paid to  
22           the State Treasurer and, along with interest and penalties,  
23           less any collection costs allowed under this chapter and any  
24           refunds and credits paid, shall be credited, based on the  
25           situs of the sales at retail or uses, to the respective  
26           county sales and use tax accounts. Money shall be credited to  
27           the county sales and use tax accounts not less frequently  
28           than every two weeks.

29           (2) Money in the county sales and use tax accounts shall  
30           not lapse or be transferred to any other fund, but shall

1 remain in the county sales and use tax accounts. Pending  
2 their disbursement, money received on behalf of or deposited  
3 into the county sales and use tax accounts shall be invested  
4 or reinvested as is other money in the custody of the State  
5 Treasurer in the manner provided by law. All earnings  
6 received from the investment or reinvestment of the money  
7 shall be credited to the respective county sales and use tax  
8 accounts.

9 (3) The State Treasurer shall make periodic  
10 disbursements to each county, on behalf of school districts  
11 within the county, out of the money contained in the county's  
12 sales and use tax account.

13 § 90A53. Payments by counties.

14 (a) Proposed budget.--School district budgets approved by  
15 the respective boards of school directors shall be submitted to  
16 each county in which the school district is located.

17 (b) Disbursement to school districts.--Each county shall  
18 distribute to each school district a portion of the total  
19 disbursement to school districts which is equal to the total  
20 disbursement to school districts multiplied by the ratio of  
21 average daily membership of the school district divided by the  
22 sum of the average daily membership of all school districts in  
23 the county. For the purposes of this subsection, the term  
24 "average daily membership" shall mean "average daily membership"  
25 as defined by the act of March 10, 1949 (P.L.30, No.14), known  
26 as the Public School Code of 1949. For school districts located  
27 in more than one county, the average daily membership shall be  
28 multiplied by a factor calculated by dividing the square mileage  
29 of the school district located in the county by the total square  
30 mileage of the school district.

1 Section 2. Title 72 is amended by adding parts to read:

2 PART I

3 PRELIMINARY PROVISIONS

4 Chapter

5 1. General Provisions

6 CHAPTER 1

7 GENERAL PROVISIONS

8 Sec.

9 101. Scope of title.

10 102. Definitions.

11 § 101. Scope of title.

12 This title relates to taxation and fiscal affairs.

13 § 102. Definitions.

14 Subject to additional definitions contained in subsequent  
15 provisions of this title which are applicable to specific  
16 provisions under this title, the following words and phrases  
17 when used in this title shall have the meanings given to them in  
18 this section unless the context clearly indicates otherwise:

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

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

22 "Internal Revenue Code of 1954." The Internal Revenue Code  
23 of 1954 (68A Stat. 3).

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

26 "Liquor Code." The act of April 12, 1951 (P.L.90, No.21),  
27 known as the Liquor Code.

28 "Mobile Telecommunications Sourcing Act." The Mobile  
29 Telecommunications Sourcing Act (Public Law 106-252, 114 Stat.  
30 626).



1 "Secretary." The Secretary of Revenue of the Commonwealth.  
2 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,  
3 No.2), known as the Tax Reform Code of 1971.

4 PART II

5 STATE TAXATION

6 Subpart

7 A. Sales and Use Tax

8 B. Personal Income Tax

9 SUBPART A

10 SALES AND USE TAX

11 Chapter

12 11. Preliminary Provisions

13 13. Taxation Generally

14 15. Procedure and Administration

15 CHAPTER 11

16 PRELIMINARY PROVISIONS

17 Sec.

18 1101. Scope of subpart.

19 1102. Definitions.

20 § 1101. Scope of subpart.

21 This subpart relates to sales and use tax.

22 § 1102. Definitions.

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

26 "Adjustment services, collection services or credit reporting  
27 services." As follows:

28 (1) A service providing collection or adjustments of  
29 accounts receivable or mercantile or consumer credit  
30 reporting, including, but not limited to, services provided

1 by an adjustment bureau or collection agency, a consumer or  
2 mercantile credit reporting bureau, a credit bureau or  
3 agency, a credit clearinghouse or a credit investigation  
4 service.

5 (2) The term shall not include any of the following:

6 (i) Providing credit card service with collection by  
7 a central agency.

8 (ii) Providing debt counseling or adjustment  
9 services to individuals.

10 (iii) Billing or collection services provided by a  
11 local exchange telephone company.

12 "Affiliated person." A person that, with respect to another  
13 person:

14 (1) has a direct or indirect ownership interest of more  
15 than 5% in the other person; or

16 (2) is related to the other person because a third  
17 person, or group of third persons who are affiliated with  
18 each other as defined in this definition, holds a direct or  
19 indirect ownership interest of more than 5% in the related  
20 person.

21 "Animal housing facility." A roofed structure or facility,  
22 or a portion of the facility, used for occupation by livestock  
23 or poultry.

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

28 "Building machinery and equipment." As follows:

29 (1) Generation equipment, storage equipment,  
30 conditioning equipment, distribution equipment and

1 termination equipment, limited to the following:

2 (i) Air conditioning, limited to heating, cooling,  
3 purification, humidification, dehumidification and  
4 ventilation.

5 (ii) Electrical.

6 (iii) Plumbing.

7 (iv) Communications limited to voice, video, data,  
8 sound, master clock and noise abatement.

9 (v) Alarms, limited to fire, security and detection.

10 (vi) A control system, limited to energy management,  
11 traffic and parking lot and building access.

12 (vii) A medical system, limited to diagnosis and  
13 treatment equipment, medical gas, nurse call and doctor  
14 paging.

15 (viii) A laboratory system.

16 (ix) A cathodic protection system.

17 (x) Furniture, cabinetry and kitchen equipment.

18 (2) The term shall include any of the following,  
19 together with integral coverings and enclosures, whether the  
20 item constitutes a fixture or is otherwise affixed to the  
21 real estate, whether damage would be done to the item or its  
22 surroundings upon removal or whether the item is physically  
23 located within a real estate structure:

24 (i) Boilers.

25 (ii) Chillers.

26 (iii) Air cleaners.

27 (iv) Humidifiers.

28 (v) Fans.

29 (vi) Switchgear.

30 (vii) Pumps.

- 1           (viii) Telephones.
- 2           (ix) Speakers.
- 3           (x) Horns.
- 4           (xi) Motion detectors.
- 5           (xii) Dampers.
- 6           (xiii) Actuators.
- 7           (xiv) Grills.
- 8           (xv) Registers.
- 9           (xvi) Traffic signals.
- 10           (xvii) Sensors.
- 11           (xviii) Card access devices.
- 12           (xix) Guardrails.
- 13           (xx) Medial devices.
- 14           (xxi) Floor troughs.
- 15           (xxii) Grates.
- 16           (xxiii) Laundry equipment.
- 17           (3) The term shall not include any of the following:
- 18           (i) Guardrail posts.
- 19           (ii) Pipes.
- 20           (iii) Fittings.
- 21           (iv) Pipe supports and hangers.
- 22           (v) Valves.
- 23           (vi) Underground tanks.
- 24           (vii) Wire.
- 25           (viii) Conduit.
- 26           (ix) Receptacle and junction boxes.
- 27           (x) Insulation.
- 28           (xi) Ductwork.
- 29           (xii) Coverings.
- 30           "Building maintenance or cleaning services." As follows:

1           (1) Providing services which include, but are not  
2 limited to, any of the following:

3           (i) Janitorial, maid or housekeeping service.

4           (ii) Office or interior building cleaning or  
5 maintenance.

6           (iii) Window cleaning.

7           (iv) Floor waxing.

8           (v) Lighting maintenance such as bulb replacement.

9           (vi) Cleaning.

10          (vii) Chimney cleaning.

11          (viii) Acoustical tile cleaning.

12          (ix) Venetian blind cleaning.

13          (x) Cleaning and maintenance of telephone booths.

14          (xi) Cleaning and degreasing of service stations.

15          (2) The term shall not include any of the following:

16          (i) Repairs on buildings and other structures.

17          (ii) Maintenance or repair of boilers, furnaces and  
18 residential air conditioning equipment or parts of  
19 boilers, furnaces and residential air conditioning  
20 equipment.

21          (iii) Painting, wallpapering or applying other  
22 coverings to interior walls, ceilings or floors.

23          (iv) Exterior painting of buildings.

24          "Commercial aircraft operator." A person, excluding a  
25 scheduled airline, engaging in any or all of the following:

26          (1) Aircraft charters.

27          (2) Aircraft leasing.

28          (3) Aircraft sales.

29          (4) Aircraft rental.

30          (5) Flight instruction.

1           (6) Air freight.

2           (7) Other flight activities for compensation.

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

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

7           (2) Fair racing sanctioned by the State Harness Racing  
8           Commission.

9           "Construction contract." As follows:

10           (1) A written or oral contract or agreement for the  
11           construction, reconstruction, remodeling, renovation or  
12           repair of real estate or a real estate structure.

13           (2) The term shall not apply to services which are  
14           taxable under any of the following:

15           (i) Paragraph (1)(ix) or (xi) of the definition of  
16           the term "sale at retail."

17           (ii) Paragraph (1)(vi) or (viii) of the definition  
18           of the term "use."

19           "Construction contractor." A person who performs an activity  
20           under a construction contract, including a subcontractor.

21           "Disinfecting or pest control services." As follows:

22           (1) A service providing disinfecting, termite control,  
23           insect control, rodent control or other pest control  
24           services, including deodorant servicing of restrooms,  
25           washroom sanitation service, restroom cleaning service,  
26           extermination service or fumigating service.

27           (2) As used in this definition:

28           (i) The term "fumigating service" shall not include  
29           the fumigation of agricultural commodities or containers  
30           used for agricultural commodities.

1           (ii) The term "insect control" shall not include the  
2           spraying of trees which are harvested for commercial  
3           purposes for gypsy moth control.

4           "Employment agency services." As follows:

5           (1) Providing employment services to a prospective  
6           employer or employee other than employment services provided  
7           by theatrical employment agencies and motion picture casting  
8           bureaus.

9           (2) The term shall include, but not be limited to,  
10           services provided by employment agencies, executive placement  
11           services and labor contractor employment agencies other than  
12           farm labor.

13           "Forum." As follows:

14           (1) A place where sales at retail occur, whether  
15           physical or electronic.

16           (2) The term shall include a store, booth, Internet  
17           website, catalog or similar place.

18           "Gratuity." An amount paid or remitted for services  
19           performed in conjunction with a sale of food or beverages or  
20           hotel or motel accommodations when the amount is in excess of  
21           the charges and the tax for the food, beverages or  
22           accommodations, regardless of the method of billing or payment.

23           "Help supply services." As follows:

24           (1) Providing temporary or continuing help where the  
25           help supplied is on the payroll of the supplying person or  
26           entity, but is under the supervision of the individual or  
27           business to which help is furnished.

28           (2) The term shall include, but not be limited to,  
29           service provided by any of the following:

30           (i) Labor and manpower pools.

1 (ii) Employee leasing services.

2 (iii) Office help supply services.

3 (iv) Temporary help services.

4 (v) Usher services.

5 (vi) Modeling services.

6 (vii) Fashion show model supply services.

7 (3) The term shall not include services providing farm  
8 labor or human health-related services, including nursing,  
9 home health care and personal care. As used in this  
10 paragraph, the term "personal care" shall include providing  
11 at least one of the following types of assistance to persons  
12 with limited ability for self-care:

13 (i) Dressing, bathing or feeding.

14 (ii) Supervising self-administered medication.

15 (iii) Transferring a person to or from a bed or  
16 wheelchair.

17 (iv) Routine housekeeping chores when provided in  
18 conjunction with and supplied by the same provider of the  
19 assistance listed in subparagraph (i), (ii) or (iii).

20 "Internet." The international nonproprietary computer  
21 network of both Federal and non-Federal interoperable packet  
22 switched data networks.

23 "Lawn care service." Providing services for lawn upkeep,  
24 including, but not limited to, fertilizing, lawn mowing,  
25 shrubbery trimming or other lawn treatment services.

26 "Liquor." As defined in section 102 of the Liquor Code.

27 "Lobbying services." Providing the services of a lobbyist,  
28 as that term is defined in 65 Pa.C.S. § 13A03 (relating to  
29 definitions).

30 "Maintaining a place of business in this Commonwealth." As



1 follows:

2 (1) Any of the following:

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

15 (ii) Engaging in an activity as a business in this  
16 Commonwealth by a person, either directly or through a  
17 subsidiary, representative or an agent, in connection  
18 with the lease, sale or delivery of tangible personal  
19 property or the performance of services for use, storage  
20 or consumption or in connection with the sale or delivery  
21 for use of the services described under paragraph (1)  
22 (vi), (vii), (viii), (ix), (x), (xi) or (xii) of the  
23 definition of the term "sale at retail," including, but  
24 not limited to, having, maintaining or using an office,  
25 distribution house, sales house, warehouse or other place  
26 of business, a stock of goods or a solicitor, canvasser,  
27 salesman, representative or agent under its authority, at  
28 its direction or with its permission, regardless of  
29 whether the person or subsidiary is authorized to do  
30 business in this Commonwealth.

1           (iii) Regularly or substantially soliciting orders  
2 within this Commonwealth in connection with the lease,  
3 sale or delivery of tangible personal property or the  
4 performance of services or in connection with the sale or  
5 delivery of the services described under paragraph (1)  
6 (vi), (vii), (viii), (ix), (x), (xi) or (xii) of the  
7 definition of "sale at retail" for residents of this  
8 Commonwealth by means of catalogs or other advertising,  
9 whether the orders are accepted within or without this  
10 Commonwealth.

11           (iv) Entering this Commonwealth to provide assembly,  
12 service or repair of tangible personal property, either  
13 directly or through a subsidiary, representative or  
14 agent.

15           (v) Delivering tangible personal property to  
16 locations within this Commonwealth if the delivery shall  
17 include the unpacking, positioning, placing or assembling  
18 of the tangible personal property.

19           (vi) Having contact within this Commonwealth which  
20 would allow the Commonwealth to require a person to  
21 collect and remit tax under the Constitution of the  
22 United States.

23           (vii) Providing a customer's mobile  
24 telecommunications service deemed to be provided by the  
25 customer's home service provider under the Mobile  
26 Telecommunications Sourcing Act. For purposes of this  
27 subparagraph, words and phrases used in this subparagraph  
28 shall have the meanings given to them in the Mobile  
29 Telecommunications Sourcing Act.

30           (viii) As follows:

1           (A) Engaging in an activity as a business by a  
2           person, either directly or through a subsidiary,  
3           representative or agent, in connection with the  
4           lease, sale or delivery of tangible personal property  
5           into this Commonwealth or the performance of services  
6           for use, storage or consumption or in connection with  
7           the sale or delivery for use in this Commonwealth of  
8           at least \$100,000 during the preceding 12-month  
9           calendar period.

10           (B) For a marketplace facilitator, this activity  
11           includes all sales, leases and deliveries of tangible  
12           personal property and all sales of services by the  
13           marketplace seller whose sales are facilitated  
14           through the marketplace facilitator's forum.

15           (2) The term shall not include any of the following:

16           (i) Owning or leasing of tangible or intangible  
17           property by a person who has contracted with an  
18           unaffiliated commercial printer for printing if the  
19           property is for use by the commercial printer and located  
20           at the Pennsylvania premises of the commercial printer.

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

25           "Malt or brewed beverages." As defined in section 102 of the  
26           Liquor Code.

27           "Manufacture." As follows:

28           (1) The performance of manufacturing, fabricating,  
29           compounding, processing or other operations engaged in as a  
30           business, which place tangible personal property in a form,

1 composition or character different from that in which it is  
2 acquired, whether for sale or use by the manufacturer.

3 (2) The term shall include, but not be limited to, any  
4 of the following:

5 (i) Every operation commencing with the first  
6 production stage and ending with the completion of  
7 tangible personal property having the physical qualities,  
8 including packaging which passes to the ultimate  
9 consumer, the tangible personal property has when  
10 transferred by the manufacturer to another. The following  
11 apply:

12 (A) For purposes of this subparagraph, the term  
13 "operation" shall include clean rooms and their  
14 component systems, including any of the following:

15 (I) Environmental control systems.

16 (II) Antistatic vertical walls and  
17 manufacturing platforms and floors, which are  
18 independent of the real estate.

19 (III) Process piping systems.

20 (IV) Specialized lighting systems.

21 (V) Deionized water systems.

22 (VI) Process vacuum and compressed air  
23 systems.

24 (VII) Process and specialty gases.

25 (VIII) Alarm or warning devices specifically  
26 designed to warn of threats to the integrity of  
27 the product or people.

28 (B) For purposes of clause (A), the term "clean  
29 room" is a location with a self-contained, sealed  
30 environment with a controlled, closed air system

1 independent from the facility's general environmental  
2 control system.

3 (ii) The publishing and printing of books,  
4 newspapers, magazines and other periodicals.

5 (iii) Refining, blasting, exploring, mining and  
6 quarrying for, or otherwise extracting from the earth,  
7 from waste or stock piles, from pits or from banks,  
8 natural resources, minerals and mineral aggregates,  
9 including blast furnace slag.

10 (iv) Building, rebuilding, repairing and making  
11 additions to or replacements in or upon vessels designed  
12 for commercial use of registered tonnage of 50 tons or  
13 more when produced upon special order of the purchaser,  
14 or when rebuilt, repaired or enlarged, or when  
15 replacements are made upon order of or for the account of  
16 the owner.

17 (v) Research for the production of a new or improved  
18 product or utility service or method of producing a  
19 product or utility service, but not including market  
20 research or research for the improvement of  
21 administrative efficiency.

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

30 (vii) Remanufacture or retrofit by a manufacturer or

1 remanufacturer of aircraft, armored vehicles or other  
2 defense-related vehicles having a finished value of at  
3 least \$50,000. Remanufacture or retrofit involves the  
4 disassembly of the aircraft, vehicles, parts or  
5 components, including electric or electronic components,  
6 the integration of the parts and components with other  
7 used or new parts or components, including the salvaging,  
8 recycling or reclaiming of the used parts or components  
9 and the assembly of the new or used aircraft, vehicles,  
10 parts or components. For purposes of this subparagraph,  
11 the following words or phrases have the following  
12 meanings:

13 (A) "Aircraft." A fixed-wing aircraft,  
14 helicopter, powered aircraft, tilt-rotor or tilt-wing  
15 aircraft, unmanned aircraft or glider.

16 (B) "Armored vehicles." A tank, armed personnel  
17 carrier or other armed track or semitrack vehicle.

18 (C) "Other defense-related vehicles." A truck,  
19 truck-tractor, trailer, jeep or other utility  
20 vehicles, including an unmanned vehicle.

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

29 (3) The term shall not include any of the following:

30 (i) Constructing, altering, servicing, repairing or

1 improving real estate.

2 (ii) Repairing, servicing or installing tangible  
3 personal property.

4 (iii) The producing of a commercial motion picture.

5 (iv) The cooking, freezing or baking of fruits,  
6 vegetables, mushrooms, fish, seafood, meats, poultry or  
7 bakery products.

8 "Manufacturer of malt or brewed beverages." As defined in  
9 section 102 of the Liquor Code.

10 "Marketplace facilitator." As follows:

11 (1) A person that facilitates the sale at retail of  
12 tangible personal property.

13 (2) For purposes of this subpart, a person facilitates a  
14 sale at retail if the person or an affiliated person:

15 (i) lists or advertises tangible personal property  
16 for sale at retail in any forum; and

17 (ii) either directly or indirectly through  
18 agreements or arrangements with third parties, collects  
19 the payment from the purchaser and transmits the payment  
20 to the person selling the property.

21 (3) The term includes a person that may also be a  
22 vendor.

23 "Marketplace seller." A person that has an agreement with a  
24 marketplace facilitator to facilitate sales for the person.

25 "Mobile telecommunications service." Mobile  
26 telecommunications service as defined in the Mobile  
27 Telecommunications Sourcing Act.

28 "Person." A natural person, association, fiduciary,  
29 partnership, corporation or other entity, including the  
30 Commonwealth of Pennsylvania, its political subdivisions and

1 instrumentalities and public authorities. When used in  
2 prescribing and imposing a penalty, fine or imprisonment, or  
3 both, the term, as applied to an association, shall include the  
4 members of the association and, as applied to a corporation, the  
5 officers of the corporation.

6 "Prebuilt housing." Either of the following:

7 (1) Manufactured housing, including a mobile home, which  
8 bears a label as required by and referred to in the act of  
9 November 17, 1982 (P.L.676, No.192), known as the  
10 Manufactured Housing Construction and Safety Standards  
11 Authorization Act.

12 (2) Industrialized housing as defined in the act of May  
13 11, 1972 (P.L.286, No.70), known as the Industrialized  
14 Housing Act.

15 "Prebuilt housing builder." A person who makes a prebuilt  
16 housing sale to a prebuilt housing purchaser.

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

20 "Prebuilt housing sale." A sale of prebuilt housing to a  
21 prebuilt housing purchaser, including a sale to a landlord,  
22 without regard to whether the person making the sale is  
23 responsible for installing the prebuilt housing or whether the  
24 prebuilt housing becomes a real estate structure upon  
25 installation. Temporary installation by a prebuilt housing  
26 builder for display purposes of a unit held for resale shall not  
27 be considered occupancy for residential purposes.

28 "Premium cable or premium video programming service." As  
29 follows:

30 (1) Includes the portion of cable television services,



1 video programming services, community antenna television  
2 services or other distribution of television, video, audio or  
3 radio services which meets all of the following criteria:

4 (i) Is transmitted with or without the use of wires  
5 to purchasers.

6 (ii) Consists substantially of programming  
7 uninterrupted by paid commercial advertising which shall  
8 include, but not be limited to, programming primarily  
9 composed of uninterrupted full-length motion pictures or  
10 sporting events, pay-per-view, paid programming or audio  
11 or radio broadcasting.

12 (iii) Does not constitute a component of a basic  
13 service tier provided by a cable television system or a  
14 cable programming service tier provided by a cable  
15 television system. The following apply:

16 (A) A basic service tier shall include any of  
17 the following:

18 (I) All signals of domestic television  
19 broadcast stations, any public, educational,  
20 governmental or religious programming and  
21 additional video programming signals or service  
22 added to the basic service tier by the cable  
23 operator.

24 (II) A single additional lower-priced  
25 package of broadcast channels and access  
26 information channels which is a subset of the  
27 basic service tier under subclause (I).

28 (B) A cable programming service tier shall  
29 include video programming other than any of the  
30 following:

1                   (I) The basic service tier.

2                   (II) Video programming offered on a pay-per-  
3                   channel or pay-per-view basis.

4                   (III) A combination of multiple channels of  
5                   pay-per-channel or pay-per-view programming  
6                   offered as a package.

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

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

12           (ii) Upgrade to include additional premium cable or  
13           premium video programming service.

14           (iii) Downgrade to exclude all or some premium cable  
15           or premium video programming service.

16           (iv) Additional premium cable outlets in excess of  
17           10.

18           (v) Other charges or fees related to premium cable  
19           or premium video programming services.

20           (3) The term shall not apply to the following:

21           (i) Transmissions by public television, public radio  
22           services or official Federal, State or local government  
23           cable services.

24           (ii) Local origination programming which provides a  
25           variety of public service programs unique to the  
26           community, programming which provides coverage of public  
27           affairs issues which are presented without commentary or  
28           analysis, including United States Congressional  
29           proceedings, or programming which is substantially  
30           related to religious subjects.

1           (iii) Subscriber charges for access to a video dial  
2           tone system or charges by a common carrier to a video  
3           programmer for the transport of video programming.

4           "Prepaid mobile telecommunications service." As follows:

5           (1) Mobile telecommunications service which is paid for  
6           in advance and which enables the origination of calls using  
7           an access number, authorization code or both, whether  
8           manually or electronically dialed, if the remaining amount of  
9           units of the prepaid mobile telecommunications service is  
10           known by the service provider of the prepaid mobile  
11           telecommunications service on a continuous basis.

12           (2) The term shall not include the advance purchase of  
13           mobile telecommunications service if the purchase is pursuant  
14           to a service contract between the service provider and  
15           customer and if the service contract requires the customer to  
16           make periodic payments to maintain the mobile  
17           telecommunications service.

18           "Prepaid telecommunications." A tangible item containing a  
19           prepaid authorization number that can be used solely to obtain  
20           telecommunications service, including a renewal or increase in  
21           the prepaid amount.

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

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

29           (2) The processing of fruits or vegetables by cleaning,  
30           cutting, coring, peeling or chopping and treating to

1 preserve, sterilize or purify and substantially extend the  
2 useful shelf life of the fruits or vegetables, when the  
3 person engaged in the activity packages the property in  
4 sealed containers for wholesale distribution.

5 (3) The scouring, carbonizing, cording, combing,  
6 throwing, twisting or winding of natural or synthetic fibers,  
7 or the spinning, bleaching, dyeing, printing or finishing of  
8 yarns or fabrics, when the activities are performed prior to  
9 sale to the ultimate consumer.

10 (4) The electroplating, galvanizing, enameling,  
11 anodizing, coloring, finishing, impregnating or heat treating  
12 of metals or plastics for sale or in the process of  
13 manufacturing.

14 (5) The blanking, shearing, leveling, slitting or  
15 burning of metals for sale to or use by a manufacturer or  
16 processor.

17 (6) The rolling, drawing or extruding of ferrous and  
18 nonferrous metals.

19 (7) The fabrication for sale of ornamental or structural  
20 metal or of metal stairs, staircases, gratings, fire escapes  
21 or railings, not including fabrication work done at the  
22 construction site.

23 (8) The preparation of animal feed or poultry feed for  
24 sale.

25 (9) The production, processing and bottling of  
26 nonalcoholic beverages for wholesale distribution.

27 (10) The operation of a saw mill or planing mill for the  
28 production of lumber or lumber products for sale. The  
29 operation of a saw mill or planing mill begins with the  
30 unloading by the operator of the saw mill or planing mill of

1 logs, timber, pulpwood or other forms of wood material to be  
2 used in the saw mill or planing mill.

3 (11) The milling for sale of flour or meal from grains.

4 (12) The aging, stripping, conditioning, crushing and  
5 blending of tobacco leaves for use as cigar filler or as  
6 components of smokeless tobacco products for sale to  
7 manufacturers of tobacco products.

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

12 (14) The processing of used lubricating oils.

13 (15) The broadcasting of radio and television programs  
14 of licensed commercial or educational stations.

15 (16) The cooking or baking of bread, pastries, cakes,  
16 cookies, muffins and donuts when the person engaged in the  
17 activity sells the items at retail at locations that do not  
18 constitute an establishment from which ready-to-eat food and  
19 beverages are sold. For purposes of this paragraph, a bakery,  
20 pastry shop and donut shop are not to be considered an  
21 establishment from which ready-to-eat food and beverages are  
22 sold.

23 (17) The cleaning and roasting and the blending,  
24 grinding or packaging for sale of coffee from green coffee  
25 beans or the production of coffee extract.

26 (18) The preparation of dry or liquid fertilizer for  
27 sale.

28 (19) The production, processing and packaging of ice for  
29 wholesale distribution.

30 (20) The producing of mobile telecommunications

1 services.

2 (21) The collection, washing, sorting, inspecting and  
3 packaging of eggs.

4 "Promoter." A person who directly or indirectly rents,  
5 leases or otherwise operates or grants permission to a person to  
6 use space at a show for the display for sale or for the sale of  
7 tangible personal property or services subject to tax under  
8 Subchapter A of Chapter 13 (relating to imposition of tax).

9 "Purchase at retail." As follows:

10 (1) Any of the following:

11 (i) The acquisition for a consideration of the  
12 ownership, custody or possession of tangible personal  
13 property other than for resale by the person acquiring  
14 the property when the acquisition is made for the purpose  
15 of consumption or use, whether the acquisition is  
16 absolute or conditional, and by whatever means in which  
17 the acquisition is made.

18 (ii) The acquisition of a license to use or consume  
19 and the rental or lease of tangible personal property,  
20 other than for resale, regardless of the period of time  
21 the lessee has possession or custody of the property.

22 (iii) The obtaining for a consideration of those  
23 services described under paragraph (1)(ii), (iii) or  
24 (iv) of the definition of the term "sale at retail" other  
25 than for resale.

26 (iv) A retention after March 7, 1956, of possession,  
27 custody or a license to use or consume under a rental  
28 contract or other lease arrangement, other than as  
29 security, other than for resale.

30 (v) The obtaining for a consideration of those

1 services described under paragraph (1) (vi), (vii),  
2 (viii), (ix), (x), (xi) or (xii) of the definition of  
3 "sale at retail."

4 (2) The term shall include the purchase of liquor from a  
5 Pennsylvania liquor store by a person for any purpose, and  
6 the purchase of malt or brewed beverages from a manufacturer  
7 of malt or brewed beverages, distributor or importing  
8 distributor by a person for any purpose, except purchases  
9 from a manufacturer of malt or brewed beverages by a  
10 distributor or importing distributor or purchases from an  
11 importing distributor by a distributor within the meaning of  
12 the Liquor Code.

13 (3) The term shall not include a purchase of malt or  
14 brewed beverages from a retail dispenser or a purchase of  
15 liquor or malt or brewed beverages from a person holding a  
16 retail liquor license under the Liquor Code, but shall  
17 include purchase or acquisition of liquor or malt or brewed  
18 beverages other than under the Liquor Code.

19 "Purchase price." As follows:

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

30 (2) There shall be deducted from the purchase price the

1 value of any tangible personal property actually taken in  
2 trade or exchange in lieu of the whole or any part of the  
3 purchase price. For the purpose of this paragraph, the amount  
4 allowed by reason of tangible personal property actually  
5 taken in trade or exchange shall be considered the value of  
6 the property.

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



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

22           (5) With respect to the tax imposed by Subchapter A of  
23 Chapter 13 upon tangible personal property originally  
24 purchased by the user of the property six months or longer  
25 prior to the first taxable use of the property within this  
26 Commonwealth, the user may elect to pay tax on a substituted  
27 base determined by considering the purchase price of the  
28 property for tax purposes to be equal to the prevailing  
29 market price of similar tangible personal property at the  
30 time and place of the first use within this Commonwealth. The

1 election must be made at the time of filing a tax return with  
2 the department and reporting the tax liability and paying the  
3 proper tax due plus all accrued penalties and interest, if  
4 any, within six months of the due date of the report and  
5 payment, as provided under section 1513(a) and (c) (relating  
6 to time for filing returns).

7 (6) The purchase price of employment agency services and  
8 help supply services shall be the service fee paid by the  
9 purchaser to the vendor or supplying entity. As used in this  
10 paragraph, the term "service fee" is the total charge or fee  
11 of the vendor or supplying entity minus the costs of the  
12 supplied employee, including wages, salaries, bonuses,  
13 commissions, employment benefits, expense reimbursements and  
14 payroll and withholding taxes, to the extent that these costs  
15 are specifically itemized or that these costs in aggregate  
16 are stated in billings from the vendor or supplying entity.  
17 To the extent that these costs are not itemized or stated on  
18 the billings, then the service fee shall be the total charge  
19 or fee of the vendor or supplying entity.

20 (7) Unless the vendor separately states that portion of  
21 the billing which applies to premium cable service, the total  
22 bill for the provision of all cable services shall be the  
23 purchase price.

24 (8) The purchase price of prebuilt housing shall be 60%  
25 of the manufacturer's selling price, but a manufacturer of  
26 prebuilt housing who precollects tax from a prebuilt housing  
27 builder at the time of the sale to the prebuilt housing  
28 builder shall have the option to collect tax on 60% of the  
29 selling price or on 100% of the actual cost of the supplies  
30 and materials used in the manufacture of the prebuilt

1 housing.

2 (9) The purchase price of malt or brewed beverages sold  
3 by a manufacturer of malt or brewed beverages directly to the  
4 ultimate consumer for consumption on or off premises shall be  
5 25% of the retail sales price of the malt or brewed beverages  
6 sold for consumption on or off premises.

7 "Purchaser." As follows:

8 (1) A person who acquires, for a consideration, the  
9 ownership, custody or possession by sale, lease or otherwise,  
10 of tangible personal property or who obtains services in  
11 exchange for a purchase price.

12 (2) The term shall not include an employer who obtains  
13 services from the employer's employees in exchange for wages  
14 or salaries when the services are rendered in the ordinary  
15 scope of employment.

16 "Real estate structure." As follows:

17 (1) A structure or item purchased by a construction  
18 contractor under a construction contract with any of the  
19 following:

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

27 (ii) The United States.

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

30 (2) The term shall include any of the following:

- 1           (i) Building machinery and equipment.
- 2           (ii) Developed or undeveloped land.
- 3           (iii) Streets, roads and highways.
- 4           (iv) Parking lots.
- 5           (v) Stadiums and stadium seating.
- 6           (vi) Recreational courts.
- 7           (vii) Sidewalks.
- 8           (viii) Foundations, structural supports, walls,
- 9           floors, ceilings, roofs and doors.
- 10           (ix) Canopies.
- 11           (x) Millwork.
- 12           (xi) Elevators.
- 13           (xii) Windows and external window coverings.
- 14           (xiii) Outdoor advertising boards or signs.
- 15           (xiv) Airport runways.
- 16           (xv) Bridges, dams and dikes.
- 17           (xvi) Traffic-control devices, including traffic
- 18           signs.
- 19           (xvii) Satellite dishes and antennas.
- 20           (xviii) Guardrail posts.
- 21           (xix) Pipes, fittings, pipe supports and hangers.
- 22           (xx) Valves.
- 23           (xxi) Underground tanks.
- 24           (xxii) Wire, conduit, receptacle and junction boxes.
- 25           (xxiii) Insulation.
- 26           (xxiv) Ductwork and ductwork coverings.
- 27           (xxv) A structure or item similar to the items
- 28           listed in subparagraphs (i) through (xxiv), whether the
- 29           structure or item constitutes a fixture or is affixed to
- 30           the real estate, or whether damage would be done to the

1 structure or item or its surroundings upon removal.

2 "Resale." As follows:

3 (1) Any of the following:

4 (i) A transfer of ownership, custody or possession  
5 of tangible personal property for a consideration,  
6 including the grant of a license to use or consume and  
7 transactions where the possession of the property is  
8 transferred but where the transferor retains title only  
9 as security for payment of the selling price, whether the  
10 transaction is designated as bailment lease, conditional  
11 sale or otherwise.

12 (ii) The physical incorporation of tangible personal  
13 property as an ingredient or constituent into other  
14 tangible personal property, which is to be sold in the  
15 regular course of business or the performance of those  
16 services described under paragraphs (2), (3) and (4) of  
17 the definition of "sale at retail" upon tangible personal  
18 property which is to be sold in the regular course of  
19 business or where the person incorporating the property  
20 has undertaken at the time of purchase to cause the  
21 property to be transported in interstate commerce to a  
22 destination outside this Commonwealth.

23 (2) The term shall include any of the following:

24 (i) Telecommunications services purchased by a cable  
25 operator or video programmer that are used to transport  
26 or deliver cable or video programming services which are  
27 sold in the regular course of business.

28 (ii) Tangible personal property purchased or having  
29 a situs within this Commonwealth solely for the purpose  
30 of being processed, fabricated or manufactured into,

1 attached to or incorporated into tangible personal  
2 property and then transported outside this Commonwealth  
3 for use exclusively outside this Commonwealth.

4 (3) The term shall not include the sale of malt or  
5 brewed beverages by a retail dispenser or the sale of liquor  
6 or malt or brewed beverages by a person holding a retail  
7 liquor license within the meaning of the Liquor Code.

8 (4) The physical incorporation of tangible personal  
9 property as an ingredient or constituent in the construction  
10 of foundations for machinery or equipment the sale or use of  
11 which is excluded from tax under the provisions of paragraph  
12 (2) (ii) (A), (B), (C) or (D) of the definition of the term  
13 "sale at retail" or paragraph (2) (ii) (A), (B), (C) or (D) of  
14 the definition of the term "use," whether the foundations at  
15 the time of construction or transfer constitute tangible  
16 personal property or real estate.

17 "Resident." Any of the following:

18 (1) A natural person who:

19 (i) is domiciled in this Commonwealth; or

20 (ii) maintains a permanent place of residence within  
21 this Commonwealth and spends in the aggregate more than  
22 60 days of the year within this Commonwealth.

23 (2) A corporation which:

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

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

28 (iii) maintains a place of business within this  
29 Commonwealth.

30 (3) An association, fiduciary, partnership or other

1 entity which:

2 (i) is domiciled in this Commonwealth;

3 (ii) is authorized to do business or doing business  
4 within this Commonwealth; or

5 (iii) maintains a place of business within this  
6 Commonwealth.

7 "Sale at retail." As follows:

8 (1) Any of the following:

9 (i) A transfer, for a consideration, of the  
10 ownership, custody or possession of tangible personal  
11 property, including the grant of a license to use or  
12 consume whether the transfer is absolute or conditional  
13 and by whatever means in which the transfer is made.

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

19 (iii) The rendition for a consideration of the  
20 service of any of the following:

21 (A) Washing, cleaning, waxing, polishing or  
22 lubricating the motor vehicles of another, whether or  
23 not tangible personal property is transferred.

24 (B) Inspecting motor vehicles under the  
25 mandatory requirements of 75 Pa.C.S. (relating to  
26 vehicles).

27 (iv) The rendition for a consideration of the  
28 service of repairing, altering, mending, pressing,  
29 fitting, dyeing, laundering, drycleaning or cleaning  
30 tangible personal property other than wearing apparel or

1 shoes, or applying or installing tangible personal  
2 property as a repair or replacement part of other  
3 tangible personal property except wearing apparel or  
4 shoes for a consideration, whether the services are  
5 performed directly or by any means other than by coin-  
6 operated self-service laundry equipment for wearing  
7 apparel or household goods and whether tangible personal  
8 property is transferred, except services that are  
9 rendered in the construction, reconstruction, remodeling,  
10 repair or maintenance of real estate. This subparagraph  
11 shall not be deemed to impose tax upon diaper service.

12 (v) The retention of possession, custody or a  
13 license to use or consume tangible personal property or  
14 any further obtaining of services described under  
15 subparagraph (ii), (iii) or (iv) under a rental or  
16 service contract or other arrangement, other than as  
17 security.

18 (vi) The rendition for a consideration of lobbying  
19 services.

20 (vii) The rendition for a consideration of  
21 adjustment services, collection services or credit  
22 reporting services.

23 (viii) The rendition for a consideration of  
24 secretarial or editing services.

25 (ix) The rendition for a consideration of  
26 disinfecting or pest control services, building  
27 maintenance or cleaning services.

28 (x) The rendition for a consideration of employment  
29 agency services or help supply services.

30 (xi) The rendition for a consideration of lawn care



1 service.

2 (xii) The rendition for a consideration of self-  
3 storage service.

4 (xiii) The rendition for a consideration of a mobile  
5 telecommunications service.

6 (2) The term shall not include any of the following:

7 (i) A transfer of tangible personal property or  
8 rendition of services for the purpose of resale.

9 (ii) Except as provided under paragraph (3), the  
10 rendition of services or the transfer of tangible  
11 personal property including, but not limited to,  
12 machinery and equipment and machinery and equipment parts  
13 and supplies to be used or consumed by the purchaser  
14 directly in the operations of any of the following:

15 (A) The manufacture of tangible personal  
16 property.

17 (B) Farming, dairying, agriculture, timbering,  
18 horticulture or floriculture when engaged in as a  
19 business enterprise. As used in this clause:

20 (I) The term "farming" shall include the  
21 propagation and raising of ranch raised fur-  
22 bearing animals and the propagation of game birds  
23 for commercial purposes by holders of propagation  
24 permits issued under 34 Pa.C.S. (relating to  
25 game) and the propagation and raising of horses  
26 to be used exclusively for commercial racing  
27 activities.

28 (II) The term "timbering" shall include any  
29 of the following, except the harvesting of trees  
30 for clearing land for access roads:

1                   (a) The business of producing or  
2                   harvesting trees from forests, woodlots or  
3                   tree farms for the purpose of the commercial  
4                   production of wood, paper or energy products  
5                   derived from wood by a company primarily  
6                   engaged in the business of harvesting trees.

7                   (b) All operations prior to the  
8                   transport of the harvested product necessary  
9                   for the removal of timber or forest products  
10                  from the site, in-field processing of trees  
11                  into logs or chips, complying with  
12                  environmental protection and safety  
13                  requirements applicable to the harvesting of  
14                  forest products, loading of forest products  
15                  onto highway vehicles for transport to  
16                  storage or processing facilities and  
17                  postharvesting site reclamation, including  
18                  those activities necessary to improve timber  
19                  growth or ensure natural or direct  
20                  reforestation of the site.

21                  (C) Except as provided under paragraph (4), the  
22                  producing, delivering or rendering of a public  
23                  utility service, or in constructing, reconstructing,  
24                  remodeling, repairing or maintaining the facilities  
25                  which are directly used in producing, delivering or  
26                  rendering the service.

27                  (D) Processing.

28                  (3) The exclusions under paragraph (2) (ii) (A), (B), (C)  
29                  and (D) shall not apply to any of the following:

30                  (i) A vehicle required to be registered under 75

1 Pa.C.S., except those vehicles used directly by a public  
2 utility engaged in business as a common carrier or to  
3 maintenance facilities or to materials, supplies or  
4 equipment to be used or consumed in the construction,  
5 reconstruction, remodeling, repair or maintenance of real  
6 estate, other than directly used machinery, equipment,  
7 parts or foundations that may be affixed to the real  
8 estate.

9 (ii) Tangible personal property or services to be  
10 used or consumed in managerial sales or other  
11 nonoperational activities or to the purchase or use of  
12 tangible personal property or services by a person other  
13 than the person directly using the property or services  
14 in the operations described under paragraph (2) (ii) (A),  
15 (B), (C) and (D).

16 (iii) The services described under any of the  
17 following:

18 (A) Paragraph (1) (vi), (vii), (viii), (ix), (x),  
19 (xi) and (xii).

20 (B) The definition of any of the following:

21 (I) "Adjustment services, collection  
22 services or credit reporting services."

23 (II) "Building maintenance or cleaning  
24 services."

25 (III) "Disinfecting or pest control  
26 services," except that the exclusion provided  
27 under this definition for farming, dairying and  
28 agriculture shall apply to disinfecting or pest  
29 control services.

30 (IV) "Employment agency services."

1 (V) "Help supply services."

2 (VI) "Lawn care service."

3 (VII) "Lobbying services."

4 (VIII) "Secretarial or editing services."

5 (IX) "Self-storage service."

6 (4) The exclusions under paragraph (2)(ii)(C) shall not  
7 apply to any of the following:

8 (i) Construction materials, supplies or equipment  
9 used to construct, reconstruct, remodel, repair or  
10 maintain facilities not used directly by the purchaser in  
11 the production, delivering or rendition of public utility  
12 service.

13 (ii) Construction materials, supplies or equipment  
14 used to construct, reconstruct, remodel, repair or  
15 maintain a building, road or similar structure.

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

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

29 (6) With respect to liquor and malt or brewed beverages,  
30 as follows:

1           (i) The term shall include the sale of liquor by a  
2           Pennsylvania liquor store to a person for any purpose and  
3           the sale of malt or brewed beverages by a manufacturer of  
4           malt or brewed beverages, distributor or importing  
5           distributor to a person for any purpose, except sales by  
6           a manufacturer of malt or brewed beverages to a  
7           distributor or importing distributor or sales by an  
8           importing distributor to a distributor within the meaning  
9           of the Liquor Code.

10           (ii) The term shall not include a sale of malt or  
11           brewed beverages by a retail dispenser or a sale of  
12           liquor or malt or brewed beverages by a person holding a  
13           retail liquor license under the Liquor Code, but shall  
14           include a sale of liquor or malt or brewed beverages  
15           other than under the Liquor Code.

16           "Secretarial or editing services." As follows:

17           (1) Providing services which include, but are not  
18           limited to, editing, letter writing, proofreading, resume  
19           writing, typing or word processing.

20           (2) The term shall not include court reporting and  
21           stenographic services.

22           "Self-storage service." As follows:

23           (1) Providing a building, a room in a building or a  
24           secured area within a building with separate access provided  
25           for each purchaser of self-storage service, primarily for the  
26           purpose of storing personal property.

27           (2) The term shall not include providing any of the  
28           following:

29           (i) Safe deposit boxes by financial institutions.

30           (ii) Storage in refrigerator or freezer units.

1           (iii) Storage in commercial warehouses.

2           (iv) Facilities for goods distribution.

3           (v) Lockers in airports, bus stations, museums and  
4           other public places.

5       "Show." An event, the primary purpose of which involves the  
6       display or exhibition of tangible personal property or services  
7       for sale, including, but not limited to, a flea market, antique  
8       show, coin show, stamp show, comic book show, hobby show,  
9       automobile show, fair or similar show, whether held regularly or  
10       of a temporary nature, at which more than one vendor displays  
11       for sale or sells tangible personal property or services subject  
12       to tax under Subchapter A of Chapter 13.

13       "Soft drinks." As follows:

14           (1) All nonalcoholic beverages, whether carbonated or  
15           not, including any of the following:

16               (i) Soda water.

17               (ii) Ginger ale, Coca-Cola, lime cola, Pepsi, Dr.  
18               Pepper and root beer.

19               (iii) Fruit juice when plain or when carbonated  
20               water, flavoring or syrup is added.

21               (iv) Carbonated water.

22               (v) Orangeade and lemonade.

23               (vi) Other preparations and beverages commonly  
24               referred to as soft drinks, which are made with or  
25               without the use of any syrup.

26           (2) The term shall not include any of the following:

27               (i) Natural fruit or vegetable juices or their  
28               concentrates.

29               (ii) Noncarbonated fruit juice drinks containing not  
30               less than 25% by volume of natural fruit juices or of

1 fruit juice which has been reconstituted to its original  
2 state, or natural concentrated fruit or vegetable juices  
3 reconstituted to their original state, whether any of the  
4 natural juices are frozen or unfrozen, sweetened or  
5 unsweetened, seasoned with salt or spice or unseasoned.

6 (iii) Coffee, coffee substitutes, tea or cocoa.

7 (iv) Natural fluid milk or noncarbonated drinks made  
8 from milk derivatives.

9 "Storage." As follows:

10 (1) The keeping or retention of tangible personal  
11 property within this Commonwealth for any purpose, including  
12 the interim keeping, retaining or exercising a right or power  
13 over the tangible personal property.

14 (2) The term is not limited to the provision of self-  
15 storage service.

16 "Tangible personal property." As follows:

17 (1) Corporeal personal property, including, but not  
18 limited to, any of the following:

19 (i) Goods, wares and merchandise.

20 (ii) Steam and natural, manufactured and bottled gas  
21 for nonresidential use.

22 (iii) Electricity for nonresidential use.

23 (iv) Prepaid telecommunications.

24 (v) Premium cable or premium video programming  
25 service.

26 (vi) Spirituous or vinous liquor, malt or brewed  
27 beverages and soft drinks.

28 (vii) Interstate telecommunications service  
29 originating or terminating in this Commonwealth and  
30 charged to a service address in this Commonwealth.

1           (viii) Intrastate telecommunications service with  
2 the exception of:

3           (A) Subscriber line charges and basic local  
4 telephone service for residential use.

5           (B) Charges for telephone calls paid for by  
6 inserting money into a telephone accepting direct  
7 deposits of money to operate if the service address  
8 of an intrastate telecommunications service is deemed  
9 to be within this Commonwealth or within a political  
10 subdivision, regardless of how or where billed or  
11 paid. In the case of an interstate or intrastate  
12 telecommunications service, a charge paid through a  
13 credit or payment mechanism which does not relate to  
14 a service address, such as a bank, travel, credit or  
15 debit card, but not including prepaid  
16 telecommunications, is deemed attributable to the  
17 address of origination of the telecommunications  
18 service.

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

23           (i) Video.

24           (ii) Photographs.

25           (iii) Books.

26           (iv) Other taxable printed matter.

27           (v) Applications, commonly known as apps.

28           (vi) Games.

29           (vii) Music.

30           (viii) Other audio, including satellite radio



1 service.

2 (ix) Canned software, notwithstanding the function  
3 performed, including support, except separately invoiced  
4 help desk or call center support.

5 (x) Other taxable tangible personal property  
6 electronically or digitally delivered, streamed or  
7 accessed.

8 "Taxpayer." A person required to pay or collect the tax  
9 imposed by this subpart, including a marketplace facilitator and  
10 a marketplace seller.

11 "Telecommunications service." As follows:

12 (1) A one-way transmission or a two-way, interactive  
13 transmission of sounds, signals or other intelligence  
14 converted to like form which effects or is intended to effect  
15 meaningful communications by electronic or electromagnetic  
16 means via wire, cable, satellite, light waves, microwaves,  
17 radio waves or other transmission media.

18 (2) The term shall include any of the following:

19 (i) Local, toll, wide-area or any other type of  
20 telephone service.

21 (ii) Private line service.

22 (iii) Telegraph service.

23 (iv) Radio repeater service.

24 (v) Wireless communication service.

25 (vi) Personal communications system service.

26 (vii) Cellular telecommunication service.

27 (viii) Specialized mobile radio service.

28 (ix) Stationary two-way radio service.

29 (x) Paging service.

30 (3) The term shall not include any of the following:

1           (i) Subscriber charges for access to a video dial  
2 tone system.

3           (ii) Charges to video programmers for the transport  
4 of video programming.

5           (iii) Charges for access to the Internet. Access to  
6 the Internet shall not include any of the following:

7                   (A) The transport over the Internet or a  
8 proprietary network using the Internet protocol of  
9 telephone calls, facsimile transmissions or other  
10 telecommunications traffic to or from end users on  
11 the public switched telephone network if the signal  
12 sent from or received by an end user is not in an  
13 Internet protocol.

14                   (B) Telecommunications service purchased by an  
15 Internet service provider to deliver access to the  
16 Internet to its customers.

17           (iv) Mobile telecommunications service.

18 "Transient vendor." As follows:

19           (1) A person who satisfies all of the following  
20 conditions:

21                   (i) Brings into this Commonwealth, by automobile,  
22 truck or other means of transportation, or purchases in  
23 this Commonwealth, tangible personal property the sale or  
24 use of which is subject to the tax imposed by this part  
25 or comes into the Commonwealth to perform services the  
26 sale or use of which is subject to the tax imposed by  
27 this part.

28                   (ii) Offers or intends to offer tangible personal  
29 property or services for sale at retail within this  
30 Commonwealth.

1 (iii) Does not maintain an established office,  
2 distribution house, saleshouse, warehouse, service  
3 enterprise, residence from which business is conducted or  
4 other place of business within this Commonwealth.

5 (2) The term shall not include a person who:

6 (i) delivers tangible personal property within this  
7 Commonwealth under orders for the property which were  
8 solicited or placed by mail or other means; or

9 (ii) handcrafts items for sale at special events,  
10 including, but not limited to, fairs, carnivals, art and  
11 craft shows and other festivals and celebrations within  
12 this Commonwealth.

13 "Use." As follows:

14 (1) Any of the following:

15 (i) The exercise of a right or power incidental to  
16 the ownership, custody or possession of tangible personal  
17 property, including, but not limited to, transportation,  
18 storage or consumption.

19 (ii) The obtaining by a purchaser of the service of  
20 any of the following:

21 (A) Printing or imprinting of tangible personal  
22 property when the purchaser furnishes, either  
23 directly or indirectly, the articles used in the  
24 printing or imprinting.

25 (B) Washing, cleaning, waxing, polishing or  
26 lubricating of motor vehicles, whether a tangible  
27 personal property is transferred to the purchaser in  
28 conjunction with the services.

29 (C) Inspecting motor vehicles under the  
30 mandatory requirements of 75 Pa.C.S.

1           (D) Repairing, altering, mending, pressing,  
2           fitting, dyeing, laundering, drycleaning or cleaning  
3           tangible personal property other than wearing apparel  
4           or shoes or applying or installing tangible personal  
5           property as a repair or replacement part of other  
6           tangible personal property other than wearing apparel  
7           or shoes, whether the services are performed directly  
8           or by any means other than by means of coin-operated  
9           self-service laundry equipment for wearing apparel or  
10           household goods, and whether tangible personal  
11           property is transferred to the purchaser in  
12           conjunction with the services, except the services as  
13           are obtained in the construction, reconstruction,  
14           remodeling, repair or maintenance of real estate.

15           This clause shall not be deemed to impose tax upon  
16           diaper service.

17           (iii) The obtaining by the purchaser of lobbying  
18           services.

19           (iv) The obtaining by the purchaser of adjustment  
20           services, collection services or credit reporting  
21           services.

22           (v) The obtaining by the purchaser of secretarial or  
23           editing services.

24           (vi) The obtaining by the purchaser of disinfecting  
25           or pest control services, building maintenance or  
26           cleaning services.

27           (vii) The obtaining by the purchaser of employment  
28           agency services or help supply services.

29           (viii) The obtaining by the purchaser of lawn care  
30           service.

1           (ix) The obtaining by the purchaser of self-storage  
2 service.

3           (x) The obtaining by a construction contractor of  
4 tangible personal property or services provided to  
5 tangible personal property which will be used under a  
6 construction contract whether or not the tangible  
7 personal property or services are transferred.

8           (xi) The obtaining of mobile telecommunications  
9 service by a customer.

10 (2) The term shall not include any of the following:

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

17           (ii) Except as provided under paragraph (3), the use  
18 or consumption of tangible personal property, including,  
19 but not limited to, machinery and equipment and machinery  
20 and equipment parts and supplies or the obtaining of the  
21 services described under paragraph (1)(ii)(A), (B), (C)  
22 or (D) directly in the operations of any of the  
23 following:

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

26           (B) Farming, dairying, agriculture, timbering,  
27 horticulture or floriculture when engaged in as a  
28 business enterprise. As used in this clause:

29           (I) The term "farming" shall include the  
30 propagation and raising of ranch-raised

1 furbearing animals and the propagation of game  
2 birds for commercial purposes by holders of  
3 propagation permits issued under 34 Pa.C.S. and  
4 the propagation and raising of horses to be used  
5 exclusively for commercial racing activities.

6 (II) The term "timbering" shall include any  
7 of the following, except the harvesting of trees  
8 for clearing land for access roads:

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

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

1           (C) Except as provided under paragraph (4), the  
2           producing, delivering or rendering of a public  
3           utility service or in constructing, reconstructing,  
4           remodeling, repairing or maintaining the facilities  
5           which are directly used in producing, delivering or  
6           rendering the service.

7           (D) Processing.

8           (iii) The providing of a motor vehicle to a  
9           nonprofit private or public school to be used by the  
10           school for the sole purpose of driver education.

11           (3) The exclusions provided under paragraph (2) (ii)  
12           shall not apply to any of the following:

13           (i) A vehicle required to be registered under 75  
14           Pa.C.S. except those vehicles directly used by a public  
15           utility engaged in the business as a common carrier.

16           (ii) Maintenance facilities.

17           (iii) Materials, supplies or equipment to be used or  
18           consumed in the construction, reconstruction, remodeling,  
19           repair or maintenance of real estate other than directly  
20           used machinery, equipment, parts or foundations for the  
21           maintenance of real estate that may be affixed to the  
22           real estate.

23           (iv) Tangible personal property or services to be  
24           used or consumed in managerial sales or other  
25           nonoperational activities or to the purchase or use of  
26           tangible personal property or services by a person other  
27           than the person directly using the same in the operations  
28           described under paragraph (2) (ii).

29           (v) The services described under any of the  
30           following:

1 (A) Paragraph (1)(vi), (vii), (viii), (ix), (x),  
2 (xi) or (xii).

3 (B) The definition of any of the following:

4 (I) "Adjustment services, collection  
5 services or credit reporting services."

6 (II) "Building maintenance or cleaning  
7 services."

8 (III) "Disinfecting or pest control  
9 services," except that the exclusion provided  
10 under this definition for farming, dairying and  
11 agriculture shall apply to disinfecting or pest  
12 control services.

13 (IV) "Employment agency services."

14 (V) "Help supply services."

15 (VI) "Lawn care service."

16 (VII) "Lobbying services."

17 (VIII) "Secretarial or editing service."

18 (IX) "Self-storage service."

19 (4) The exclusion provided under paragraph (2)(ii)(C)  
20 shall not apply to any of the following:

21 (i) Construction materials, supplies or equipment  
22 used to construct, reconstruct, remodel, repair or  
23 maintain facilities not used directly by the purchaser in  
24 the production, delivering or rendition of public utility  
25 service.

26 (ii) Tools and equipment used but not installed in  
27 the maintenance of facilities used directly in the  
28 production, delivering or rendition of a public utility  
29 service.

30 (5) Where tangible personal property or services are



1 utilized for purposes constituting a use, and for purposes  
2 excluded from the definition of the term "use," it shall be  
3 presumed that the property or services are utilized for  
4 purposes constituting a sale at retail and subject to tax  
5 unless the user proves to the department that the predominant  
6 purposes for which the property or services are utilized do  
7 not constitute a sale at retail.

8 (6) With respect to liquor and malt or brewed beverages,  
9 as follows:

10 (i) The term shall include the purchase of liquor  
11 from a Pennsylvania liquor store by a person for any  
12 purpose and the purchase of malt or brewed beverages from  
13 a manufacturer of malt or brewed beverages, distributor  
14 or importing distributor by a person for any purpose,  
15 except purchases from a manufacturer of malt or brewed  
16 beverages by a distributor or importing distributor, or  
17 purchases from an importing distributor by a distributor  
18 within the meaning of the Liquor Code.

19 (ii) The term shall not include a purchase of malt  
20 or brewed beverages from a retail dispenser or a purchase  
21 of liquor or malt or brewed beverages from a person  
22 holding a retail liquor license under the Liquor Code,  
23 but shall include the exercise of a right or power  
24 incidental to the ownership, custody or possession of  
25 liquor or malt or brewed beverages obtained by the person  
26 exercising the right or power in any manner other than  
27 under the Liquor Code.

28 (7) The use of tangible personal property purchased at  
29 retail upon which the services described under paragraph (1)  
30 (ii) have been performed shall be deemed to be a use of the

1 services by the person using the property.  
2 "Used prebuilt housing." Prebuilt housing that was  
3 previously subject to a sale to a prebuilt housing purchaser.  
4 "Vendor." A person maintaining a place of business in this  
5 Commonwealth, selling or leasing tangible personal property or  
6 rendering services, the sale or use of which is subject to the  
7 tax imposed by this subpart, including a marketplace facilitator  
8 and a marketplace seller, but not including an employee who, in  
9 the ordinary scope of employment, renders services to an  
10 employer in exchange for wages and salaries.

11 CHAPTER 13

12 TAXATION GENERALLY

13 Subchapter

14 A. Imposition of Tax

15 B. Computation of Tax

16 C. Exclusions from Tax

17 D. Licenses

18 E. Hotel Occupancy Tax

19 F. Remote Sellers

20 SUBCHAPTER A

21 IMPOSITION OF TAX

22 Sec.

23 1301. Sale of tangible personal property or services.

24 1302. Use of tangible personal property or services.

25 1303. Telecommunications service.

26 1304. Coin-operated vending machines.

27 1305. Prepaid telecommunications.

28 1306. Prepaid mobile communications service.

29 1307. Prebuilt housing.

30 1308. Mobile telecommunications services.

1 1309. Malt or brewed beverages.

2 § 1301. Sale of tangible personal property or services.

3 (a) Imposition.--There is imposed upon each separate sale at  
4 retail of tangible personal property or services within this  
5 Commonwealth a tax of 6% of the purchase price.

6 (b) Collection.--The tax under this section shall, except as  
7 otherwise provided, be collected by the vendor or other person  
8 required by this part from the purchaser and shall be paid to  
9 the Commonwealth as provided in this subpart.

10 § 1302. Use of tangible personal property or services.

11 (a) Imposition.--There is imposed upon the use, on or after  
12 the effective date of this section, within this Commonwealth of  
13 tangible personal property purchased at retail on or after the  
14 effective date of this section and on those services described  
15 in this chapter and purchased at retail on or after the  
16 effective date of this section a tax of 6% of the purchase  
17 price.

18 (b) Collection.--The tax under this section shall, except as  
19 otherwise provided, be paid to the Commonwealth by the person  
20 who makes the use as provided under subsection (a), except that  
21 the tax shall not be paid to the Commonwealth by the person if  
22 the person has paid the tax imposed by section 1301 (relating to  
23 sale of tangible personal property or services) or has paid the  
24 tax imposed by this section to the vendor with respect to the  
25 use or the vendor advertises or holds out or states to the  
26 person directly or indirectly subject to the conditions  
27 specified in section 1584(b) (relating to crimes) that the  
28 vendor will pay the tax imposed by section 1301 or this section  
29 for the person. The tax at the rate of 6% imposed by this  
30 section shall not be deemed applicable if the tax has been

1 incurred under the former act of March 6, 1956 (1955 P.L.1228,  
2 No.381), known as the Tax Act of 1963 for Education.

3 § 1303. Telecommunications service.

4 (a) Imposition.--Subject to subsection (b), notwithstanding  
5 any other provision of this subpart, except for telegrams paid  
6 for in cash at telegraph offices, the tax with respect to  
7 telecommunications service shall be computed at the rate of 6%  
8 upon the total amount charged to customers for the services,  
9 irrespective of whether the charge is based upon a flat rate or  
10 upon a message unit charge.

11 (b) Exception.--Charges for telephone calls paid for by  
12 inserting money into a telephone accepting direct deposits of  
13 money to operate shall not be subject to the tax under this  
14 section.

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

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

27 § 1304. Coin-operated vending machines.

28 Notwithstanding any other provision of this subpart, the sale  
29 or use of food and beverages dispensed by means of a coin-  
30 operated vending machine shall be taxed at the rate of 6% of the

1 receipts collected from the machine which dispenses food and  
2 beverages taxable under this subpart.

3 § 1305. Prepaid telecommunications.

4 (a) Imposition.--Notwithstanding any provision of this  
5 subpart, the sale or use of prepaid telecommunications evidenced  
6 by the transfer of tangible personal property shall be subject  
7 to the tax imposed by sections 1301 (relating to sale of  
8 tangible personal property or services) and 1302 (relating to  
9 use of tangible personal property or services).

10 (b) Transfer of tangible personal property.--

11 (1) Subject to paragraph (2), the sale or use of prepaid  
12 telecommunications not evidenced by the transfer of tangible  
13 personal property shall be subject to the tax imposed by  
14 sections 1301 and 1302 and shall be deemed to occur at the  
15 purchaser's billing address.

16 (2) Notwithstanding paragraph (1), the sale or use of  
17 prepaid telecommunications service not evidenced by the  
18 transfer of tangible personal property shall be taxed at the  
19 rate of 6% of the receipts collected on each sale if the  
20 service provider elects to collect the tax imposed by this  
21 subpart on receipts of each sale. The service provider shall  
22 notify the department of its election and shall collect the  
23 tax on receipts of each sale until the service provider  
24 notifies the department otherwise.

25 § 1306. Prepaid mobile communications service.

26 (a) Imposition.--Notwithstanding any other provision of this  
27 subpart, the sale or use of prepaid mobile telecommunications  
28 service evidenced by the transfer of tangible personal property  
29 shall be subject to the tax imposed by sections 1301 (relating  
30 to sale of tangible personal property or services) and 1302

1 (relating to use of tangible personal property or services).

2 (b) Transfer of tangible personal property.--

3 (1) Subject to paragraph (2), the sale or use of prepaid  
4 mobile telecommunications service not evidenced by the  
5 transfer of tangible personal property shall be subject to  
6 the tax imposed by sections 1301 and 1302 and shall be deemed  
7 to occur at the purchaser's billing address or the location  
8 associated with the mobile telephone number or the point of  
9 sale, whichever is applicable.

10 (2) Notwithstanding paragraph (1), the sale or use of  
11 prepaid mobile telecommunications service not evidenced by  
12 the transfer of tangible personal property shall be taxed at  
13 the rate of 6% of the receipts collected on each sale if the  
14 service provider elects to collect the tax imposed by this  
15 subpart on receipts of each sale. The service provider shall  
16 notify the department of its election and shall collect the  
17 tax on receipts of each sale until the service provider  
18 notifies the department otherwise.

19 § 1307. Prebuilt housing.

20 Notwithstanding any other provision of this subpart, tax with  
21 respect to sales of prebuilt housing shall be imposed on the  
22 prebuilt housing builder at the time of the prebuilt housing  
23 sale within this Commonwealth and shall be paid and reported by  
24 the prebuilt housing builder to the department in the time and  
25 manner provided in this subpart, but a manufacturer of prebuilt  
26 housing may, at its option, precollect the tax from the prebuilt  
27 housing builder at the time of sale to the prebuilt housing  
28 builder. In any case where prebuilt housing is purchased and the  
29 tax is not paid by the prebuilt housing builder or precollected  
30 by the manufacturer, the prebuilt housing purchaser shall remit

1 tax directly to the department if the prebuilt housing is used  
2 in this Commonwealth without regard to whether the prebuilt  
3 housing becomes a real estate structure.

4 § 1308. Mobile telecommunications services.

5 Notwithstanding any other provisions of this subpart and in  
6 accordance with the Mobile Telecommunications Sourcing Act, the  
7 sale or use of mobile telecommunications services which are  
8 deemed to be provided to a customer by a home service provider  
9 under section 117 of the Mobile Telecommunications Sourcing Act  
10 shall be subject to the tax of 6% of the purchase price, which  
11 tax shall be collected by the home service provider from the  
12 customer and shall be paid over to the Commonwealth as provided  
13 in this subpart if the customer's place of primary use is  
14 located within this Commonwealth, regardless of where the mobile  
15 telecommunications services originate, terminate or pass  
16 through. For purposes of this section, words and phrases used in  
17 this section shall have the same meanings given to them in the  
18 Mobile Telecommunications Sourcing Act.

19 § 1309. Malt or brewed beverages.

20 (a) Imposition.--The tax shall be imposed on a manufacturer  
21 of malt or brewed beverages with respect to sales of malt or  
22 brewed beverages sold by the manufacturer directly to the  
23 ultimate consumer for consumption on or off premises  
24 notwithstanding any of the following:

25 (1) Any other provision of this subpart.

26 (2) Article II-B of the Tax Reform Code of 1971.

27 (3) The act of July 28, 1953 (P.L.723, No.230), known as  
28 the Second Class County Code.

29 (4) Chapter 5 or Chapter 6 of the act of June 5, 1991  
30 (P.L.9, No.6), known as the Pennsylvania Intergovernmental

1 Cooperation Authority Act for Cities of the First Class.

2 (b) Payment.--The tax imposed under subsection (a) shall be  
3 paid and reported by the manufacturer of malt or brewed  
4 beverages to the department in the time and manner provided in  
5 this subpart.

6 (c) Local alcoholic beverage tax.--Notwithstanding any law  
7 to the contrary, a school district or local government  
8 authorized to impose a local alcoholic beverage tax under the  
9 act of June 10, 1971 (P.L.153, No.7), known as the First Class  
10 School District Liquor Sales Tax Act of 1971, or 53 Pa.C.S. §  
11 8602 (relating to local financial support) may impose or  
12 continue to impose a local alcoholic beverage tax on the sale at  
13 retail of malt or brewed beverages made by a manufacturer of  
14 malt or brewed beverages to the ultimate consumer for  
15 consumption on or off premises at the same rate as authorized  
16 under the First Class School District Liquor Sales Tax Act of  
17 1971 or 53 Pa.C.S. § 8602 and notwithstanding anything to the  
18 contrary in such laws or in a local law or ordinance in  
19 existence on the effective date of this section.

20 (d) Effect of payment.--The payment of the tax imposed under  
21 subsection (a) shall eliminate the need for the ultimate  
22 consumer to pay or remit a sales or use tax on the related  
23 transaction or upon the subsequent use of the malt or brewed  
24 beverages.

25 SUBCHAPTER B

26 COMPUTATION OF TAX

27 Sec.

28 1311. Computation.

29 § 1311. Computation.

30 The amount of tax imposed by Subchapter A (relating to



1 imposition of tax) shall be computed as follows:

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

4 (2) If the purchase price is 11¢ or more but less than  
5 18¢, 1¢ shall be collected.

6 (3) If the purchase price is 18¢ or more but less than  
7 35¢, 2¢ shall be collected.

8 (4) If the purchase price is 35¢ or more but less than  
9 51¢, 3¢ shall be collected.

10 (5) If the purchase price is 51¢ or more but less than  
11 68¢, 4¢ shall be collected.

12 (6) If the purchase price is 68¢ or more but less than  
13 85¢, 5¢ shall be collected.

14 (7) If the purchase price is 85¢ or more but less than  
15 \$1.01, 6¢ shall be collected.

16 (8) If the purchase price is more than \$1, 6% of each  
17 dollar of purchase price plus the bracket charges under  
18 paragraphs (1), (2), (3), (4), (5), (6) and (7) upon any  
19 fractional part of a dollar in excess of even dollars shall  
20 be collected.

21 SUBCHAPTER C

22 EXCLUSIONS FROM TAX

23 Sec.

24 1321. Exclusions.

25 1322. Alternate imposition of tax and credits.

26 1323. Credit against tax.

27 § 1321. Exclusions.

28 The tax imposed under Subchapter A (relating to imposition of  
29 tax) shall not be imposed upon any of the following:

30 (1) The sale at retail or use of tangible personal

1 property, other than a motor vehicle, trailer, semitrailer,  
2 motor boat, aircraft or other similar tangible personal  
3 property required under either Federal law or the laws of  
4 this Commonwealth to be registered or licensed, or a service  
5 sold by or purchased from a person not a vendor in an  
6 isolated transaction or sold by or purchased from a person  
7 who is a vendor but is not a vendor with respect to the  
8 tangible personal property or service sold or purchased in  
9 the transaction, provided that inventory and stock in trade  
10 sold or purchased shall not be excluded from the tax by the  
11 provisions of this section.

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

18 (3) The use of tangible personal property purchased  
19 outside this Commonwealth for use outside this Commonwealth  
20 by a then-nonresident natural person or a business entity not  
21 actually doing business within this Commonwealth, who later  
22 brings the tangible personal property into this Commonwealth  
23 in connection with the establishment of a permanent business  
24 or residence in this Commonwealth, if the property was  
25 purchased more than six months prior to the date it was first  
26 brought into this Commonwealth or prior to the establishment  
27 of the business or residence, whichever occurs first. This  
28 exclusion shall not apply to tangible personal property  
29 temporarily brought into this Commonwealth for the  
30 performance of contracts for the construction,

1 reconstruction, remodeling, repairing and maintenance of real  
2 estate.

3 (4) The sale at retail or use of any of the following:

4 (i) Disposable diapers.

5 (ii) Premoistened wipes.

6 (iii) Incontinence products.

7 (iv) Colostomy deodorants.

8 (v) Toilet paper.

9 (vi) Sanitary napkins, tampons or similar items used  
10 for feminine hygiene.

11 (vii) Toothpaste, toothbrushes or dental floss.

12 (5) The sale at retail or use of any of the following:

13 (i) Any of the following when purchased directly by  
14 the user solely for the user's own residential use:

15 (A) Steam.

16 (B) Natural, manufactured and bottled gas.

17 (C) Fuel oil.

18 (D) Electricity.

19 (E) Intrastate subscriber line charges, basic  
20 local telephone service or telegraph service.

21 (ii) Charges for a telephone call paid for by  
22 inserting money into a telephone accepting direct  
23 deposits of money to operate.

24 (6) The sale at retail to or use of tangible personal  
25 property or services other than under a construction  
26 contract. The following apply:

27 (i) The exclusion under this paragraph applies to  
28 any of the following:

29 (A) A charitable organization.

30 (B) A volunteer firefighters' organization.

1           (C) A volunteer firefighters' relief association  
2           as defined in 35 Pa.C.S. § 7412 (relating to  
3           definitions).

4           (D) A nonprofit educational institution.

5           (E) A religious organization for religious  
6           purposes.

7           (ii) The exclusion under this paragraph shall not  
8           apply with respect to any of the following:

9           (A) Tangible personal property or services used  
10           in an unrelated trade or business carried on by the  
11           organization or institution.

12           (B) Materials, supplies and equipment used and  
13           transferred to the organization or institution in the  
14           construction, reconstruction, remodeling, renovation,  
15           repairs and maintenance of a real estate structure,  
16           other than building machinery and equipment, except  
17           materials and supplies when purchased by the  
18           organization or institution for routine maintenance  
19           and repairs.

20           (iii) If the department has issued sales tax-exempt  
21           status to a volunteer firefighters' organization or a  
22           volunteer firefighters' relief association, the sales  
23           tax-exempt status may not expire unless the activities of  
24           the organization or association change so that the  
25           organization or association does not qualify as an  
26           institution of purely public charity, in which case the  
27           organization or association shall immediately notify the  
28           department of the change.

29           (iv) If the department ascertains that an  
30           organization or association no longer qualifies as an

1 institution of purely public charity, the department may  
2 revoke the sales tax-exempt status of the organization or  
3 association.

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

8 (8) The sale at retail to or use by the United States,  
9 this Commonwealth or the Commonwealth's instrumentalities or  
10 political subdivisions of tangible personal property or  
11 services.

12 (9) The sale at retail or use of wrapping paper,  
13 wrapping twine, bags, cartons, tape, rope, labels,  
14 nonreturnable containers, all other wrapping supplies and  
15 kegs used to contain malt or brewed beverages, if the use is  
16 incidental to the delivery of personal property. A charge for  
17 wrapping or packaging shall be subject to tax at the rate  
18 imposed by Subchapter B (relating to computation of tax)  
19 unless the property wrapped or packaged will be resold by the  
20 purchaser of the wrapping or packaging service. As used in  
21 this paragraph, the term "carton" includes a corrugated box  
22 used by a person engaged in the manufacture of snack food  
23 products to deliver the manufactured product, whether or not  
24 the box is returnable for potential reuse.

25 (10) The sale at retail or use of a vessel designed for  
26 commercial use of registered tonnage of 50 tons or more if  
27 produced by the builders of the vessel upon special order of  
28 the purchaser.

29 (11) The sale at retail of tangible personal property or  
30 services used or consumed in building, rebuilding, repairing,

1 making an addition to or making a replacement in and upon a  
2 vessel designed for commercial use of registered tonnage of  
3 50 tons or more upon special order of the purchaser or if the  
4 vessel is rebuilt, repaired or enlarged or when a replacement  
5 is made to the vessel upon order of or for the account of the  
6 owner.

7 (12) The sale at retail or use of tangible personal  
8 property or services used or consumed for ship cleaning or  
9 maintenance or as fuel, supplies, ships' equipment, ships'  
10 stores or sea stores on a vessel designed for commercial use  
11 of registered tonnage of 50 tons or more to be operated  
12 principally outside the limits of this Commonwealth.

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

14 (i) Prescription or nonprescription medicines, drugs  
15 or medical supplies.

16 (ii) Crutches and wheelchairs for the use of  
17 individuals with disabilities.

18 (iii) An artificial limb, artificial eye and  
19 artificial hearing device if designed to be worn on the  
20 person of the purchaser or user.

21 (iv) False teeth and materials used by a dentist in  
22 dental treatment.

23 (v) Eyeglasses if especially designed or prescribed  
24 by an ophthalmologist, oculist or optometrist for the  
25 personal use of the owner or purchaser.

26 (vi) Artificial braces and supports designed solely  
27 for the use of individuals with disabilities.

28 (vii) Any other therapeutic, prosthetic or  
29 artificial device designed for the use of a particular  
30 individual to correct or alleviate a physical incapacity,

1 including, but not limited to, a hospital bed, iron lung  
2 or kidney machine.

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

4 (15) The sale at retail or use of a motor vehicle,  
5 trailer and semitrailer, or a body attached to the chassis of  
6 a motor vehicle, trailer or semitrailer, which is:

7 (i) sold to a nonresident of this Commonwealth to be  
8 used outside this Commonwealth; and

9 (ii) registered in a state other than this  
10 Commonwealth within 20 days after delivery to the vendee.

11 (16) The sale at retail or use of water.

12 (17) (Reserved).

13 (18) The sale at retail or use of religious publications  
14 sold by religious groups, Bibles or religious articles.

15 (19) The sale at retail of food and beverages at or from  
16 a school or church in the ordinary course of the activities  
17 of the school or church.

18 (20) The sale at retail or use of a newspaper, including  
19 printed advertising materials circulated with the newspaper,  
20 regardless of where or by whom the printed advertising  
21 material was produced. As used in this paragraph, the term  
22 "newspaper" means a legal newspaper or a publication  
23 containing matters of general interest and reports of current  
24 events which qualifies as a newspaper of general circulation  
25 authorized to carry a legal advertisement as those terms are  
26 defined in 45 Pa.C.S. § 101 (relating to definitions), not  
27 including magazines.

28 (21) The sale at retail or use of a casket and burial  
29 vault for human remains and a marker and tombstone for human  
30 graves.

1       (22) The sale at retail or use of flags of the United  
2       States of America and the Commonwealth of Pennsylvania.

3       (23) The sale at retail or use of textbooks for use in a  
4       public or private school, college or university if purchased  
5       on behalf of or through the school, college or university and  
6       the school, college or university is recognized by the  
7       Department of Education.

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

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

19       (26) The sale at retail or use of rail transportation  
20       equipment used in the movement of personal property.

21       (27) The sale at retail of a bus to be used under  
22       contract with a school district that is a replacement for a  
23       bus destroyed or lost in the flood of 1977 for a period  
24       ending December 31, 1977, in the counties of Armstrong,  
25       Bedford, Cambria, Indiana, Jefferson, Somerset and  
26       Westmoreland, or the use of the bus.

27       (28) The sale at retail of a horse if, at the time of  
28       purchase, the seller is directed to ship or deliver the horse  
29       to an out-of-State location, whether or not the charges for  
30       shipment are paid for by the seller or the purchaser. The



1 following apply:

2 (i) The seller shall obtain a bill of lading, either  
3 from the carrier or from the purchaser, who, in turn, has  
4 obtained the bill of lading from the carrier reflecting  
5 delivery to the out-of-State address to which the horse  
6 has been shipped. The seller shall execute a Certificate  
7 of Delivery to Destination Outside of the Commonwealth  
8 form for each bill of lading reflecting out-of-State  
9 delivery. The seller shall be required to retain the  
10 certificate of delivery form to justify the noncollection  
11 of sales tax with respect to the transaction to which the  
12 form relates.

13 (ii) In a transaction where a horse is sold by the  
14 seller and delivered to a domiciled person, agent or  
15 corporation prior to the horse being delivered to an out-  
16 of-State location, the Certificate of Delivery to  
17 Destination Outside of the Commonwealth form must have  
18 attached to it bills of lading both for the transfer to  
19 the domiciled person, agent or corporation and from the  
20 domiciled person, agent or corporation to the out-of-  
21 State location.

22 (29) The sale at retail or use of fish feed purchased by  
23 or on behalf of sportsmen's clubs, fish cooperatives or  
24 nurseries approved by the Pennsylvania Fish and Boat  
25 Commission.

26 (30) The sale at retail of supplies and materials to  
27 tourist promotion agencies that receive grants from the  
28 Commonwealth for distribution to the public as promotional  
29 material or the use of the supplies and materials by a  
30 tourist promotion agency.

1       (31) The sale at retail of supplies and materials to  
2 tourist promotion agencies that receive grants from the  
3 Commonwealth for distribution to the public as promotional  
4 material or the use of the supplies and materials by a  
5 tourist promotion agency.

6       (32) The sale or use of brook trout (salvelinus  
7 fontinalis), brown trout (Salmo trutta) or rainbow trout  
8 (Salmo gairdneri).

9       (33) The sale at retail or use of a bus to be used  
10 exclusively for the transportation of children for school  
11 purposes.

12       (34) The sale at retail or use of firewood. For the  
13 purpose of this paragraph, the term "firewood" means the  
14 product of trees when severed from the land and cut into  
15 proper lengths for burning and pellets made from pure wood  
16 sawdust if used for fuel for cooking or hot water production  
17 or to heat a residential dwelling.

18       (35) The sale at retail or use of materials used in the  
19 construction and erection of objects purchased by not-for-  
20 profit organizations for purposes of commemoration and  
21 memorialization of historical events, if the object is  
22 erected upon publicly owned property or property to be  
23 conveyed to a public entity upon the commemoration or  
24 memorialization of the historical event.

25       (36) The sale at retail or use of food or beverages or  
26 other tangible personal property purchased in accordance with  
27 the Supplemental Nutrition Assistance Program (SNAP) under  
28 the Food and Nutrition Act of 2008 (Public Law 88-525, 7  
29 U.S.C. § 2011 et seq.).

30       (37) The sale at retail or use of food and beverages by

1 nonprofit associations which support sports programs or youth  
2 centers. As used in this paragraph:

3 (i) "Nonprofit association" means an entity which is  
4 organized as a nonprofit corporation or nonprofit  
5 unincorporated association under the laws of this  
6 Commonwealth or the United States or an entity which is  
7 authorized to do business in this Commonwealth as a  
8 nonprofit corporation or unincorporated association under  
9 the laws of this Commonwealth, including, but not limited  
10 to, a youth or athletic association, volunteer fire  
11 association, ambulance association, religious  
12 organization, charitable organization, fraternal  
13 organization, veterans organization, civic association or  
14 a separately chartered auxiliary of the association or  
15 organization, if organized and operated on a nonprofit  
16 basis.

17 (ii) "Sports program" means baseball, softball,  
18 football, basketball, soccer and any other competitive  
19 sport formally recognized as a sport by the United States  
20 Olympic Committee as specified by and under the  
21 jurisdiction of the Amateur Sports Act of 1978 (Public  
22 Law 95-606, 36 U.S.C. § 220501 et seq.), the Amateur  
23 Athletic Union or the National Collegiate Athletic  
24 Association. The term shall be limited to a program or a  
25 portion of a program that is organized for recreational  
26 purposes and whose activities are substantially for those  
27 purposes and which is primarily for participants who are  
28 18 years of age or younger or whose 19th birthday occurs  
29 during the year of participation or the competitive  
30 season, whichever is longer. There shall be no age

1 limitation for a program operated for persons with a  
2 physical or intellectual disability.

3 (iii) "Support" means:

4 (A) that the funds raised from sales are used to  
5 pay the expenses of a sports program or a youth  
6 center; or

7 (B) the nonprofit association sells food and  
8 beverages at a youth center or a location where a  
9 sports program is being conducted under this subpart.

10 (iv) "Youth center" means a fixed location used  
11 exclusively for programs for individuals who are 19 years  
12 of age or younger as long as the programs are:

13 (A) conducted primarily by volunteers;

14 (B) designed to advance recreational, civic or  
15 moral objectives; and

16 (C) conducted by an organization that is  
17 qualified under section 501(C)(3) of the Internal  
18 Revenue Code of 1986 and that has obtained an  
19 exemption number from the department as a charitable  
20 organization under paragraph (6).

21 (38) The sale at retail or use of a subscription for a  
22 magazine, including printed advertising materials circulated  
23 with the periodical or publication, regardless of where or by  
24 whom the printed advertising material was produced. As used  
25 in this paragraph, the term "magazine" means a periodical  
26 published at regular intervals not exceeding three months,  
27 which is circulated among the general public, containing  
28 matters of general interest and reports of current events  
29 published for the purpose of disseminating information of a  
30 public character or devoted to literature, the sciences, art

1 or some special industry.

2 (39) The sale at retail or use of an interior office  
3 building cleaning service, but only as it relates to the  
4 costs of the supplied employee, including wages, salaries,  
5 bonuses and commissions, employment benefits, expense  
6 reimbursements and payroll and withholding taxes, to the  
7 extent that these costs are specifically itemized or that  
8 these costs in aggregate are stated in billings from the  
9 seller or supplying entity.

10 (40) (Reserved).

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

16 (42) The sale at retail or use of tangible personal  
17 property or services used, transferred or consumed in  
18 installing or repairing equipment or a device designed to  
19 assist a person in ascending or descending a stairway when  
20 all of the following conditions are met:

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

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

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

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

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

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

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

12 (44) (Reserved).

13 (45) The sale at retail or use of a mold and related  
14 mold equipment used directly and predominantly in the  
15 manufacture of a product, notwithstanding whether the person  
16 that holds title to the equipment manufactures a product.

17 (46) The sale or use of used prebuilt housing.

18 (47) The sale at retail to or use of food and  
19 nonalcoholic beverages by an airline which will transfer the  
20 food or nonalcoholic beverages to passengers in connection  
21 with the rendering of the airline service.

22 (48) The sale at retail or use of tangible personal  
23 property or services which are directly used in farming,  
24 dairying or agriculture when engaged in as a business  
25 enterprise, whether or not the sale is made to the person  
26 directly engaged in the business enterprise or to a person  
27 contracting with the person directly engaged in the business  
28 enterprise for the production of food.

29 (49) The sale at retail or use of separately stated fees  
30 paid under 13 Pa.C.S. § 9525 (relating to fees).

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

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

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

14       (51) The sale at retail or use of investment metal  
15 bullion and investment coins. As used in this paragraph:

16           (i) "Investment metal bullion" means an elementary  
17 precious metal which has been put through a process of  
18 smelting or refining, including gold, silver, platinum  
19 and palladium, and which is in a state or condition that  
20 its value depends upon its content and not its form. The  
21 term shall not include a precious metal which has been  
22 assembled, fabricated, manufactured or processed in one  
23 or more specific and customary industrial, professional,  
24 aesthetic or artistic uses.

25           (ii) "Investment coins" means numismatic coins or  
26 other forms of money and legal tender manufactured of  
27 gold, silver, platinum, palladium or other metal and of  
28 the United States or any foreign nation with a fair  
29 market value greater than any nominal value of such  
30 coins. The term shall not include commemorative

1 medallions or jewelry or works of art made of coins.

2 (52) The sale at retail or use of copies of an official  
3 document sold by a government agency or a court. As used in  
4 this paragraph:

5 (i) The term "court" shall include any of the  
6 following:

7 (A) An appellate court as defined in 42 Pa.C.S.  
8 § 102 (relating to definitions).

9 (B) A court of common pleas as defined in 42  
10 Pa.C.S. § 102.

11 (C) The minor judiciary as defined in 42 Pa.C.S.  
12 § 102.

13 (ii) The term "government agency" shall mean an  
14 agency as defined in section 102 of the act of February  
15 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

16 (iii) The term "official document" shall mean a  
17 record as defined in section 102 of the Right-to-Know  
18 Law. The term shall include notes of court testimony, a  
19 deposition transcript, driving record, accident report,  
20 birth and death certificate, deed, divorce decree and  
21 other similar documents.

22 (53) The sale at retail or use of repair or replacement  
23 parts, including the installation of those parts, exclusively  
24 for use in a helicopter and similar rotorcraft or in the  
25 overhauling or rebuilding of a helicopter and similar  
26 rotorcraft or helicopter and similar rotorcraft components.

27 (54) The sale at retail or use of a helicopter or  
28 similar rotorcraft.

29 (55) The sale at retail or use of aircraft parts,  
30 services to aircraft and aircraft components. For purposes of



1 this paragraph, the term "aircraft" shall include a fixed-  
2 wing aircraft, powered aircraft, tilt-rotor or tilt-wing  
3 aircraft, glider or unmanned aircraft.

4 (56) The sale at retail or use of services related to  
5 the set up, tear down or maintenance of tangible personal  
6 property rented by an authority to exhibitors at a convention  
7 center or a public auditorium, established under any of the  
8 following:

9 (i) 64 Pa.C.S. Ch. 60 (relating to Pennsylvania  
10 Convention Center Authority).

11 (ii) The act of July 28, 1953 (P.L.723, No.230),  
12 known as the Second Class County Code.

13 (iii) The act of August 9, 1955 (P.L.323, No.130),  
14 known as The County Code.

15 (57) The sale at retail or use of food and beverages by  
16 a volunteer firemen's organization to raise funds for the  
17 purposes of the volunteer firemen's organization.

18 (58) The sale at retail of building materials and  
19 supplies used for the construction or repair of an animal  
20 housing facility, regardless if the sale is made to the  
21 purchaser directly or pursuant to a construction contract.

22 (59) The sale at retail or use of used clothing, if the  
23 clothing is sold by an institution or organization that has  
24 received a determination of exception from the Internal  
25 Revenue Service under section 501(c)(3) of the Internal  
26 Revenue Code of 1986, as amended (26 U.S.C. § 501(c)(3)). The  
27 following apply:

28 (i) The exemption granted under this paragraph shall  
29 be limited to institutions or organizations that are not  
30 organized or operated for profit, and no part of the net

1 earnings of which inures to the benefit of any private  
2 shareholder or individual.

3 (ii) No institution or organization shall be exempt  
4 under this paragraph, unless the institution or  
5 organization shall have issued to it by the department an  
6 exemption certificate declaring that such institution or  
7 organization is entitled to the exemption provided for by  
8 this paragraph.

9 (iii) All proceeds from sales exempted under this  
10 paragraph must be for section 501(c)(3) purposes.

11 § 1322. Alternate imposition of tax and credits.

12 (a) Motor vehicle, trailer or semitrailer.--If a person  
13 actively and principally engaged in the business of selling new  
14 or used motor vehicles, trailers or semitrailers, and registered  
15 with the department in the "dealer's class," acquires a motor  
16 vehicle, trailer or semitrailer for the purpose of resale, and  
17 prior to the resale, uses the motor vehicle, trailer or  
18 semitrailer for a taxable use under this subpart, the person may  
19 elect to pay a tax equal to 6% of the fair rental value of the  
20 motor vehicle, trailer or semitrailer during the use. This  
21 subsection shall not apply to the use of a vehicle as a wrecker,  
22 parts truck, delivery truck or courtesy car.

23 (b) Aircraft.--A commercial aircraft operator who acquires  
24 an aircraft for the purpose of resale, or lease, or is entitled  
25 to claim another valid exemption at the time of purchase, and  
26 subsequent to the purchase, periodically uses the aircraft for a  
27 taxable use under this subpart, may elect to pay a tax equal to  
28 6% of the fair rental value of the aircraft during the use.

29 § 1323. Credit against tax.

30 A credit against the tax imposed by Subchapter A (relating to

1 imposition of tax) shall be granted with respect to tangible  
2 personal property or services purchased for use outside this  
3 Commonwealth equal to the tax paid to another state by reason of  
4 the imposition by the other state of a tax similar to the tax  
5 imposed by this subpart, except that no credit shall be granted  
6 unless the other state grants substantially similar tax relief  
7 by reason of the payment of tax under this subpart or under the  
8 former act of March 6, 1956 (P.L.1228, No.381), known as the Tax  
9 Act of 1963 for Education.

10 SUBCHAPTER D

11 LICENSES

12 Sec.

13 1331. Definitions.

14 1332. Application.

15 1333. Issuance and conditions.

16 1334. Administrative action.

17 1335. Penalties.

18 1336. Liability.

19 § 1331. Definitions.

20 The following words and phrases when used in this subchapter  
21 shall, in addition to the meaning given to them in section 1102  
22 (relating to definitions), have the meanings given to them in  
23 this section unless the context clearly indicates otherwise:

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

25 Being an operator as defined in section 1341 (relating to  
26 definitions).

27 "Sale." The providing of occupancy to an occupant by an  
28 operator, as those terms are defined in section 1341.

29 "Services." Occupancy as defined in section 1341.

30 "Tangible personal property." Occupancy as defined in

1 section 1341.

2 "Use." Occupancy as defined in section 1341.

3 § 1332. Application.

4 A person maintaining a place of business in this  
5 Commonwealth, with the exception of a marketplace seller who  
6 makes no sales outside a forum for which a marketplace seller is  
7 required to collect sales tax on the seller's behalf, selling or  
8 leasing services or tangible personal property, the sale or use  
9 of which is subject to tax, and who has not yet obtained a  
10 license from the department, shall, prior to the beginning of  
11 business, make application to the department, on a form  
12 prescribed by the department, for a license. If the person  
13 maintains more than one place of business in this Commonwealth,  
14 the license shall be issued for the principal place of business  
15 in this Commonwealth.

16 § 1333. Issuance and conditions.

17 (a) Issuance.--After the receipt of an application, the  
18 department shall issue the license applied for under section  
19 1332 (relating to application) if the applicant has filed all  
20 required State tax reports and paid any State taxes not subject  
21 to a timely perfected administrative or judicial appeal or  
22 subject to a duly authorized deferred payment plan.

23 (b) Nonassignability.--A license under this subchapter shall  
24 be nonassignable.

25 (c) Renewal.--All licensees as of August 4, 1991, shall be  
26 required to file for renewal of the license on or before January  
27 31, 1992. Licenses issued through April 30, 1992, shall be based  
28 on a staggered renewal system established by the department. Any  
29 license issued after April 30, 1992, shall be valid for a period  
30 of five years.

1 § 1334. Administrative action.

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

8 (b) Notification.--

9 (1) The department shall notify the applicant or  
10 licensee of any refusal, suspension or revocation.

11 (2) The notice shall contain a statement that the  
12 refusal, suspension or revocation may be made public.

13 (3) The notice shall be made by first class mail.

14 (c) Appeal.--

15 (1) An applicant or licensee aggrieved by the  
16 determination of the department may file an appeal pursuant  
17 to the provisions for administrative appeals in this subpart,  
18 except that the appeal must be filed within 30 days of the  
19 date of the notice.

20 (2) In the case of a suspension or revocation which is  
21 appealed, the license shall remain valid pending a final  
22 outcome of the appeals process.

23 (3) Notwithstanding sections 1596 (relating to  
24 unauthorized disclosure) and 2817(f) (relating to crimes) and  
25 sections 408(b), 603, 702, 802, 904 and 1102 of the Tax  
26 Reform Code of 1971 or any other provision of law to the  
27 contrary, if no appeal is taken or if an appeal is taken and  
28 denied at the conclusion of the appeal process, the  
29 department may disclose, by publication or otherwise, the  
30 identity of a person and the fact that the person's license

1 has been refused, suspended or revoked under this section.

2 Disclosure may include the basis for refusal, suspension or  
3 revocation.

4 § 1335. Penalties.

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

14 (b) Nature of penalties.--The penalties imposed by this  
15 section shall be in addition to any other penalties imposed by  
16 this subpart.

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

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

26 § 1336. Liability.

27 Failure of a person to obtain a license shall not relieve  
28 that person of liability to pay the tax imposed by this subpart.

29 SUBCHAPTER E

30 HOTEL OCCUPANCY TAX

1 Sec.  
2 1341. Definitions.  
3 1342. Imposition of tax.  
4 1343. Collection of tax.  
5 1344. Seasonal tax returns.  
6 1345. Tourism Promotion Fund.  
7 § 1341. Definitions.

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

11 "Accommodation fee." The amount by which the rent exceeds the  
12 discount room charge, if any.

13 "Booking agent." A person or entity which facilitates or  
14 collects payment for hotel accommodations on behalf of or for an  
15 operator. The term "booking agent" shall not include a person  
16 who merely publishes advertisements for accommodations.

17 "Discount room charge." The amount charged by an operator to  
18 a booking agent in connection with the sale of an accommodation  
19 by the booking agent.

20 "Hotel." As follows:

21 (1) A building or buildings in which the public may, for  
22 a consideration, obtain sleeping accommodations.

23 (2) The term shall not include a charitable, educational  
24 or religious institution summer camp for children, hospital  
25 or nursing home.

26 "Occupancy." The use or possession or the right to the use  
27 or possession by a person, other than a permanent resident, of a  
28 room or rooms in a hotel for any purpose or the right to the use  
29 or possession of the furnishings or to the services and  
30 accommodations accompanying the use and possession of the room

1 or rooms.

2 "Occupant." As follows:

3 (1) A person who, for a consideration, uses or possesses  
4 or has a right to use or possess a room or rooms in a hotel  
5 under a lease, concession, permit, right of access, license  
6 or agreement.

7 (2) The term shall not include a permanent resident.

8 "Operator." A person operating a hotel or acting as a  
9 booking agent.

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

13 "Rent." As follows:

14 (1) Any of the following:

15 (i) The consideration received for occupancy valued  
16 in money, whether received in money or otherwise,  
17 including all receipts, cash, credits and property or  
18 services of any kind or nature.

19 (ii) Accommodation fees.

20 (iii) An amount for which the occupant is liable for  
21 the occupancy without any deduction from the amount,  
22 including an amount charged by a booking agent.

23 (2) The term shall not include a gratuity.

24 § 1342. Imposition of tax.

25 (a) General rule.--An excise tax of 6% of the rent is  
26 imposed upon every occupancy of a room or rooms in a hotel in  
27 this Commonwealth.

28 (b) Booking agent.--If a booking agent acting for an  
29 operator collects payment for rent, the booking agent must  
30 collect and remit the following:



1 (1) The tax imposed under this section.

2 (2) Any additional or optional hotel tax imposed under:

3 (i) The act of June 5, 1991 (P.L.9, No.6), known as  
4 the Pennsylvania Intergovernmental Cooperation Authority  
5 Act for Cities of the First Class.

6 (ii) The act of December 21, 1998 (P.L.1307,  
7 No.174), known as the Community and Economic Improvement  
8 Act.

9 (iii) 64 Pa.C.S. Ch. 60 (relating to Pennsylvania  
10 Convention Center Authority);

11 (iv) Articles XVII and XXIII of the act of August 9,  
12 1955 (P.L.323, No.130), known as The County Code.

13 (v) The act of July 28, 1953 (P.L.723, No.230),  
14 known as the Second Class County Code.

15 (b) Deposit into Tourism Promotion Fund.--Notwithstanding  
16 any provision of law to the contrary, the following shall apply:

17 (1) The collected and remitted tax imposed under  
18 subsection (a)(1) shall be deposited into the Tourism  
19 Promotion Fund established under section 1345 (relating to  
20 Tourism Promotion Fund).

21 (2) The collected and remitted tax imposed under  
22 paragraph (a)(2) shall be deposited in accordance with a  
23 county ordinance.

24 (c) Accommodation fee.--An operator shall not be liable for  
25 tax owed regarding an accommodation fee.

26 (d) Disclosure.--A booking agent shall not be required to  
27 separately disclose to an occupant the amount of the tax imposed  
28 that relates to a discount room charge versus an accommodation  
29 fee.

30 § 1343. Collection of tax.

1 The tax under this subchapter shall be collected by the  
2 operator from the occupant and paid over to the Commonwealth as  
3 provided in this subpart.

4 § 1344. Seasonal tax returns.

5 Notwithstanding any other provisions in this subpart, the  
6 department may, by regulation, waive the requirement for the  
7 filing of quarterly returns in the case of an operator whose  
8 hotel is operated only during certain seasons of the year, and  
9 may provide for the filing of returns by persons at times other  
10 than those provided by Subchapter C of Chapter 15 (relating to  
11 payment of tax).

12 § 1345. Tourism Promotion Fund.

13 (a) Establishment.--A restricted revenue account is  
14 established within the Treasury Department to be known as the  
15 Tourism Promotion Fund.

16 (b) Taxes and appropriation.--The tax collected by a booking  
17 agent on accommodation fees under section 1342 (relating to  
18 imposition of tax) shall be deposited into the Tourism Promotion  
19 Fund and disbursed upon appropriation for the purpose of  
20 promoting tourism in this Commonwealth.

21 (c) Department duties.--The Department of Community and  
22 Economic Development shall promulgate guidelines, rules and  
23 regulations as necessary to achieve the purpose of promoting  
24 tourism in this Commonwealth.

25 (d) Exceptions.--Money from the fund may not be used for the  
26 promotion or marketing operations of a tourism entity or for  
27 special events or grants until 30 days after the publication of  
28 the guidelines, rules and regulations under subsection (c) in  
29 the Pennsylvania Bulletin.

30 (e) Amount of funds.--The following shall apply:

1           (1) No more than 50% of the funds available for  
2 disbursement under subsection (b) may be distributed for the  
3 purposes of promotion or marketing operations of a tourism  
4 entity or for special events or grants.

5           (2) Funding for the promotion or marketing operations of  
6 a tourism entity, special events or grants shall require a  
7 50% cash or in-kind match.

8           (3) A single recipient of funding under paragraph (2)  
9 may not be awarded more than 15% of the total funds available  
10 for disbursement under subsection (b). This paragraph shall  
11 not apply to contracts entered into by the department for  
12 Statewide tourism promotion or marketing.

13          (f) Restrictions.--Funds available for disbursement under  
14 subsection (b) may not be used for capital projects or for the  
15 design, construction, rehabilitation, repair, installation or  
16 purchase of any building, structure or sign in this  
17 Commonwealth.

18          (d) Definitions.--As used in this section, the following  
19 words and phrases shall have the meanings given to them in this  
20 subsection unless the context clearly indicates otherwise:

21          "Promoting tourism." Activities and expenditures designed to  
22 increase tourism including, but not limited to, the following:

23           (1) Advertising, publicizing or otherwise distributing  
24 information for the purpose of attracting and welcoming  
25 tourists.

26           (2) Developing strategies to expand tourism.

27           (3) Funding the promotion or marketing operations of a  
28 tourism entity.

29           (4) Funding marketing and operations of special events  
30 and festivals designed to attract tourists.

1 "Tourism entity." A "tourism promotion agency" as defined in  
2 section 2 of the act of July 4, 2008 (P.L.621, No.50), known as  
3 the Tourism Promotion Act, destination marketing organization or  
4 regional attractions marketing agency.

5 SUBCHAPTER F

6 REMOTE SELLERS

7 Sec.

8 1351. Definitions.

9 1352. Election.

10 1353. Notice requirements.

11 1354. Reports to purchasers and marketplace sellers.

12 1355. Reports to department.

13 1356. Liability and penalties.

14 1357. Application.

15 1358. Transfer to county sales and use tax accounts.

16 § 1351. Definitions.

17 The following words and phrases when used in this subchapter  
18 shall have the meanings given to them in this section unless the  
19 context clearly indicates otherwise:

20 "Affiliated person." A person that, with respect to another  
21 person:

22 (1) has a direct or indirect ownership interest of more  
23 than 5% in the other person; or

24 (2) is related to the other person because a third  
25 person, or group of third persons who are affiliated with  
26 each other as provided in this definition, holds a direct or  
27 indirect ownership interest of more than 5% in the related  
28 person.

29 "Forum." A place where sales at retail occur, whether  
30 physical or electronic. The term includes a store, booth,

1 publicly accessible Internet website, catalog or similar place.

2 "Marketplace facilitator." As follows:

3 (1) A person that facilitates a sale at retail of  
4 tangible personal property. For purposes of this definition,  
5 a person facilitates a sale at retail if the person or an  
6 affiliated person:

7 (i) lists or advertises tangible personal property  
8 for sale at retail in any forum; and

9 (ii) directly or indirectly through agreements or  
10 arrangements with third parties collects the payment from  
11 the purchaser and transmits the payment to the person  
12 selling the property.

13 (2) The term shall include a person that may also be a  
14 vendor.

15 "Marketplace seller." A person that has an agreement with a  
16 marketplace facilitator pursuant to which the marketplace  
17 facilitator facilitates sales for the person.

18 "Notice and reporting requirements." The notice requirements  
19 under section 1353 (relating to notice requirements) and the  
20 reporting requirements under sections 1354 (relating to reports  
21 to purchasers and marketplace sellers) and 1355 (relating to  
22 reports to department).

23 "Referral." The transfer by a referrer of a potential  
24 purchaser to a person that advertises or lists products for sale  
25 on the referrer's platform.

26 "Referrer." As follows:

27 (1) A person, other than a person engaging in the  
28 business of printing or publishing a newspaper, that,  
29 pursuant to an agreement or arrangement with a marketplace  
30 seller or remote seller, does all of the following:

1 (i) Agrees to list or advertise for sale at retail  
2 one or more products of the marketplace seller or remote  
3 seller in a physical or electronic medium.

4 (ii) Receives consideration from the marketplace  
5 seller or remote seller from the sale offered in the  
6 listing or advertisement.

7 (iii) Transfers by telecommunications, Internet link  
8 or other means, a purchaser to a marketplace seller,  
9 remote seller or affiliated person to complete a sale.

10 (iv) Does not collect a receipt from the purchaser  
11 for the sale.

12 (2) The term shall include a person that may also be a  
13 vendor.

14 (3) The term shall not include a person that:

15 (i) provides Internet advertising services; and

16 (ii) does not provide the marketplace seller's or  
17 remote seller's shipping terms or advertise whether a  
18 marketplace seller or remote seller collects a sales or  
19 use tax.

20 "Remote seller." A person, other than a marketplace  
21 facilitator, marketplace seller or referrer, that does not  
22 maintain a place of business in this Commonwealth that, through  
23 a forum, sells tangible personal property at retail, the sale or  
24 use of which is subject to the tax imposed by this chapter. The  
25 term does not include an employee who in the ordinary scope of  
26 employment renders services to the employee's employer in  
27 exchange for wages and salaries.

28 § 1352. Election.

29 (a) Duty.--Subject to subsections (c) and (d), on or before  
30 March 1, 2018, and on or before June 1 of each calendar year

1 thereafter, beginning June 1, 2019, a remote seller, marketplace  
2 facilitator or referrer that had aggregate sales at retail of  
3 tangible personal property subject to tax under this subpart  
4 within this Commonwealth or delivered to locations within this  
5 Commonwealth worth at least \$10,000 during the immediately  
6 preceding 12-calendar-month period shall file an election with  
7 the department to collect and remit the tax imposed under this  
8 subchapter or to comply with the notice and reporting  
9 requirements. The election shall be made on a form and in a  
10 manner prescribed by the department and, except as provided  
11 under subsection (e), shall apply to the next succeeding fiscal  
12 year.

13 (b) License.--A remote seller, marketplace facilitator or  
14 referrer that makes an election under subsection (a) to collect  
15 and remit the tax imposed under this subchapter shall obtain a  
16 license under Subchapter D (relating to licenses).

17 (c) Applicability for marketplace facilitator.--The  
18 requirement by a marketplace facilitator to make an election  
19 under subsection (a) shall only apply to the following:

20 (1) Sales at retail through the marketplace  
21 facilitator's forum made by or on behalf of a marketplace  
22 seller that does not maintain a place of business in this  
23 Commonwealth.

24 (2) Sales at retail made by a marketplace facilitator on  
25 its own behalf if the marketplace facilitator does not  
26 maintain a place of business in this Commonwealth.

27 (d) Applicability for referrer.--

28 (1) The requirement by a referrer to make an election  
29 under subsection (a) shall only apply to sales at retail:

30 (i) directly resulting from a referral of a

1 purchaser to a marketplace seller that does not maintain  
2 a place of business in this Commonwealth;

3 (ii) directly resulting from a referral of a  
4 purchaser to a remote seller; and

5 (iii) of the referrer's own products if the referrer  
6 does not maintain a place of business in this  
7 Commonwealth.

8 (2) A referrer may make an election under subsection (a)  
9 for the sales described under paragraph (1)(i) and (ii) that  
10 is different from the election made for the sales described  
11 under paragraph (1)(iii).

12 (e) Effective period and change of election.--An election  
13 made on or before March 1, 2018, shall be in effect for the  
14 balance of the 2017-2018 fiscal year and for the 2018-2019  
15 fiscal year. A remote seller, marketplace facilitator or  
16 referrer may change an election to comply with the notice and  
17 reporting requirements to an election to collect and remit the  
18 tax imposed under this subchapter at any time during a fiscal  
19 year by filing a new election with the department and obtaining  
20 a license under Subchapter D. The new election shall be  
21 effective 30 days after the filing and shall be effective for  
22 the balance of the fiscal year in which the new election was  
23 filed and for the next succeeding fiscal year.

24 (f) Deemed compliance.--A remote seller, marketplace  
25 facilitator or referrer who does not submit an election under  
26 subsection (a) or a new election under subsection (e) shall be  
27 deemed to have elected to comply with the notice and reporting  
28 requirements.

29 (g) Additional requirements.--In addition to records that  
30 may be required to be maintained under other applicable



1 provisions of this subpart by a remote seller, a marketplace  
2 facilitator or referrer, remote seller, marketplace facilitator  
3 or referrer subject to this subpart shall also be subject to  
4 sections 1592 (relating to keeping of records) and 1594  
5 (relating to examinations).

6 § 1353. Notice requirements.

7 (a) Compliance.--A remote seller, marketplace facilitator or  
8 referrer required to make an election under section 1352  
9 (relating to election) that does not elect to collect and remit  
10 the tax imposed by this subchapter shall comply with the  
11 applicable notice requirements of this section.

12 (b) Notice by remote seller or marketplace facilitator.--

13 (1) A remote seller or marketplace facilitator subject  
14 to the requirements of this section shall:

15 (i) Post a conspicuous notice on its forum that  
16 informs purchasers intending to purchase tangible  
17 personal property for delivery to a location within this  
18 Commonwealth that includes all of the following:

19 (A) Sales or use tax may be due in connection  
20 with the purchase and delivery of the tangible  
21 personal property.

22 (B) The Commonwealth requires the purchaser to  
23 file a return if use tax is due in connection with  
24 the purchase and delivery.

25 (C) The notice is required by this section.

26 (ii) Provide a written notice to each purchaser at  
27 the time of each sale at retail that includes all of the  
28 following:

29 (A) A statement that sales tax is not being  
30 collected in connection with the purchase.

1           (B) A statement that the purchaser may be  
2           required to remit use tax directly to the department.

3           (C) Instructions for obtaining additional  
4           information from the department regarding whether and  
5           how to remit use tax to the department.

6           (2) The notice required by paragraph (1)(ii) must be  
7           prominently displayed on all invoices and order forms and on  
8           each sales receipt or similar document, whether in paper or  
9           electronic form, provided to the purchaser. No statement that  
10           sales or use tax is not imposed on a transaction may be made  
11           by a remote seller or marketplace facilitator unless the  
12           transaction is exempt from sales and use tax under this  
13           subpart or other applicable Commonwealth law.

14           (c) Notice by referrer.--

15           (1) A referrer subject to the requirements of this  
16           section shall post a conspicuous notice on its platform that  
17           informs purchasers intending to purchase tangible personal  
18           property for delivery to a location within this Commonwealth  
19           that includes all of the following:

20           (i) Sales or use tax may be due in connection with  
21           the purchase and delivery.

22           (ii) The person to which the purchaser is being  
23           referred may or may not collect and remit sales tax to  
24           the department in connection with the transaction.

25           (iii) The Commonwealth requires the purchaser to  
26           file a return if use tax is due in connection with the  
27           purchase and delivery and not collected by the person.

28           (iv) The notice is required by this section.

29           (v) Instructions for obtaining additional  
30           information from the department regarding whether and how

1 to remit sales or use tax to the department.

2 (vi) If the person to whom the purchaser is being  
3 referred does not collect sales tax on a subsequent  
4 purchase by the purchaser, the person may be required to  
5 provide information to the purchaser and the department  
6 about the purchaser's potential sales or use tax  
7 liability.

8 (2) The notice required under paragraph (1) must be  
9 prominently displayed and may include pop-up boxes or  
10 notification by other means that appears when the referrer  
11 transfers a purchaser to another person to complete the sale.  
12 § 1354. Reports to purchasers and marketplace sellers.

13 (a) Contents.--A remote seller or marketplace facilitator  
14 required to make an election under section 1352(a) (relating to  
15 election) that does not elect to collect and remit the tax  
16 imposed by this subchapter shall, no later than January 31 of  
17 each year, provide a written report to each purchaser required  
18 to receive the notice under section 1353(b)(1)(ii) (relating to  
19 notice requirements) during the immediately preceding calendar  
20 year that includes all of the following:

21 (1) A statement that the remote seller or marketplace  
22 facilitator did not collect sales tax in connection with the  
23 purchaser's transactions with the remote seller or  
24 marketplace facilitator and that the purchaser may be  
25 required to remit use tax to the department.

26 (2) A list, by date, indicating the type and purchase  
27 price of each product purchased or leased by the purchaser  
28 from the remote seller or marketplace facilitator and  
29 delivered to a location within this Commonwealth.

30 (3) Instructions for obtaining additional information

1 from the department regarding whether and how to remit use  
2 tax to the department.

3 (4) A statement that the remote seller or marketplace  
4 facilitator is required to submit a report to the department  
5 under section 1355 (relating to reports to department) that  
6 includes the name of the purchaser and the aggregate dollar  
7 amount of the purchaser's purchases from the remote seller or  
8 marketplace facilitator.

9 (5) Additional information as the department may  
10 reasonably require.

11 (b) Form.--The department shall prescribe the form of the  
12 report required under subsection (a) and shall make the form  
13 available on its publicly accessible Internet website.

14 (c) Transmittal.--The report required under subsection (a)  
15 shall be mailed by first class mail in an envelope prominently  
16 marked with words indicating that important tax information is  
17 enclosed to the purchaser's billing address, if known, or, if  
18 unknown, to the purchaser's shipping address. If the purchaser's  
19 billing and shipping addresses are unknown, the report shall be  
20 sent electronically to the purchaser's last known e-mail address  
21 with a subject heading indicating that important tax information  
22 is being provided.

23 (d) Notice.--A referrer required to make an election under  
24 section 1352(a) that does not elect to collect and remit the tax  
25 imposed by this subchapter shall, no later than January 31 of  
26 each year, provide a written notice to each remote seller to  
27 whom the referrer transferred a potential purchaser located in  
28 this Commonwealth during the immediately preceding calendar year  
29 that includes all of the following:

30 (1) A statement that a sales or use tax may be imposed

1 by the Commonwealth on the transaction.

2 (2) A statement that the remote seller may be required  
3 to make the election required by section 1352(a).

4 (3) Instructions for obtaining additional information  
5 regarding sales and use tax from the department.

6 § 1355. Reports to department.

7 (a) Contents.--A remote seller or marketplace facilitator  
8 required to make an election under section 1352(a) (relating to  
9 election) that does not elect to collect and remit the tax  
10 imposed by this subchapter shall, no later than January 31 of  
11 each year, submit a report to the department. The report shall  
12 include, with respect to each purchaser required to receive the  
13 notice under section 1353(b)(1)(ii) (relating to notice  
14 requirements) during the immediately preceding calendar year,  
15 the following:

16 (1) The purchaser's name.

17 (2) The purchaser's billing address and, if different,  
18 the purchaser's last known mailing address.

19 (3) The address within this Commonwealth to which  
20 products were delivered to the purchaser.

21 (4) The aggregate dollar amount of the purchaser's  
22 purchases from the remote seller or marketplace facilitator.

23 (5) The name and address of the remote seller,  
24 marketplace facilitator or marketplace seller that made the  
25 sales to the purchaser.

26 (b) Report and contents.--A referrer required to make an  
27 election under section 1352(a) that does not elect to collect  
28 and remit the tax imposed by this subchapter shall, no later  
29 than January 31 of each year, submit a report to the department.  
30 The report shall include a list of persons who received the

1 notice required under section 1354(d) (relating to reports to  
2 purchasers and marketplace sellers).

3 (c) Forms and availability.--The department shall prescribe  
4 the forms of the reports required under this section and shall  
5 make them available on its publicly accessible Internet website.  
6 The reports shall be submitted electronically in a manner as the  
7 department shall require.

8 (d) Submission and statement.--A report required under this  
9 section shall be submitted by an officer of the remote seller,  
10 marketplace facilitator or referrer and shall include a  
11 statement, made under penalty of perjury, by the officer that  
12 the remote seller, marketplace facilitator or referrer made  
13 reasonable efforts to comply with the notice and reporting  
14 requirements of this subpart.

15 § 1356. Liability and penalties.

16 (a) Assessment.--The department shall assess a penalty in  
17 the amount of \$20,000 or 20% of total sales in Pennsylvania  
18 during the previous 12 months, whichever is less, against a  
19 remote seller, marketplace facilitator or referrer that makes an  
20 election under section 1352(a) (relating to election) to comply  
21 with the notice and reporting requirements, or is deemed to have  
22 made such election under section 1352(f), and fails to comply  
23 with the requirements under section 1354 (relating to reports to  
24 purchasers and marketplace sellers) or 1355 (relating to reports  
25 to department). The penalty shall be assessed separately for  
26 each violation but may only be assessed once in a calendar year.

27 (b) Subject to penalties.--A remote seller, marketplace  
28 facilitator or referrer that makes an election under section  
29 1352(a) to collect and remit the tax imposed under this  
30 subchapter shall be subject to all of the provisions of this

1 part with respect to the collection and remittance of the tax  
2 and shall be subject to all of the penalties, interest and  
3 additions for failing to comply with the provisions of this  
4 subpart except as provided in this section.

5 (c) Abatement.--The department may abate or reduce any  
6 penalties or addition imposed under subsection (b) due to  
7 hardship or for good cause shown for a period which ends as  
8 follows:

9 (1) Except as otherwise provided under paragraph (2),  
10 February 1, 2023.

11 (2) For tangible personal property described under  
12 paragraph (2) of the definition of the term "tangible  
13 personal property" under section 1102 (relating to  
14 definitions), February 1, 2024.

15 (d) Relief from liability.--A marketplace facilitator or  
16 referrer is relieved of liability under subsection (b) if the  
17 marketplace facilitator or referrer can show to the satisfaction  
18 of the department that the failure to collect the correct amount  
19 of tax was due to incorrect information given to the marketplace  
20 facilitator or referrer by a marketplace seller or remote  
21 seller.

22 (e) Class action.--A class action may not be brought against  
23 a marketplace facilitator or referrer on behalf of purchasers  
24 arising from or in any way related to an overpayment of sales or  
25 use tax collected by the marketplace facilitator or referrer,  
26 regardless of whether the action is characterized as a tax  
27 refund claim. Nothing in this subsection shall affect a  
28 purchaser's right to seek a refund from the department under  
29 other provisions of this subpart.

30 § 1357. Application.

1 Nothing in this section shall affect the obligations of a  
2 vendor to register with the department and to collect and remit  
3 sales tax or use tax.

4 § 1358. Transfer to county sales and use tax accounts.

5 Notwithstanding any other provision of a law, beginning  
6 October 1, 2021, 2% of the tax imposed under Subch. A (relating  
7 to imposition of tax) that is collected and remitted by a remote  
8 seller, a marketplace facilitator or a referrer shall be  
9 transferred to the School District Property Tax Elimination Fund  
10 and credited under 53 Pa.C.S. § 90A52 (relating to payments to  
11 counties) to the respective county sales and use tax accounts in  
12 the same proportion that each county's receipts under section  
13 90A22 (relating to imposition) bears to the total receipts under  
14 section 90A22 for all counties. The amount transferred shall  
15 include interest and penalties, less any collection costs  
16 allowed and any refunds and credits paid.

17 CHAPTER 15

18 PROCEDURE AND ADMINISTRATION

19 Subchapter

20 A. Preliminary Provisions

21 B. Returns

22 C. Payment of Tax

23 D. Assessment and Collection of Tax

24 E. Refunds and Credits

25 F. Limitations

26 G. Interest, Additions, Penalties and Crimes

27 H. Enforcement and Examinations

28 I. Miscellaneous Provisions

29 SUBCHAPTER A

30 PRELIMINARY PROVISIONS



1 Sec.

2 1501. Definitions.

3 § 1501. Definitions.

4 The following words and phrases when used in this chapter  
5 shall, in addition to the meaning given to them in section 1102  
6 (relating to definitions), have the meanings given to them in  
7 this section unless the context clearly indicates otherwise:

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

9 Being an operator as defined in section 1341 (relating to  
10 definitions).

11 "Purchase price." Rent as defined in section 1341.

12 "Purchaser." An occupant as defined in section 1341.

13 "Sale." The providing of occupancy to an occupant by an  
14 operator, as those terms are defined in section 1341.

15 "Services." Occupancy as defined in section 1341.

16 "Tangible personal property." Occupancy as defined in  
17 section 1341.

18 "Use." Occupancy as defined in section 1341.

19 "Vendor" An operator as defined in section 1341.

20 SUBCHAPTER B

21 RETURNS

22 Sec.

23 1511. Persons required to make returns.

24 1512. Form of returns.

25 1513. Time for filing returns.

26 1514. Extension of time for filing returns.

27 1515. Place for filing returns.

28 1516. Timely mailing treated as timely filing and payment.

29 § 1511. Persons required to make returns.

30 Every person required to pay tax to the department or collect

1 and remit tax to the department, but not including a marketplace  
2 seller who solely makes sales through a marketplace facilitator  
3 that is required to collect sales tax on the seller's behalf and  
4 receives a certification from the marketplace facilitator that  
5 the marketplace facilitator will collect, report and remit the  
6 proper sales tax, shall file returns with respect to the tax.  
7 § 1512. Form of returns.

8 The returns required by section 1511 (relating to persons  
9 required to make returns) shall be on forms prescribed by the  
10 department and shall show the information with respect to the  
11 taxes imposed by this subpart as the department may reasonably  
12 require.

13 § 1513. Time for filing returns.

14 (a) Quarterly and monthly returns.--

15 (1) For the calendar year 1971, and in each year  
16 thereafter, a return shall be filed quarterly by every  
17 licensee on or before the 20th day of April, July, October  
18 and January for the three months ending the last day of  
19 March, June, September and December.

20 (2) For the calendar year 1971, and in each year  
21 thereafter, a return shall be filed monthly with respect to  
22 each month by every licensee whose actual tax liability for  
23 the third calendar quarter of the preceding year equals or  
24 exceeds \$600 and is less than \$25,000. The return shall be  
25 filed on or before the 20th day of the next succeeding month  
26 with respect to which the return is made. A licensee required  
27 to file monthly returns under this section shall be relieved  
28 from filing quarterly returns.

29 (3) With respect to every licensee whose actual tax  
30 liability for the third calendar quarter of the preceding

1 year equals or exceeds \$25,000 and is less than \$100,000, the  
2 licensee shall, on or before the 20th day of each month, file  
3 a single return consisting of all of the following:

4 (i) Either of the following:

5 (A) An amount equal to 50% of the licensee's  
6 actual tax liability for the same month in the  
7 preceding calendar year if the licensee was a monthly  
8 filer or, if the licensee was a quarterly or semi-  
9 annual filer, 50% of the licensee's average actual  
10 tax liability for that tax period in the preceding  
11 calendar year. The following shall apply:

12 (I) The average actual tax liability shall  
13 be the actual tax liability for the tax period  
14 divided by the number of months in that tax  
15 period.

16 (II) For licensees that were not in business  
17 during the same month in the preceding calendar  
18 year or were in business for only a portion of  
19 that month, the amount shall be 50% of the  
20 average actual tax liability for each tax period  
21 the licensee has been in business.

22 (III) If the licensee is filing a tax  
23 liability for the first time with no preceding  
24 tax periods, the amount shall be zero.

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

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

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

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

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

13       (7) The department may require the filing of the returns  
14 and the payments for these types of filers by electronic  
15 means approved by the department.

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

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

26 (b) Annual returns.--

27       (1) For the calendar year 1971, and for each year  
28 thereafter, no annual return shall be filed, except as may be  
29 required by rules and regulations of the department  
30 promulgated and published at least 60 days prior to the end

1 of the year with respect to which the returns are made.

2 (2) If annual returns are required, licensees shall not  
3 be required to file returns prior to the 20th day of the year  
4 succeeding the year with respect to which the returns are  
5 made.

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

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

15 § 1514. Extension of time for filing returns.

16 (a) General rule.--Except as provided under subsection (b),  
17 the department may, on written application and for good cause  
18 shown, grant a reasonable extension of time for filing a return  
19 required under this subpart.

20 (b) Exception.--The time for making a return shall not be  
21 extended for more than three months.

22 § 1515. Place for filing returns.

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

26 § 1516. Timely mailing treated as timely filing and payment.

27 (a) Postmark.--Notwithstanding the provisions of any State  
28 tax law to the contrary, whenever a report or payment of all or  
29 any portion of a State tax is required by law to be received by  
30 the department or other agency of the Commonwealth on or before

1 a day certain, the taxpayer shall be deemed to have complied  
2 with the law if the letter transmitting the report or payment of  
3 the tax which has been received by the department is postmarked  
4 by the United States Postal Service on or prior to the final day  
5 on which the payment is to be received.

6 (b) Evidence.--For the purposes of this subpart,  
7 presentation of a receipt indicating that the report or payment  
8 was mailed by registered or certified mail on or before the due  
9 date shall be evidence of timely filing and payment.

10 SUBCHAPTER C

11 PAYMENT OF TAX

12 Sec.

13 1521. Payment.

14 1522. Time of payment.

15 1523. Other times for payment.

16 1524. Place for payment.

17 1525. Tax held in trust for Commonwealth.

18 1526. Discount.

19 § 1521. Payment.

20 When a return of tax is required under this subpart, the  
21 person required to make the return shall pay the tax to the  
22 department.

23 § 1522. Time of payment.

24 (a) Monthly and quarterly payments.--The tax imposed by this  
25 subpart and incurred or collected by a licensee shall be due and  
26 payable by the licensee on the day the return is required to be  
27 filed under the provisions of section 1513 (relating to time for  
28 filing returns) and payment must accompany the return.

29 (b) Annual payments.--If the amount of tax due for the  
30 preceding year as shown by the annual return of a taxpayer is

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

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

8 § 1523. Other times for payment.

9 If the department authorizes a taxpayer to file a return at  
10 other times than those specified under section 1513 (relating to  
11 time for filing returns), the tax due shall be paid at the time  
12 the return is filed.

13 § 1524. Place for payment.

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

16 § 1525. Tax held in trust for Commonwealth.

17 (a) Establishment, enforceability and good faith.--All taxes  
18 collected by a person from purchasers in accordance with this  
19 subpart and all taxes collected by a person from purchasers  
20 under color of this subpart, including all taxes paid by a  
21 person who advertises or holds out or states, directly or  
22 indirectly, that the person will pay the tax for the purchaser,  
23 which have not been properly refunded by the person to the  
24 purchaser shall constitute a trust fund for the Commonwealth,  
25 and the trust shall be enforceable against the person, the  
26 person's representatives and any person, other than a purchaser  
27 to whom a refund has been made properly, receiving any part of  
28 the fund without consideration or knowing that the taxpayer is  
29 committing a breach of trust, provided that a person receiving  
30 payment of a lawful obligation of the taxpayer from the fund

1 shall be presumed to have received the payment in good faith and  
2 without any knowledge of the breach of trust.

3 (b) Petition and appeal.--A person, other than a taxpayer,  
4 against whom the department makes a claim under this section  
5 shall have the same right to petition and appeal as is given  
6 taxpayers by any provisions of this chapter.

7 § 1526. Discount.

8 If a return is filed by a licensee and the tax shown to be  
9 due on the return less any discount is paid all within the time  
10 prescribed, the licensee shall be entitled, as compensation for  
11 the expense of collecting and remitting the tax and as a  
12 consideration of the prompt payment of the tax, to credit and  
13 shall apply against the tax payable by the licensee a discount  
14 of the lesser of:

15 (1) 1% of the amount of the tax collected; or

16 (2) as follows:

17 (i) \$25 per return for a monthly filer;

18 (ii) \$75 per return for a quarterly filer; or

19 (iii) \$150 per return for a semiannual filer.

20 SUBCHAPTER D

21 ASSESSMENT AND COLLECTION OF TAX

22 Sec.

23 1531. Assessment.

24 1532. Mode and time of assessment.

25 1533. Reassessment.

26 1534. Assessment to recover erroneous refunds.

27 1535. Burden of proof.

28 1536. Collection of tax.

29 1537. Collection of tax on motor vehicles, trailers and  
30 semitrailers.



1 1538. Precollection of tax.  
2 1539. Bulk and auction sales.  
3 1540. Collection upon failure to request reassessment, review  
4 or appeal.  
5 1541. Lien for taxes.  
6 1542. Suit for taxes.  
7 1543. Tax suit comity.  
8 1544. Service.  
9 1545. Collection and payment of tax on credit sales.  
10 1546. Prepayment of tax.  
11 1547. Refund of sales tax attributed to bad debt.  
12 1548. Registration of transient vendors.  
13 1549. Bond.  
14 1550. Notification to department and inspection of records.  
15 1551. Seizure of property.  
16 1552. Fines.  
17 1553. Transient vendors subject to subpart.  
18 1554. Promoters.  
19 § 1531. Assessment.

20 (a) Authorization.--The department is authorized and  
21 required to make the inquiries, determinations and assessments  
22 of the tax imposed by this subpart. This subsection includes  
23 interest, additions and penalties.

24 (b) Notice of assessment.--A notice of assessment and demand  
25 for payment shall be mailed to the taxpayer. The notice shall  
26 specify the basis of the assessment.

27 (c) Marketplace facilitator.--A marketplace facilitator is  
28 relieved of liability under this section if the marketplace  
29 facilitator can show to the satisfaction of the department that  
30 the failure to collect the correct amount of tax was due to

1 incorrect information given to the marketplace facilitator by a  
2 marketplace seller.

3 (d) Marketplace seller.--A marketplace seller is relieved of  
4 liability under this section pertaining to those sales made  
5 through a marketplace facilitator, when the marketplace  
6 facilitator certifies to the seller that the marketplace  
7 facilitator will collect, report and remit the proper sales tax,  
8 unless the seller gave incorrect information to the marketplace  
9 facilitator.

10 § 1532. Mode and time of assessment.

11 (a) Underpayment of tax.--Within a reasonable time after a  
12 return is filed, the department shall examine the return. If the  
13 return shows a greater tax due or collected than the amount of  
14 tax remitted with the return, the department shall issue an  
15 assessment for the difference and 3% of the difference. The  
16 assessment shall be paid to the department within 10 days after  
17 a notice of the assessment has been mailed to the taxpayer. If  
18 the assessment is not paid within 10 days, an additional 3% of  
19 the difference for each month during which the assessment  
20 remains unpaid shall be added to the assessment total, but the  
21 total of all additions shall not exceed 18% of the difference  
22 shown on the assessment.

23 (b) Understatement of tax.--If the department determines  
24 that a return of a taxpayer understates the amount of tax due,  
25 it shall determine the proper amount and shall ascertain the  
26 deficiency between the amount of tax shown in the return and the  
27 amount determined. A notice of assessment for the deficiency and  
28 the reasons for the deficiency shall be sent to the taxpayer.  
29 The deficiency shall be paid to the department within 30 days  
30 after a notice of the assessment has been mailed to the

1 taxpayer.

2 (c) Failure to file return.--If a taxpayer fails to file a  
3 return required by this chapter, the department may make an  
4 estimated assessment, based on information available, of the  
5 proper amount of tax owed by the taxpayer. A notice of  
6 assessment in the estimated amount shall be sent to the  
7 taxpayer. The tax shall be paid within 30 days after a notice of  
8 the estimated assessment has been mailed to the taxpayer.

9 (d) Authority to establish effective rates by business  
10 classification.--The department may:

11 (1) make the studies necessary to compute effective  
12 rates by business classification, based upon the ratio  
13 between:

14 (i) the tax required to be collected; and

15 (ii) taxable sales; and

16 (2) use the rates in computing the tax liability of a  
17 taxpayer.

18 (e) Tax rate.--

19 (1) Except as set forth in paragraph (2), an assessment  
20 based upon the rates shall be prima facie correct.

21 (2) If a taxpayer establishes that the rate is based on  
22 a sample inapplicable to the taxpayer, the rate shall not be  
23 considered.

24 § 1533. Reassessment.

25 A taxpayer against whom an assessment is made may petition  
26 the department for a reassessment under Article XXVII of the Tax  
27 Reform Code of 1971.

28 § 1534. Assessment to recover erroneous refunds.

29 The department may file an assessment to recover an erroneous  
30 refund. The assessment must be filed within the later of:

- 1           (1) two years of granting a refund or credit; or  
2           (2) the period in which an assessment could have been  
3           filed by the department with respect to the transaction  
4           pertaining to which the refund was granted.

5 § 1535. Burden of proof.

6           In a petition for reassessment, review or appeal, the burden  
7           of proof shall be upon the petitioner or appellant.

8 § 1536. Collection of tax.

9           (a) Collection by department.--The department shall collect  
10          the tax in the manner provided by law.

11          (b) Remitters.--

12           (1) This subsection applies to all of the following:

13           (i) A person that:

14                   (A) maintains a place of business in this  
15                   Commonwealth; and

16                   (B) sells or leases tangible personal property  
17                   or services, with the exception of a marketplace  
18                   seller who solely makes sales through a marketplace  
19                   facilitator that is required to collect sales tax on  
20                   the marketplace seller's behalf and receives a  
21                   certification from the marketplace facilitator that  
22                   the marketplace facilitator will collect, report and  
23                   remit the proper sales tax, the sale or use of which  
24                   is subject to tax.

25           (ii) A person not otherwise required to collect tax  
26           that:

27                   (A) delivers tangible personal property to a  
28                   location within this Commonwealth; and

29                   (B) unpacks, positions, places or assembles the  
30                   tangible personal property.

1       (2) Except as set forth in section 1537(a) (relating to  
2 collection of tax on motor vehicles, trailers and  
3 semitrailers), a person subject to paragraph (1)(i) shall:

4       (i) collect the tax from the purchaser or lessee at  
5 the time of making the sale or lease; and

6       (ii) remit the tax to the department.

7       (3) All of the following apply to a person subject to  
8 paragraph (1)(ii):

9       (i) The person shall collect the tax from the  
10 purchaser at the time of delivery. The person is deemed  
11 to be selling or leasing tangible personal property or  
12 services, the sale or use of which is subject to the tax  
13 imposed under this subpart.

14       (ii) The person shall remit the tax to the  
15 department if:

16           (A) the person delivering the tangible personal  
17 property is responsible for collecting any portion of  
18 the purchase price of the tangible personal property  
19 delivered; and

20           (B) the purchaser has not provided the person  
21 with proof that:

22                   (I) the tax imposed by this chapter has been  
23 or will be collected by the seller; or

24                   (II) the purchaser provided the seller with  
25 a valid exemption certificate.

26       (4) The following shall apply:

27       (i) A vendor maintaining a place of business within  
28 this Commonwealth under paragraph (1)(vii) of the  
29 definition of "maintaining a place of business in this  
30 Commonwealth" under section 1102 (relating to

1 definitions) in calendar year 2018 shall collect sales  
2 tax from July 1, 2019, through March 31, 2020.

3 (ii) A vendor maintaining a place of business within  
4 this Commonwealth under paragraph (1)(vii) of the  
5 definition of "maintaining a place of business in this  
6 Commonwealth" under section 1102 in calendar years after  
7 2018 shall collect sales tax from the second quarter,  
8 beginning April 1, of the following calendar year through  
9 the first quarter, ending March 31, of the next calendar  
10 year.

11 (5) Each person that is required under this chapter to  
12 collect tax from another person and that fails to collect the  
13 proper amount of tax shall be liable for the full amount of  
14 the tax which should have been collected.

15 (b.1) Collection by marketplace facilitators.--A marketplace  
16 facilitator maintaining a place of business in this Commonwealth  
17 must collect and remit the sales tax on all sales, leases and  
18 deliveries of tangible personal property, and all sales of  
19 services, by marketplace sellers whose sales are facilitated  
20 through the marketplace facilitator's forum.

21 (c) Exemption certificates.--

22 (1) Except as provided under paragraph (2), if the tax  
23 does not apply to the sale or lease of tangible personal  
24 property or services, the purchaser or lessee shall furnish  
25 to the vendor a certificate indicating that the sale is not  
26 legally subject to the tax. The certificate shall be in the  
27 form prescribed by the department.

28 (2) An exemption certificate under paragraph (1) need  
29 not be furnished if:

30 (i) the tangible personal property or service is of

1 a type which is never subject to the tax imposed; or

2 (ii) the sale or lease is in interstate commerce.

3 (3) If a series of transactions are not subject to tax,  
4 a purchaser or user may furnish the vendor with a single  
5 exemption certificate in the form, and valid for the period  
6 of time, prescribed by the department.

7 (4) The department shall provide each school district  
8 and intermediate unit with a permanent tax exemption number.

9 (5) An exemption certificate shall relieve the vendor  
10 from liability under this section if the exemption  
11 certificate:

12 (i) is complete and regular;

13 (ii) on its face discloses a valid basis of  
14 exemption; and

15 (iii) is taken in good faith.

16 (6) An exemption certificate shall be presumed to be  
17 taken in good faith and the burden of proving otherwise shall  
18 be on the department if all of the following conditions are  
19 met:

20 (i) The exemption certificate is accepted by a  
21 vendor in the ordinary course of the vendor's business.

22 (ii) The exemption certificate is from any of the  
23 following:

24 (A) An individual domiciled within this  
25 Commonwealth.

26 (B) An association, fiduciary, partnership,  
27 corporation or other entity which:

28 (I) is authorized to do business within this  
29 Commonwealth; or

30 (II) has an established place of business

1 within this Commonwealth.

2 (iii) The exemption certificate:

3 (A) on its face discloses a valid basis of  
4 exemption consistent with the activity of the  
5 purchaser and character of the property or service  
6 being purchased; or

7 (B) is provided to the vendor by a charitable,  
8 religious or educational association or by a  
9 volunteer firefighters' relief association or  
10 volunteer firemen's organization and contains the  
11 charitable exemption number of the association or  
12 organization.

13 (iv) If the purchase price is at least \$200, the  
14 exemption certificate is accompanied by a sworn  
15 declaration, on a form provided by the department, of an  
16 intended usage of the property or service which would  
17 render the usage or service nontaxable.

18 (c.1) Authorization to obtain information.--In lieu of the  
19 exemption certificate required under subsection (c), the  
20 department may authorize a vendor to obtain similarly specific  
21 information from the vendor's purchasers. This information  
22 includes, but is not limited to, the name and address of the  
23 purchaser and a valid basis for exemption. The purchases made  
24 under this subsection must be made with a verifiable source of  
25 payment connected to the specific purchaser. The information  
26 regarding each purchase shall be available at the time the  
27 return is filed for the period covering the purchase. The  
28 information shall be retained in accordance with section 1592  
29 (relating to keeping of records). No authority shall be granted  
30 or exercised, except upon application to and acceptance by the



1 department, in the department's discretion. If authority is  
2 granted, it shall be subject to conditions specified by the  
3 department.

4 (d) Direct payment permits.--

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

12 (2) Authorization under paragraph (1) requires:

13 (i) application to the department; and

14 (ii) issuance by the department of a direct payment  
15 permit.

16 (3) If a direct payment permit is granted:

17 (i) its use shall be subject to conditions specified  
18 by the department; and

19 (ii) payment of tax on all acquisitions under the  
20 permit shall be made directly to the department by the  
21 permit holder.

22 § 1537. Collection of tax on motor vehicles, trailers and  
23 semitrailers.

24 (a) Requirement.--

25 (1) Notwithstanding section 1536(b)(1) (relating to  
26 collection of tax), except as set forth in paragraph (2),  
27 tax due on the sale at retail or use of a motor vehicle,  
28 trailer or semitrailer required by law to be registered under  
29 75 Pa.C.S. Ch. 13 (relating to registration of vehicles)  
30 shall be paid by the purchaser or user directly to the

1 Department of Transportation under 75 Pa.C.S. § 1103.1(b)  
2 (relating to application for certificate of title).

3 (2) Paragraph (1) does not apply to a mobile home.

4 (b) Tax paid or not due.--The Department of Transportation  
5 may not issue a certificate of title under 75 Pa.C.S. § 1105  
6 (relating to issuance of certificate of title) until the tax has  
7 been paid or evidence satisfactory to the Department of  
8 Transportation has been given to establish that tax is not due.

9 (c) Cancellation or suspension of certificate of title.--The  
10 Department of Transportation may cancel or suspend a record of  
11 certificate of title or registration of a motor vehicle, trailer  
12 or semitrailer if the check received in payment of the tax is  
13 not paid upon demand.

14 (d) First encumbrance.--The tax shall be considered as a  
15 first encumbrance against a vehicle under subsection (a)(1), and  
16 the vehicle may not be transferred without payment in full of  
17 the tax and interest or penalties which have accrued.

18 (e) Definitions.--As used in this section, the following  
19 words and phrases shall have the meanings given to them in this  
20 subsection unless the context clearly indicates otherwise:

21 "Mobile home." As defined in 75 Pa.C.S. § 102 (relating to  
22 definitions).

23 "Motor vehicle." As defined in 75 Pa.C.S. § 102.

24 "Semitrailer." As defined in 75 Pa.C.S. § 102.

25 "Trailer." As defined in 75 Pa.C.S. § 102.

26 § 1538. Precollection of tax.

27 (a) Precollection of tax.--

28 (1) Except as set forth in paragraph (2), the department  
29 may, by regulation, authorize or require particular  
30 categories of vendors selling tangible personal property for

1 resale to precollect from the purchaser the tax which the  
2 purchaser will collect upon making a sale at retail of the  
3 tangible personal property.

4 (2) The department may not require a vendor to  
5 precollect tax from a purchaser who purchases for resale more  
6 than \$1,000 worth of tangible personal property from the  
7 vendor per year.

8 (b) Licensing.--If a vendor has been authorized to prepay  
9 the tax to the person from whom the vendor purchased the  
10 tangible personal property for resale, the vendor prepaying the  
11 tax may, under the regulations of the department, be relieved  
12 from the vendor's duty to secure a license if the duty arises  
13 only by reason of the sale of the tangible personal property  
14 with respect to which the vendor is, under authorization of the  
15 department, to prepay the tax.

16 (c) Reimbursement.--

17 (1) On making a sale at retail of tangible personal  
18 property with respect to which the vendor has prepaid the  
19 tax, the vendor shall separately state at the time of resale  
20 the proper amount of tax on the transaction and reimburse the  
21 taxes which the vendor has previously prepaid.

22 (2) If a vendor collects a greater amount of tax in a  
23 reporting period than the vendor had previously prepaid upon  
24 purchase of the property with respect to which the vendor  
25 prepaid the tax, the vendor shall file a return and remit the  
26 balance to the Commonwealth at the time when a return would  
27 otherwise be due with respect to the sale.

28 § 1539. Bulk and auction sales.

29 A person is subject to section 1403 of the Fiscal Code if the  
30 person:

1       (1) sells or causes to be sold at auction, or sells or  
2 transfers in bulk, at least 51% of a stock of goods, wares,  
3 merchandise, fixtures, machinery, equipment, buildings or  
4 real estate involved in a business for which the person is  
5 licensed or required to be licensed under this subpart; or

6       (2) is liable for filing use tax returns under this  
7 subpart.

8 § 1540. Collection upon failure to request reassessment, review  
9 or appeal.

10 (a) Collection.--The department may collect a tax:

11       (1) If, after notice to the taxpayer, an assessment of  
12 tax is not paid within 10 days, for assessments made under  
13 section 1532(a) (relating to mode and time of assessment), or  
14 30 days, for assessments made under section 1532(b), as long  
15 as no petition for reassessment has been filed.

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

18       (3) Unless an appeal is made, within 30 days from:

19       (i) the date of the decision of the Board of Finance  
20 and Revenue upon a petition for review, if no appeal has  
21 been made; or

22       (ii) expiration of the board's time for acting upon  
23 the petition, if no appeal has been made.

24       (4) In all cases of judicial sales, receiverships,  
25 assignments or bankruptcies.

26 (b) Raising defenses.--

27       (1) Except as set forth in paragraph (2), in a  
28 proceeding for the collection of tax, a taxpayer may not  
29 raise a defense which could have been determined by the  
30 department, the board or a court of competent jurisdiction.

1           (2) In a motion to stay a proceeding for the collection  
2 of tax, a taxpayer may raise any of the following defenses:

3           (i) The department's failure to mail notice of  
4 assessment or reassessment.

5           (ii) Payment of assessment or reassessment.

6 § 1541. Lien for taxes.

7           (a) Lien imposed.--

8           (1) If a person liable to pay a tax neglects or refuses  
9 to pay the tax, the amount, including interest, addition or  
10 penalty, together with any other costs, shall be a lien in  
11 favor of the Commonwealth upon the property, both real and  
12 personal, of the person, but only after the lien has been  
13 entered and docketed of record by the prothonotary of the  
14 county where the property is situated.

15           (2) The department may, at any time, transmit to the  
16 prothonotaries of the respective counties certified copies of  
17 all liens for taxes imposed by this subpart and penalties and  
18 interest.

19           (3) It shall be the duty of each prothonotary receiving  
20 the lien to enter and docket the lien of record in the  
21 prothonotary's office, which shall be indexed as judgments  
22 are now indexed.

23           (4) A prothonotary may not require, as a condition  
24 precedent to the entry of the liens, the payment of the costs  
25 of entering the liens into record.

26           (b) Priority of lien and effect on judicial sale and no  
27 discharge by sale on junior lien.--

28           (1) The lien imposed under this section shall:

29           (i) have priority from the date of its recording;

30           (ii) be fully paid and satisfied out of the proceeds

1 of a judicial sale of property subject to the lien before  
2 any other obligation, judgment, claim, lien or estate to  
3 which the property may subsequently become subject,  
4 except costs of the sale and of the writ upon which the  
5 sale was made and real estate taxes and municipal claims  
6 against the property; and

7 (iii) be subordinate to mortgages and other liens  
8 existing and duly recorded or entered of record prior to  
9 the recording of the tax lien.

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

17 (3) An inquisition or condemnation may not be made on a  
18 judicial sale of real estate made by the Commonwealth under  
19 this section. The following shall apply:

20 (i) The lien of the taxes, interest and penalties  
21 shall continue for five years from the date of entry and  
22 may be revived and continued in the manner provided for  
23 renewal of judgments, on or after March 4, 1971, or as  
24 may be provided in the Fiscal Code.

25 (ii) A writ of execution may directly issue on the  
26 lien without the issuance and prosecution to judgment of  
27 a writ of scire facias, if not less than 10 days before  
28 issuance of an execution on the lien, notice of the  
29 filing and the effect of the lien shall be sent by  
30 registered mail to the taxpayer at the taxpayer's last

1 known post office address.

2 (iii) The lien shall have no effect on a stock of  
3 goods, wares or merchandise regularly sold or leased in  
4 the ordinary course of business by the person against  
5 whom the lien has been entered, until a writ of execution  
6 has been issued and a levy made upon the stock of goods,  
7 wares and merchandise.

8 (c) Duty of prothonotary.--A prothonotary who willfully  
9 fails to carry out a duty imposed under this section commits a  
10 misdemeanor and shall, upon conviction, be sentenced to pay a  
11 fine of \$1,000 or to imprisonment for not more than one year, or  
12 both.

13 (d) Priority of tax.--Except as provided in this chapter,  
14 each tax imposed by this part which is due and unpaid and is not  
15 collectible under section 1525 (relating to tax held in trust  
16 for Commonwealth) shall be paid from the first money available  
17 for distribution in priority to each other claim and lien,  
18 except as the laws of the United States may give a prior claim  
19 to the Federal Government. A person charged with the  
20 administration or distribution of a property or estate who  
21 violates this section shall be personally liable for taxes  
22 imposed by this part, which are accrued and unpaid and are  
23 chargeable against the person whose property or estate is being  
24 administered or distributed.

25 (e) Other remedies.--Subject to the limitations in this  
26 subpart as to the assessment of taxes, nothing in this section  
27 shall be construed to restrict, prohibit or limit the use by the  
28 department in collecting taxes finally due and payable of  
29 another remedy or procedure available at law or equity for the  
30 collection of debts.

1 § 1542. Suit for taxes.

2 (a) Commencement.--The department may, within three years  
3 after a tax is finally due and payable, commence an action in  
4 the courts of the United States, this Commonwealth or any state  
5 in the name of the Commonwealth to collect tax due together with  
6 additions, interest, penalties and costs as provided at law or  
7 in equity for the collection of ordinary debts.

8 (b) Procedure.--The Attorney General shall prosecute the  
9 action and, except as provided in this subpart, the Rules of  
10 Civil Procedure and the laws of this Commonwealth relating to  
11 civil procedures and remedies shall be available in the  
12 proceedings.

13 (c) Other remedies.--The provisions of this section are in  
14 addition to any process, remedy or procedure for the collection  
15 of taxes provided by this subpart or by the laws of this  
16 Commonwealth. This section shall not be limited by nor is  
17 intended to limit any process, remedy or procedure.

18 § 1543. Tax suit comity.

19 The courts of this Commonwealth shall recognize and enforce a  
20 liability for sales and use tax lawfully imposed by another  
21 state, if the other state extends a like comity to this  
22 Commonwealth.

23 § 1544. Service.

24 A person maintaining a place of business within this  
25 Commonwealth shall appoint the Secretary of the Commonwealth as  
26 the person's agent for the acceptance of service of process or  
27 notice in proceedings for the enforcement of the civil  
28 provisions of this part. The following shall apply:

29 (1) Service made upon the Secretary of the Commonwealth  
30 as the agent shall have the same legal force and validity as



1 if the service had been personally made upon the person.

2 (2) If service cannot be made upon the person in the  
3 manner provided by other laws of this Commonwealth relating  
4 to service of process, service may be made upon the Secretary  
5 of the Commonwealth, and a copy of the process or notice  
6 shall also be personally served upon an agent or  
7 representative of the person who may be found within this  
8 Commonwealth.

9 (3) If no agent or representative may be found, a copy  
10 of the process or notice shall be sent by registered mail to  
11 the person at the last known address of the person's  
12 principal place of business, home office or residence.

13 § 1545. Collection and payment of tax on credit sales.

14 If a sale subject to tax under this subpart is wholly or  
15 partly on credit, the vendor shall require the purchaser to pay  
16 in cash at the time the sale is made, or within 30 days  
17 thereafter, the total amount of tax due upon the entire purchase  
18 price. The vendor shall remit the tax to the department,  
19 notwithstanding whether payment was made by the purchaser to the  
20 vendor, and the next return must be filed under section 1513  
21 (relating to time for filing returns).

22 § 1546. Prepayment of tax.

23 If a vendor is forbidden by law to charge and collect the  
24 purchase price in advance of or at the time of delivery, the  
25 vendor shall prepay the tax as required by section 1522  
26 (relating to time of payment). If the purchaser fails to pay to  
27 the vendor the total amount of the purchase price and the tax,  
28 and the amount is written off as uncollectible by the vendor,  
29 the vendor shall not be liable for the tax and shall be entitled  
30 to a credit or refund of the tax paid. The following shall

1 apply:

2 (1) If the purchase price is later collected, in whole  
3 or in part, the amount collected shall be first applied to  
4 the payment of the entire tax portion of the bill and shall  
5 be remitted to the department by the vendor with the first  
6 return filed after the collection.

7 (2) For tax prepaid prior to March 4, 1971, credit may  
8 be claimed on returns filed for the periods prior to March 4,  
9 1971.

10 (3) Tax prepaid after March 4, 1971, shall be subject to  
11 refund upon petition to the department under section 1561  
12 (relating to refunds), filed within 105 days of the close of  
13 the fiscal year in which the accounts are written off.

14 § 1547. Refund of sales tax attributed to bad debt.

15 (a) Conditions.--A vendor may file a petition for refund of  
16 sales tax paid to the department that is attributed to a bad  
17 debt if all of the following apply:

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

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

22 (3) The debt has been deducted for Federal income tax  
23 purposes under section 166 of the Internal Revenue Code of  
24 1986.

25 (b) Petition.--A petition for refund under this section must  
26 be filed with the department within the time limitations  
27 prescribed by section 3003.1(a) of the Tax Reform Code of 1971.

28 (c) Private-label credit card accounts.--In the case of  
29 private-label credit card accounts not qualifying under  
30 subsection (a), a vendor or lender that makes an election under

1 subsection (d) may file a petition for refund of sales tax that  
2 the vendor has previously reported and paid to the department if  
3 all of the following conditions are met:

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

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

9 (3) The account has been deducted for Federal income tax  
10 purposes under section 166 of the Internal Revenue Code of  
11 1986 by the lender or an affiliate of the lender.

12 (d) Joint election for refund.--In order to be eligible for  
13 a refund under subsection (c), the lender and the vendor must  
14 execute and file with the department a joint election, signed by  
15 both parties, designating which party is entitled to claim the  
16 refund. The election may not be revoked unless a written notice  
17 is signed by the party that signed the election being revoked  
18 and is filed with the department.

19 (e) Payment of refund.--The refund authorized by this  
20 section is limited to the sales tax paid to the department that  
21 is attributed to the bad debt, less any discount under section  
22 1526 (relating to discount). The following apply:

23 (1) Partial payments by the purchaser shall be prorated  
24 between the original purchase price and the sales tax due on  
25 the sale.

26 (2) Payments made on a transaction which includes both  
27 taxable and nontaxable components shall be allocated  
28 proportionally between the taxable and nontaxable components.

29 (f) Assignment of right to petition.--A vendor or a lender  
30 may assign the vendor's or lender's right to petition and

1 receive a refund of sales tax attributed to a bad debt to an  
2 affiliate.

3 (g) Exceptions.--No refund shall be granted under this  
4 section for any of the following:

5 (1) Interest.

6 (2) Finance charges.

7 (3) Expenses incurred in attempting to collect an  
8 account receivable.

9 (h) Documentation.--Documentation requirements are as  
10 follows:

11 (1) A person claiming a refund under this section shall,  
12 on request, make available documentation supporting the  
13 claimed refund, including:

14 (i) The date of the original sale and the name and  
15 Pennsylvania sales tax license number of the retailer.

16 (ii) The name and address of the purchaser.

17 (iii) The amount that the purchaser paid or agreed  
18 to pay.

19 (iv) Taxable and nontaxable charges.

20 (v) The amount on which the retailer reported and  
21 paid sales tax.

22 (vi) All payments or other credits applied to the  
23 account of the purchaser.

24 (vii) Evidence that the uncollected amount was:

25 (A) designated as a bad debt in the books and  
26 records of the vendor or lender, as appropriate; and

27 (B) claimed as a bad debt deduction for Federal  
28 income tax purposes.

29 (viii) The county in which local sales tax was  
30 incurred.

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

2           (x) A certification, under penalty of perjury, that  
3 no person collected money on the bad debt for which the  
4 refund is claimed.

5           (xi) Any other information required by the  
6 department.

7           (2) A person claiming a refund under this section may  
8 provide alternative forms of documentation to the department  
9 if appropriate in light of the volume and character of  
10 uncollectible accounts. The following apply:

11           (i) If a vendor remits sales or use tax to the  
12 Commonwealth and to another state, the entity claiming a  
13 refund under this section may use an apportionment method  
14 to substantiate the amount of Pennsylvania tax included  
15 in the bad debts to which the refund applies.

16           (ii) The apportionment method must use the vendor's  
17 Pennsylvania and non-Pennsylvania sales, the vendor's  
18 taxable and nontaxable sales and the amount of tax the  
19 vendor remitted to Pennsylvania.

20 (i) Collection of tax of prior bad debt.--

21           (1) If the purchase price which is attributed to a prior  
22 bad debt refund is collected in whole or in part by the  
23 vendor or lender or an affiliate of the vendor or lender, the  
24 entity claiming the refund shall remit the proportional tax  
25 to the department with the first return filed after the  
26 collection. If the entity is not required to file periodic  
27 returns, the entity shall remit the proportional tax to the  
28 department with another return under section 1513 (relating  
29 to time for filing returns).

30           (2) Consideration received for the assignment, sale or

1 other transfer of a bad debt with respect to which a refund  
2 has been granted shall be deemed to be a collection of a  
3 prior bad debt. This paragraph does not apply to a transfer  
4 to an entity that is part of the same affiliated group, as  
5 defined by section 1504 of the Internal Revenue Code of 1986.

6 (3) A person that collects, in whole or in part, the  
7 purchase price attributed to a prior bad debt refund is  
8 required to maintain adequate documentation to allow the  
9 department to determine whether the purchase price attributed  
10 to a prior bad debt refund has been collected. Information  
11 under this paragraph includes the pertinent facts required by  
12 subsection (h).

13 (4) If the department determines that a prior bad debt  
14 has been collected, in whole or in part, and that the  
15 proportional tax has not been properly reported and paid to  
16 the department, the person that claimed the refund on the  
17 transaction shall report and pay the proportional tax to the  
18 department plus applicable interest and penalty under this  
19 chapter.

20 (j) Interest.--Notwithstanding section 806.1 of the Fiscal  
21 Code, no interest shall be paid by the Commonwealth on refunds  
22 of sales tax attributed to bad debt under this section.

23 (k) Procedure.--

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

27 (2) No deduction or credit for bad debt may be taken on  
28 a return filed with the department.

29 (3) This section provides the exclusive procedure for  
30 claiming a refund or credit of sales tax attributed to

1 uncollected purchase price or bad debt.

2 (l) Bad debts.--A private-label credit card does not  
3 authorize a refund with respect to a bad debt attributable to a  
4 sale by a person not related to the private-label credit card.

5 (m) Definitions.--As used in this section, the following  
6 words and phrases shall have the meanings given to them in this  
7 subsection:

8 "Affiliate." A person that is:

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

11 (2) a person described under paragraph (1) or (2) of the  
12 definition of "lender" that would be an affiliated entity of  
13 a vendor under section 1504 of the Internal Revenue Code of  
14 1986, but for the fact the person is not a corporation, an  
15 assignee or another transferee of a person described under  
16 paragraph (1) or (2) of the definition of "lender."

17 "Lender." Any of the following:

18 (1) A person that owns or has owned a private-label  
19 credit card account purchased directly from a vendor that  
20 reported the tax under this subpart.

21 (2) A person that owns or has owned a private-label  
22 credit card account under a contract directly with a vendor  
23 that reported the tax under this subpart.

24 (3) A person that is:

25 (i) an affiliate of a person described under  
26 paragraph (1) or (2); or

27 (ii) an assignee or other transferee of a person  
28 described under paragraph (1) or (2).

29 "Private-label credit card." As follows:

30 (1) A charge card, credit card or other instrument

1   serving a similar purpose which:

2       (i) carries, refers to or is branded with the name  
3       or logo of a vendor; and

4       (ii) can be used for purchases from the vendor.

5   (2) The term does not include a card or instrument which  
6   may also be used to make purchases from a person other than  
7   the vendor whose name or logo appears on the card or  
8   instrument or that vendor's affiliates.

9 § 1548. Registration of transient vendors.

10   (a) Registration required.--Prior to conducting business or  
11   commencing operations within this Commonwealth, a transient  
12   vendor shall register with the department. The application for  
13   registration must be in the form and contain information the  
14   department prescribes and shall set forth truthfully and  
15   accurately the information required by the department. The  
16   registration must be renewed and updated annually.

17   (b) Certificate.--Upon registration and the posting of the  
18   bond required by section 1549 (relating to bond), the department  
19   shall issue to a transient vendor a certificate valid for one  
20   year. Upon renewal of registration, the department shall issue a  
21   new certificate, valid for one year, if the department is  
22   satisfied that the transient vendor has complied with this  
23   chapter.

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

29   (d) Information on certificate.--The certificate issued by  
30   the department shall state that the transient vendor named on



1 the certificate has registered with the department and shall  
2 provide notice to the transient vendor of all of the following:

3 (1) The requirements of section 1550(a) (relating to  
4 notification to department and inspection of records).

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

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

12 § 1549. Bond.

13 (a) Posting.--Upon registration with the department, a  
14 transient vendor must post a bond with the department in the  
15 amount of \$500 as surety for compliance with the provisions of  
16 this subpart.

17 (b) Reduction or elimination.--After a period of  
18 demonstrated compliance with the provisions of this subpart, or  
19 if the transient vendor provides the license number of a  
20 promoter that has notified the department of a show under  
21 section 1554(a) (relating to promoters), the department may  
22 reduce the amount of bond required of a transient vendor or may  
23 eliminate the bond entirely.

24 (c) Voluntary suspension of certificate.--A transient vendor  
25 may file a request for voluntary suspension of certificate with  
26 the department. If the provisions of this subpart have been  
27 complied with and the department has possession of the transient  
28 vendor's certificate, the department shall return the bond  
29 posted to the transient vendor.

30 § 1550. Notification to department and inspection of records.

1 (a) Notification.--Prior to entering this Commonwealth to  
2 conduct business, a transient vendor shall notify the department  
3 in writing of each location where the transient vendor intends  
4 to conduct business and each date on which the transient vendor  
5 intends to conduct business.

6 (b) Inspection of sales records.--When conducting business  
7 in this Commonwealth, a transient vendor shall permit authorized  
8 employees of the department to inspect the transient vendor's  
9 sales records, including sales receipts and inventory or price  
10 lists, and tangible personal property offered for sale at  
11 retail.

12 (c) Suspension or revocation of certificate.--The department  
13 may suspend or revoke a certificate issued to a transient vendor  
14 if the transient vendor:

15 (1) fails to notify the department under subsection (a);

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

18 (3) fails to collect sales tax on all tangible personal  
19 property or services sold which are subject to the sales tax;  
20 or

21 (4) fails to file with the department a tax return as  
22 required by section 1513 (relating to time for filing  
23 returns).

24 (d) Regulations.--The department shall promulgate  
25 regulations necessary to implement this section.

26 § 1551. Seizure of property.

27 (a) Seizure for noncompliance.--If a transient vendor  
28 conducting business in this Commonwealth fails to exhibit a  
29 valid certificate upon demand by an authorized employee of the  
30 department, the authorized employee may seize, without warrant,

1 the tangible personal property and the means of transportation  
2 used to transport or carry the property. Except as set forth in  
3 subsection (b), property seized shall be deemed contraband and  
4 shall be subject to immediate forfeiture proceedings instituted  
5 by the department under procedures promulgated by regulation.

6 (b) Release of seized property.--Property seized under  
7 subsection (a) shall be released upon any of the following:

8 (1) Presentation of a valid certificate to an authorized  
9 employee of the department.

10 (2) Registration by the transient vendor with the  
11 department and the posting of a bond in the amount of \$500,  
12 either immediately or within 15 days after the property is  
13 seized.

14 § 1552. Fines.

15 A transient vendor conducting business within this  
16 Commonwealth when the transient vendor's certificate is  
17 suspended or revoked under sections 1549(b) (relating to bond)  
18 and 1550(c) (relating to notification to department and  
19 inspection of records), commits a misdemeanor of the third  
20 degree for each offense.

21 § 1553. Transient vendors subject to subpart.

22 A transient vendor shall be subject to the provisions of this  
23 subpart in the same manner as a vendor who maintains a place of  
24 business within this Commonwealth.

25 § 1554. Promoters.

26 (a) Application for license.--A promoter of a show in this  
27 Commonwealth may file with the department an application for a  
28 promoter's license stating the location and dates of each show.  
29 The application must be filed at least 30 days prior to the  
30 opening of the first show and be in the form as the department

1 may prescribe.

2 (b) Issuance.--Except as otherwise provided, within 15 days  
3 after receipt of an application for a license, the department  
4 shall issue to the promoter, without charge, a license to  
5 operate a show. If application for a license under this section  
6 has been timely filed and if the license has not been received  
7 by the promoter prior to the opening of the show, the  
8 authorization contained in this section with respect to the  
9 obtaining of a promoter's license shall be deemed to have been  
10 complied with, unless the promoter receives notice from the  
11 department denying the application for a promoter's license.

12 (c) Compliance.--A promoter who is a vendor under section  
13 1102 (relating to definitions) shall comply with all the  
14 provisions of this subpart applicable to vendors and with the  
15 provisions of this section applicable to promoters.

16 (d) License required.--A licensed promoter may not permit a  
17 person to display for sale or sell tangible personal property or  
18 services subject to tax under Subchapter A of Chapter 13  
19 (relating to imposition of tax) at a show unless the person is  
20 licensed under Subchapter D of Chapter 13 (relating to licenses)  
21 and provides to the promoter the information required under  
22 section 1593 (relating to reports and records of promoters).

23 (e) Penalties.--

24 (1) A licensed promoter is subject to denial of a  
25 license or revocation of an existing license issued under  
26 this section for any of the following:

27 (i) Permitting a person to display for sale or to  
28 sell tangible personal property or service without first  
29 having been licensed under Subchapter D of Chapter 13.

30 (ii) Failing to maintain records of a show under

1 section 1593.

2 (iii) Knowingly maintaining false records.

3 (iv) Failing to comply with this section or a  
4 regulation promulgated by the department pertaining to  
5 shows.

6 (2) In addition to the penalties under paragraph (1),  
7 the department may deny a promoter a license certificate to  
8 operate a show for a period of not more than six months from  
9 the date of the denial. The penalty shall be in addition to  
10 any other penalty imposed by this subpart.

11 (3) Within 20 days of notice of denial or revocation of  
12 a license by the department, the promoter may petition the  
13 department for a hearing under 2 Pa.C.S. (relating to  
14 administrative law and procedure).

15 SUBCHAPTER E

16 REFUNDS AND CREDITS

17 Sec.

18 1561. Refunds.

19 1562. Refund petition.

20 1563. Extended time for filing special petition for refund.

21 § 1561. Refunds.

22 The following apply:

23 (1) The department shall, under Article XXVII of the Tax  
24 Reform Code of 1971, refund all taxes, interest and penalties  
25 paid to the Commonwealth under this subchapter to which the  
26 Commonwealth is not rightfully entitled.

27 (2) Refunds shall be made to the person or the person's  
28 heir, successor, assign or other personal representative who  
29 paid the tax.

30 (3) A refund shall not be made under this section with

1 respect to a payment made by reason of an assessment with  
2 respect to which a taxpayer has filed a petition for  
3 reassessment under section 2702 of the Tax Reform Code of  
4 1971 to the extent that the petition has been determined  
5 adversely to the taxpayer by a decision which is no longer  
6 subject to further review or appeal.

7 (4) Nothing in this section shall prohibit a taxpayer  
8 who has filed a timely petition for reassessment from  
9 amending the petition to a petition for refund if the  
10 petitioner has paid the tax assessed.

11 § 1562. Refund petition.

12 (a) General rule.--Except as provided for in section 1563  
13 (relating to extended time for filing special petition for  
14 refund) and subsection (b), the refund or credit of tax,  
15 interest or penalty provided for in section 1561 (relating to  
16 refunds) shall be made only if the person who has paid the tax  
17 files a petition for refund with the department under Article  
18 XXVII of the Tax Reform Code of 1971 within the time limits of  
19 section 3003.1 of the Tax Reform Code of 1971.

20 (b) Payment.--A refund or credit of tax, interest or penalty  
21 paid as a result of an assessment made by the department under  
22 section 1532 (relating to mode and time of assessment) shall be  
23 made only if the person who has paid the tax files a petition  
24 for a refund with the department under Article XXVII of the Tax  
25 Reform Code of 1971 within the time limits of section 3003.1 of  
26 the Tax Reform Code of 1971. The filing of a petition for refund  
27 under this subsection shall not affect the abatement of  
28 interest, additions or penalties to which the person may be  
29 entitled by reason of payment of the assessment.

30 § 1563. Extended time for filing special petition for refund.

1 (a) Filing.--A party to a transaction who has paid tax by  
2 reason of a transaction with respect to which the department is  
3 assessing tax against another person may, within six months  
4 after the filing by the department of the assessment against the  
5 other person, file a special petition for refund,  
6 notwithstanding the person's failure to timely file a petition  
7 under section 3003.1 of the Tax Reform Code of 1971.

8 (b) Applicability.--Article XXVII of the Tax Reform Code of  
9 1971 shall apply to a special petition for refund, except that  
10 the department may not act on the petition until there is a  
11 final determination as to the propriety of the assessment filed  
12 against the other party to the transaction.

13 (c) Overpayments.--If a petition is filed under this section  
14 to take advantage of the extended period of limitations,  
15 overpayments by the petitioner shall be refunded to the extent  
16 of the actual tax, without consideration of interest and  
17 penalties, paid by the other party to the transaction.

18 (d) Construction.--The purpose of this section is to avoid  
19 duplicate payment of tax if a determination is made by the  
20 department that one party to a transaction is subject to tax,  
21 and another party to the transaction has previously paid tax  
22 with respect to the transaction. This section shall be construed  
23 as extending a right beyond that provided for by section 1562  
24 (relating to refund petition) and not to limit section 1562.

25 SUBCHAPTER F

26 LIMITATIONS

27 Sec.

28 1571. Limitation on assessment and collection.

29 1572. Failure to file return.

30 1573. False or fraudulent return.

1 1574. Extension of limitation period.

2 § 1571. Limitation on assessment and collection.

3 The amount of the tax imposed by this subpart shall be  
4 assessed within three years after the date when the return under  
5 section 1513(a) or (c) (relating to time for filing returns) is  
6 filed or the end of the year in which the tax liability arises,  
7 whichever occurs later. An assessment may be made at any time  
8 during the period, notwithstanding that the department may have  
9 made one or more previous assessments against the taxpayer for  
10 the year in question, or for any part of the year. Credit may  
11 not be given for a penalty previously assessed or paid.

12 § 1572. Failure to file return.

13 If no return is filed, the amount of the tax due may be  
14 assessed and collected at any time as to taxable transactions  
15 not reported.

16 § 1573. False or fraudulent return.

17 If a taxpayer willfully files a false or fraudulent return  
18 with intent to evade the tax imposed by this subpart, the amount  
19 of tax due may be assessed and collected at any time.

20 § 1574. Extension of limitation period.

21 Notwithstanding any other provision of this subpart, if,  
22 before the expiration of the period in section 1571 (relating to  
23 limitation on assessment and collection) for the assessment of a  
24 tax, a taxpayer has consented in writing that the period be  
25 extended, the amount of tax due may be assessed at any time  
26 within the extended period. The extended period may be extended  
27 further by subsequent consents in writing made before the  
28 expiration of the extended period.

29 SUBCHAPTER G

30 INTEREST, ADDITIONS, PENALTIES AND CRIMES



1 Sec.

2 1581. Interest.

3 1582. Additions to tax.

4 1583. Penalties.

5 1584. Crimes.

6 1585. Abatement of additions or penalties.

7 § 1581. Interest.

8 If an amount of tax imposed by this subpart is not paid to  
9 the department on or before the last date prescribed for  
10 payment, interest on the amount at the rate of .75% per month  
11 for each month, or fraction of a month, shall be paid for the  
12 period from the last date to the date paid. The last date  
13 prescribed for payment shall be determined under section 1522(a)  
14 or (c) (relating to time of payment) without regard to any  
15 extension of time for payment. For an amount assessed as a  
16 deficiency or as an estimated assessment, the date prescribed  
17 for payment shall be 30 days after notice of the assessment.

18 § 1582. Additions to tax.

19 (a) Failure to file return.--For a failure to file a return  
20 required by section 1511 (relating to persons required to make  
21 returns) on the date prescribed for filing the return, including  
22 any extensions, and for a return filed which understates the  
23 true amount due by more than 50%, 5% of the amount of the tax  
24 shall be added to the amount of tax due if the failure to file a  
25 proper return is for not more than one month and an additional  
26 5% for each additional month, or fraction of a month, during  
27 which the failure continues, not to exceed 25% in the aggregate.  
28 At least \$2 shall be added to each failure to file a proper  
29 return under this subsection.

30 (b) Addition for understatement.--There shall be added to

1 every assessment under section 1532(b) (relating to mode and  
2 time of assessment) 5% of the amount of the understatement and  
3 no addition to the tax shall be paid under section 1532(a).

4 (c) Interest.--If the department assesses a tax under  
5 section 1532(a), (b) or (c), there shall be added to the amount  
6 of the deficiency interest at the rate of .75% per month for  
7 each month, or fraction of a month, from the date prescribed by  
8 section 1522(a) or (c) (relating to time of payment) for the  
9 payment of the tax to the date of notice of the assessment.

10 § 1583. Penalties.

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

18 (b) Attempt to evade or defeat tax.--

19 (1) A person who willfully attempts to evade or defeat  
20 the tax or the payment of the tax imposed by this subpart or  
21 to assist another person to evade or defeat the tax or the  
22 payment of the tax imposed by this subpart, or to receive a  
23 refund improperly, shall, in addition to other penalties  
24 provided by law, be liable for a penalty equal to one-half of  
25 the total amount of the tax evaded.

26 (2) In a direct proceeding arising out of a petition for  
27 reassessment or refund as provided in this chapter in which  
28 an issue of fact is raised with respect to whether a return  
29 is fraudulent or with respect to the propriety of the  
30 imposition by the department of the penalty prescribed in

1 this subsection, the burden of proof shall be on the  
2 department.

3 § 1584. Crimes.

4 (a) Fraudulent return.--A person who, with intent to defraud  
5 the Commonwealth, willfully makes or causes to be made a return  
6 required by this subpart which is false commits a misdemeanor  
7 and shall, upon conviction, be sentenced to pay a fine not  
8 exceeding \$2,000 or to imprisonment for not more than three  
9 years, or both.

10 (b) Other crimes.--

11 (1) A person commits a misdemeanor and shall, upon  
12 conviction, be sentenced to pay a fine not exceeding \$1,000  
13 and costs of prosecution or to imprisonment for not more than  
14 one year, or both, for any of the following:

15 (i) Except as otherwise provided under subsection  
16 (a), advertising, holding out or stating to the public or  
17 to a purchaser or user, directly or indirectly, that the  
18 tax or any part of the tax imposed by this subpart will  
19 not be added to the purchase price of the tangible  
20 personal property or services described under paragraph  
21 (1)(ii), (iii), (iv), (vi), (vii), (viii), (ix), (x),  
22 (xi) and (xii) of the definition of the term "sale at  
23 retail" or that the tax or any part of the tax will be  
24 refunded, other than when the person refunds the purchase  
25 price because of the property being returned to the  
26 vendor.

27 (ii) For a person selling or leasing tangible  
28 personal property or services subject to tax under this  
29 subpart, except as otherwise provided, willfully failing  
30 to collect the tax from the purchaser and timely

1 remitting the tax to the department or willfully failing  
2 or neglecting to timely file a return or report required  
3 by this subpart.

4 (iii) Refusing to timely pay a tax, penalty or  
5 interest imposed or provided for under this subpart.

6 (iv) Willfully failing to preserve books, papers and  
7 records as directed by the department or refusing to  
8 permit the department or the department's authorized  
9 agents to examine books, records or papers.

10 (v) Knowingly making an incomplete, false or  
11 fraudulent return or report.

12 (vi) Preventing the full disclosure of the amount or  
13 character of taxable sales purchases or use made by the  
14 person or any other person.

15 (vii) Providing a person with a false statement as  
16 to the payment of tax with respect to particular tangible  
17 personal property or services.

18 (viii) Creating or issuing a false or fraudulent  
19 exemption certificate.

20 (2) Notwithstanding paragraph (1), a person may  
21 advertise or hold out or state to the public or to a  
22 purchaser or user, directly or indirectly, that the tax or  
23 any part thereof imposed by this subpart will be absorbed and  
24 paid by the person subject to the following conditions:

25 (i) The person shall expressly state on a receipt,  
26 invoice, sales slip or other similar document evidencing  
27 the sale given to the purchaser that the person will pay  
28 the tax imposed by this subpart on behalf of the  
29 purchaser and shall not indicate or imply that the  
30 transaction is exempt or excluded from tax imposed by

1 this subpart.

2 (ii) A receipt, invoice, sales slip or other similar  
3 document evidencing a sale given to the purchaser shall  
4 separately state the amount of tax.

5 (iii) The person, when recording the sale in the  
6 person's books and records, shall separately state the  
7 purchase price and the tax.

8 (iv) The amount of tax shall be calculated by  
9 multiplying the total purchase price by the rate of tax  
10 imposed by subchapter A (relating to imposition of tax).

11 (3) If a person advertises or holds out or states to the  
12 public or to a purchaser or user, directly or indirectly,  
13 that the person will absorb and pay the tax, subject to the  
14 conditions of this subsection, the person shall be solely  
15 responsible and liable for a tax imposed by this subpart,  
16 notwithstanding any provisions of this subpart to the  
17 contrary, and shall not be entitled to a refund of tax.

18 (c) Sales suppression devices and phantomware.--

19 (1) Subject to paragraph (2), notwithstanding any other  
20 provision of this subpart, a person who purchases, installs  
21 or uses in this Commonwealth an automated sales suppression  
22 device or zapper or phantomware with the intent to defeat or  
23 evade the determination of an amount due under this part  
24 commits a misdemeanor. The following apply:

25 (i) A person who, for commercial gain, sells,  
26 purchases, installs, transfers or possesses in this  
27 Commonwealth an automated sales suppression device or  
28 zapper or phantomware with the knowledge that the sole  
29 purpose of the device is to defeat or evade the  
30 determination of an amount due under this part commits a

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

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

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

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

24 (3) As used in this subsection, the following words and  
25 phrases shall have the meanings given to them in this  
26 paragraph unless the context clearly indicates otherwise:

27 "Automated sales suppression device" or "zapper." A  
28 software program carried on a memory stick or removable  
29 compact disc, accessed through an Internet link or through  
30 any other means, that falsifies the electronic records of

1 electronic cash registers and other point-of-sale systems,  
2 including, but not limited to, transaction data and  
3 transaction reports.

4 "Electronic cash register." A device that keeps a  
5 register or supporting document through the means of an  
6 electronic device or computer system designed to record  
7 transaction data for the purpose of computing, compiling or  
8 processing retail sales transaction data in whatever manner.

9 "Phantomware." A hidden programming option, which is  
10 either preinstalled or installed at a later time, embedded in  
11 the operating system of an electronic cash register or  
12 hardwired into the electronic cash register that can be used  
13 to create a virtual second till or may eliminate or  
14 manipulate a transaction record that may or may not be  
15 preserved in digital formats to represent the true or  
16 manipulated record of transactions in the electronic cash  
17 register.

18 "Transaction data." Includes information regarding items  
19 purchased by a customer, the price for each item, a  
20 taxability determination for each item, a segregated tax  
21 amount for each of the taxed items, the amount of cash or  
22 credit tendered, the net amount returned to the customer in  
23 change, the date and time of the purchase, the name, address  
24 and identification number of the vendor and the receipt or  
25 invoice number of the transaction.

26 (d) Prosecution.--This section shall not preclude  
27 prosecution under any other law.

28 (e) Penalties.--The penalties imposed by this section shall  
29 be in addition to any other penalties imposed by this  
30 subchapter.

1 § 1585. Abatement of additions or penalties.

2 Upon the filing of a petition for reassessment or a petition  
3 for refund as provided under this subpart by a taxpayer,  
4 additions or penalties imposed upon the taxpayer by this part  
5 may be waived or abated, in whole or in part, if the petitioner  
6 has established that the petitioner has acted in good faith,  
7 without negligence and with no intent to defraud.

8 SUBCHAPTER H

9 ENFORCEMENT AND EXAMINATIONS

10 Sec.

11 1591. Rules and regulations.

12 1592. Keeping of records.

13 1593. Reports and records of promoters.

14 1594. Examinations.

15 1595. Records and examinations of delivery agents.

16 1596. Unauthorized disclosure.

17 1597. Cooperation with other governments.

18 1598. Interstate compacts.

19 1599. Bonds.

20 1599.1. Remote sales reports.

21 1599.2. Class actions.

22 § 1591. Rules and regulations.

23 (a) General rule.--The department is charged with the  
24 enforcement of this chapter and may prescribe, adopt, promulgate  
25 and enforce rules and regulations consistent with this chapter  
26 relating to any matter or thing pertaining to the administration  
27 and enforcement of this chapter and the collection of taxes,  
28 penalties and interest imposed by this chapter. The department  
29 may prescribe the extent, if any, to which the rules and  
30 regulations shall be applied without retroactive effect.



1 (b) Sales between affiliated interests.--The following  
2 apply:

3 (1) In determining the purchase price of taxable sales  
4 where, because of affiliation of interests between the vendor  
5 and the purchaser or irrespective of an affiliation, or for  
6 any other reason, the purchase price of the sale is not  
7 indicative of the true value or fair price of the article,  
8 the department shall determine the amount of constructive  
9 purchase price upon which the tax shall be computed and  
10 levied.

11 (2) The rules shall provide for a constructive amount of  
12 a purchase price for each sale, which shall equal a price for  
13 the article which would naturally and fairly be charged in an  
14 arm's-length transaction in which the element of common  
15 interests between vendor and purchaser, or, if no common  
16 interest exists, any other element causing a distortion of  
17 the price or value is absent.

18 (3) For the purpose of this chapter, if a taxable sale  
19 occurs between a parent corporation and a subsidiary  
20 affiliate or controlled corporation of the parent, there  
21 shall be a rebuttable presumption that because of the common  
22 interest the transaction was not at arm's length.

23 § 1592. Keeping of records.

24 (a) General rule.--Every person liable for a tax imposed by  
25 this chapter or for the collection of a tax shall keep records,  
26 render statements, make returns and comply with rules and  
27 regulations as the department may prescribe. The department as  
28 it deems necessary may require a person, by notice served upon  
29 the person or by regulations, to make returns, render statements  
30 or keep records as the department deems sufficient to show

1 whether or not the person is liable to pay or collect tax under  
2 this chapter.

3 (b) Persons collecting tax from others.--A person liable to  
4 collect tax from another person under this chapter shall file  
5 reports, keep records, make payments and be subject to interest  
6 and penalties provided for under this chapter in the same manner  
7 as if the person was directly subject to the tax.

8 (c) Records of nonresidents.--

9 (1) A nonresident who does business in this Commonwealth  
10 as a retail dealer shall keep adequate records of each  
11 business and of the tax due, which shall be retained within  
12 this Commonwealth unless retention outside this Commonwealth  
13 is authorized by the department.

14 (2) Taxes collected from purchasers may not be sent  
15 outside this Commonwealth without the written consent of, and  
16 in accordance with conditions prescribed by, the department.

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

20 (d) Keeping of separate records.--A person doing business as  
21 a retail dealer who at the same time is engaged in another  
22 business which does not involve the making of sales taxable  
23 under this chapter shall keep separate books and records of each  
24 business to show the sales taxable under this chapter separately  
25 from the sales not taxable under this chapter. If a person fails  
26 to keep separate books and records, the person shall be liable  
27 for tax at the rate designated under Subchapter A of Chapter 13  
28 (relating to imposition of tax) on the entire purchase price of  
29 sales from each business.

30 (e) Other methods.--If a vendor gives no sales memoranda or

1 uses registers showing only total sales, the vendor shall adopt  
2 some method of segregating tax from sales receipts and keep  
3 records showing the segregation, in accordance with proper  
4 accounting and business practices.

5 (f) Collection and recording procedure.--The following shall  
6 apply:

7 (1) A vendor may apply to the department for permission  
8 to use a collection and recording procedure which will show  
9 the information required by law with reasonable accuracy and  
10 simplicity.

11 (2) The application shall contain a detailed description  
12 of the procedure to be adopted.

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

16 (4) The department may revoke the permission upon 30  
17 days' notice to the vendor.

18 (5) Refusal of the department to grant permission in  
19 advance to use the procedure shall not be construed to  
20 invalidate a procedure which, upon examination, shows the  
21 information required by law.

22 § 1593. Reports and records of promoters.

23 Every licensed promoter shall keep a record of the date and  
24 place of each show and the name, address, sales, use and hotel  
25 occupancy license number of every person whom the promoter  
26 permits to display for sale or sell tangible personal property  
27 or services subject to tax under Subchapter A of Chapter 13  
28 (relating to imposition of tax) at the show. The records shall  
29 be open for inspection and examination at any reasonable time by  
30 the department or a duly authorized representative, and the

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

6 § 1594. Examinations.

7 The following apply:

8 (1) The department or an authorized agent may examine  
9 the books, papers and records of a taxpayer in order to  
10 verify the accuracy and completeness of a return made or, if  
11 no return was made, to ascertain and assess the tax imposed  
12 by this chapter.

13 (2) The department may require the preservation of each  
14 book, paper and record for a period deemed proper by the  
15 department but not to exceed three years from the end of the  
16 calendar year to which the records relate.

17 (3) Every taxpayer shall give to the department, or its  
18 agent, the means, facilities and opportunity for examination  
19 and investigation. The department may examine any person,  
20 under oath, concerning taxable sales or use by a taxpayer or  
21 concerning any other matter relating to the enforcement or  
22 administration of this chapter and for this purpose may  
23 compel the production of books, papers and records and the  
24 attendance of all persons, whether as parties or witnesses,  
25 whom the department believes to have knowledge of the  
26 matters.

27 (4) The procedure for hearings or examinations shall be  
28 the same as that provided by the Fiscal Code relating to  
29 inquisitorial powers of fiscal officers.

30 § 1595. Records and examinations of delivery agents.

1 Every agent, for the purpose of delivery of goods shipped  
2 into this Commonwealth by a nonresident, including, but not  
3 limited to, common carriers, shall maintain adequate records of  
4 the deliveries under rules and regulations adopted by the  
5 department and shall make the records available to the  
6 department upon request.

7 § 1596. Unauthorized disclosure.

8 (a) Confidentiality and exceptions.--Information gained by  
9 the department as a result of a return, examination,  
10 investigation, hearing or verification required or authorized by  
11 this chapter shall be confidential, except:

12 (1) for official purposes; or

13 (2) in accordance with proper judicial order or as  
14 otherwise provided by law.

15 (b) Penalty.--A person unlawfully divulging information  
16 commits a misdemeanor and shall, upon conviction, be sentenced  
17 to pay a fine of not more than \$1,000 along with the costs of  
18 prosecution, or to imprisonment for not more than one year, or  
19 both.

20 § 1597. Cooperation with other governments.

21 (a) General rule.--Subject to subsection (b),  
22 notwithstanding section 1596 (relating to unauthorized  
23 disclosure), the department may:

24 (1) permit the Commissioner of Internal Revenue of the  
25 United States, the proper officer of any state or the  
26 authorized representative of either officer to inspect the  
27 tax returns of a taxpayer; or

28 (2) furnish to the officer or to an authorized  
29 representative under paragraph (1) an abstract of the return  
30 of a taxpayer or information concerning an item contained in

1 a return or disclosed by the report of an examination or  
2 investigation of the return of a taxpayer.

3 (b) Condition.--Permission under subsection (a) shall be  
4 granted only if Federal law or the statutes of another state  
5 grant substantially similar privileges to the proper officer of  
6 the Commonwealth charged with the administration of this  
7 chapter.

8 § 1598. Interstate compacts.

9 (a) General authority.--The Governor, or an authorized  
10 representative, may confer with the Governor or authorized  
11 representatives of other states regarding reciprocal use tax  
12 collection between the Commonwealth and other states.

13 (b) Use of compacts and agreements.--The Governor, or an  
14 authorized representative, may join with the authorities of  
15 other states to conduct joint investigations, exchange  
16 information, hold joint hearings and enter into compacts or  
17 interstate agreements with other states to accomplish uniform  
18 reciprocal use tax collections between those states who are  
19 parties to a compact or interstate agreement and the  
20 Commonwealth.

21 § 1599. Bonds.

22 (a) Taxpayer to file bond.--The following apply:

23 (1) If the department deems it necessary to protect the  
24 revenues to be obtained under this chapter, the department  
25 may require a nonresident individual or a foreign  
26 corporation, association, fiduciary, partnership or other  
27 entity not authorized to do business in this Commonwealth or  
28 not having an established place of business in this  
29 Commonwealth and subject to the tax imposed by Subchapter A  
30 of Chapter 13 (relating to imposition of tax) to file a bond

1 issued by a surety company authorized to do business in this  
2 Commonwealth and approved by the Insurance Commissioner as to  
3 solvency and responsibility, in an amount fixed by the  
4 department, to secure the payment of tax or penalties due or  
5 which may become due, from the individual or entity.

6 (2) To protect the revenues to be obtained under this  
7 subchapter, the department shall require a nonresident  
8 individual or foreign corporation, association, fiduciary,  
9 partnership or other entity that is a building contractor or  
10 supplier delivering building materials for work in this  
11 Commonwealth and is not authorized to do business within this  
12 Commonwealth or does not have an established place of  
13 business in this Commonwealth and is subject to the tax  
14 imposed by Subchapter A of Chapter 13, to file a bond issued  
15 by a surety company authorized to do business in this  
16 Commonwealth and approved by the Insurance Commissioner as to  
17 solvency and responsibility, in an amount fixed by the  
18 department to secure the payments of tax or penalties due or  
19 which may become due, from the individual or entity.

20 (3) In addition to a bond under paragraph (1) or (2),  
21 the department may require a bond of a person petitioning the  
22 department for reassessment in the case of an assessment of  
23 more than \$500 or where the ultimate collection is in  
24 jeopardy.

25 (4) The department may, for a period of three years,  
26 require a bond of a person who has, on three or more  
27 occasions within a 12-month period, either filed a return or  
28 made payment to the department more than 30 days late. The  
29 following shall apply:

30 (i) If the department determines that a taxpayer is

1 to file a bond, the department shall give notice to the  
2 taxpayer and specify the amount of the bond required.

3 (ii) The taxpayer shall file the bond within five  
4 days after notice is given by the department unless,  
5 within those five days, the taxpayer requests in writing  
6 a hearing before the secretary or a representative.

7 (iii) The necessity, propriety and amount of the  
8 bond shall be determined by the secretary or a  
9 representative of the department at the hearing.

10 (iv) The determination shall be final and shall be  
11 complied with within 15 days after notice is mailed to  
12 the taxpayer.

13 (b) Securities in lieu of bond.--

14 (1) In lieu of the bond required by this section,  
15 securities approved by the department or cash in an amount as  
16 the department may prescribe may be deposited.

17 (2) Securities or cash shall be kept in the custody of  
18 the department, which may, at any time, without notice to the  
19 depositor, apply the securities or cash to tax, interest or  
20 penalties due, and for that purpose the securities may be  
21 sold by the department at public or private sale upon five  
22 days' written notice to the depositor.

23 (c) Failure to file bond.--The department may file a lien  
24 under section 1541 (relating to lien for taxes) against a  
25 taxpayer who fails to file a bond when required to do so under  
26 this section. All funds received upon execution of the judgment  
27 on the lien shall be refunded to the taxpayer with 3% interest  
28 if a final determination is made that the taxpayer does not owe  
29 any payment to the department.

30 § 1599.1. Remote sales reports.



1 (a) Report.--

2 (1) Within 90 days of the publication of the notice  
3 under subsection (b), the Independent Fiscal Office, in  
4 conjunction with the department, shall submit a detailed  
5 report outlining the plans concerning the implementation of  
6 the legislation referenced in subsection (b) or other  
7 substantially similar Federal legislation which would grant  
8 the Commonwealth the authority to impose and collect the tax  
9 under this chapter due on sales from remote sellers.

10 (2) The report under paragraph (1) shall be submitted to  
11 the following:

12 (i) The chairperson and minority chairperson of the  
13 Appropriations Committee of the Senate.

14 (ii) The chairperson and minority chairperson of the  
15 Finance Committee of the Senate.

16 (iii) The chairperson and minority chairperson of  
17 the Appropriations Committee of the House of  
18 Representatives.

19 (iv) The chairperson and minority chairperson of the  
20 Finance Committee of the House of Representatives.

21 (3) The report under paragraph (1) shall include all of  
22 the following:

23 (i) The amount of State money necessary to implement  
24 the legislation described under subsection (b) or other  
25 substantially similar legislation. The amount shall be  
26 itemized, and all costs, including personnel, office  
27 expenses and other related costs, shall be included.

28 (ii) The amount of State tax revenue expected to  
29 result from the implementation of the legislation  
30 described under subsection (b) or other substantially

1 similar legislation for the fiscal year and for the five  
2 subsequent fiscal years.

3 (iii) The source of money that will be utilized to  
4 pay for the legislation described under subsection (b) or  
5 other substantially similar legislation implementation  
6 program.

7 (iv) The legal and practical issues concerning the  
8 propriety of collecting and enforcing the tax imposed  
9 under this chapter from remote sellers.

10 (v) The number of other states which have a similar  
11 law in effect and the success or deficiency of the law.

12 (vi) Proposed draft legislation concerning the  
13 implementation of the legislation described under  
14 subsection (b) or other substantially similar  
15 legislation.

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

19 (b) Notice.--The secretary shall transmit notice to the  
20 Legislative Reference Bureau for publication in the Pennsylvania  
21 Bulletin that Federal legislation relating to remote sellers has  
22 been enacted.

23 (c) Definition.--As used in this section, the term "remote  
24 seller" shall have the same meaning as defined in section 1351  
25 (relating to definitions).

26 § 1599.2. Class actions.

27 A class action may not be brought against a marketplace  
28 facilitator on behalf of purchasers arising from or in any way  
29 related to an overpayment of sales or use tax collected by the  
30 marketplace facilitator, regardless of whether the action is

1 characterized as a tax refund claim. Nothing in this section  
2 shall affect a purchaser's right to seek a refund from the  
3 department under other provisions of this subpart.

4 SUBCHAPTER I

5 MISCELLANEOUS PROVISIONS

6 Sec.

7 1599.11. Appropriation for special purposes.

8 1599.12. Transfers to Public Transportation Assistance Fund.

9 § 1599.11. Appropriation for special purposes.

10 The proceeds of the tax imposed under this subchapter  
11 necessary for the payment of refunds, enforcement or  
12 administration are appropriated for those purposes.

13 § 1599.12. Transfers to Public Transportation Assistance Fund.

14 (a) Transfer.--Revenues received on or after July 1, 1992,  
15 from the imposition of the tax on periodicals shall be  
16 transferred to the Public Transportation Assistance Fund  
17 according to the formula described under subsection (b).

18 (b) Formula.--Within 30 days of the close of any calendar  
19 month, .44% of the taxes received in the previous month under  
20 this subchapter, less amounts collected in the previous calendar  
21 month under former 74 Pa.C.S. § 1314(d) (relating to Public  
22 Assistance Transportation Fund), shall be transferred to the  
23 Public Transportation Assistance Fund.

24 (c) Transfer to Public Assistance Transportation Fund.--In  
25 fiscal year 1991-1992, the secretary shall deposit \$10,000,000  
26 into the Public Assistance Transportation Fund from the  
27 combination of money received under former 74 Pa.C.S. § 1314(d)  
28 and transfers of periodical taxes received under this section.

29 (d) Further transfer.--Within 30 days of the close of any  
30 calendar month, .09% of the taxes received in the previous month

1 under this chapter shall be transferred to the Public  
2 Transportation Assistance Fund.

3 (e) Other transfer.--Within 30 days of the close of any  
4 calendar month, .417% of the taxes received in the previous  
5 month under this chapter shall be transferred to the Public  
6 Transportation Assistance Fund.

7 SUBPART B

8 PERSONAL INCOME TAX

9 Chapter

10 21. Preliminary Provisions

11 22. Taxation Generally

12 23. Credits Against Tax

13 24. Contributions of Refunds by Checkoff

14 25. Withholding of Tax

15 26. Estimated Tax

16 27. Returns and Payment of Tax

17 28. Procedure and Administration

18 29. Miscellaneous Provisions

19 CHAPTER 21

20 PRELIMINARY PROVISIONS

21 Sec.

22 2101. Scope of subpart.

23 2102. Definitions.

24 § 2101. Scope of subpart.

25 This subpart relates to personal income tax.

26 § 2102. Definitions.

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

30 "Accepted accounting principles and practices." Unless

1 otherwise provided for in this subpart, the accounting  
2 principles, systems or practices, including the installment  
3 sales method of reporting, which are acceptable by standards of  
4 the accounting profession and which are consistent with the  
5 regulations of the department providing the principles and  
6 practices.

7 "Association." As follows:

8 (1) A form of unincorporated enterprise which:

9 (i) is subject to the tax imposed under Article IV  
10 of the Tax Reform Code of 1971; or

11 (ii) is required to make a return under section 6042  
12 of the Internal Revenue Code of 1986.

13 (2) The term shall not include a partnership or  
14 investment company.

15 "Business." An enterprise, activity, profession, vocation,  
16 trade, joint venture, commerce or other undertaking of any  
17 nature when engaged in as commercial enterprise and conducted  
18 for profit or ordinarily conducted for profit, whether by an  
19 individual, partnership, Pennsylvania S corporation, association  
20 or other unincorporated entity.

21 "Charitable trust." A trust operated exclusively for  
22 religious, charitable, scientific, literary or educational  
23 purposes.

24 "Claimant." A person who:

25 (1) is subject to the tax imposed under this subpart;

26 (2) is not a dependent of another taxpayer for purposes  
27 of section 151 of the Internal Revenue Code of 1986; and

28 (3) is entitled to claim against the tax the poverty tax  
29 provisions as provided under this subpart.

30 "Compensation." As follows:

1       (1) The term means and shall include salaries, wages,  
2 commissions, bonuses and incentive payments, whether based on  
3 profits or otherwise, fees, tips and similar remuneration  
4 received for services rendered, whether directly or through  
5 an agent, and whether in cash or in property.

6       (2) The term shall include:

7           (i) Any part of a distribution under a plan  
8 described in section 409A(d) (1) of the Internal Revenue  
9 Code of 1986, as amended, attributable to an elective  
10 deferral of income or the income on an elective deferral  
11 of income, whether paid or payable during employment or  
12 to a retired individual upon or after retirement from  
13 service.

14           (ii) Distributions or other payments commonly  
15 recognized as old age or retirement benefits paid to  
16 persons retired from service after reaching a specific  
17 age or after a stated period of employment to the extent  
18 that the distributions or payments, including investment  
19 earnings, exceed previously taxed contributions. The term  
20 with respect to these benefits shall not mean or include  
21 the following:

22                   (A) Benefits paid under the Social Security Act  
23 (49 Stat. 620, 42 U.S.C. § 301 et seq.).

24                   (B) A pension that is provided in lieu of old  
25 age and survivor benefit payments under the Social  
26 Security Act to a person whose employment was not  
27 covered under the Social Security Act.

28                   (C) Military pension payments or military  
29 survivor's benefit payments paid to individuals by  
30 the United States with respect to service in the

1 Armed Forces of the United States.

2 (3) The term shall not include any of the following:

3 (i) Periodic payments for sickness and disability  
4 other than regular wages received during a period of  
5 sickness or disability.

6 (ii) Disability, retirement or other payments  
7 arising under worker's compensation acts, occupational  
8 disease acts and similar legislation by a government.

9 (iii) (Reserved).

10 (iv) Payments commonly known as public assistance or  
11 unemployment compensation payments by a governmental  
12 agency.

13 (v) Payments to reimburse actual expenses.

14 (vi) Payments made by employers or labor unions,  
15 including payments made under a cafeteria plan qualifying  
16 under section 125 of the Internal Revenue Code of 1986,  
17 for employee benefit programs covering hospitalization,  
18 sickness, disability or death, supplemental unemployment  
19 benefits or strike benefits if the program does not  
20 discriminate in favor of highly compensated individuals  
21 as to eligibility to participate, payments or program  
22 benefits.

23 (vii) Compensation received by a member of the armed  
24 forces of the United States serving in a combat zone.

25 (viii) Payments received by a foster parent for in-  
26 home care of foster children from an agency or political  
27 subdivision of the Commonwealth or an organization exempt  
28 from Federal tax under section 501(c)(3) of the Internal  
29 Revenue Code of 1954 which is licensed by the  
30 Commonwealth or a political subdivision as a placement

1 agency.

2 (ix) Payments made by employers or labor unions for  
3 employee benefit programs covering Social Security or  
4 retirement.

5 (x) Personal use of an employer's owned or leased  
6 property or employer-provided services.

7 "Corporate item." An item, including income, gain or loss,  
8 deduction or credit, determined at the Pennsylvania S  
9 corporation level, which is required to be taken into account  
10 for a Pennsylvania S corporation's taxable year.

11 "Corporation." For purposes of applying the provisions of  
12 section 2203(a) (relating to classes of income) with respect to  
13 a "reorganization" as defined in that section, the term shall  
14 include any of the following:

15 (1) A business trust to which 15 Pa.C.S. Ch. 95  
16 (relating to business trusts) applies.

17 (2) A common law business trust.

18 (3) A limited liability company that, for Federal income  
19 tax purposes, is taxable as a corporation or an investment  
20 company.

21 "Dependent." A child who is the dependent of a claimant for  
22 purposes of section 151 of the Internal Revenue Code of 1986.

23 "Dividends." As follows:

24 (1) A distribution in cash or property made by a  
25 corporation, association, business trust or investment  
26 company with respect to the corporation's, association's,  
27 business trust's or investment company's stock out of  
28 accumulated earnings and profits or out of earnings and  
29 profits of the year in which the dividend is paid.

30 (2) The term shall not include any of the following:



1           (i) A distribution of the stock of a corporation  
2           made by the corporation originally issuing the stock to  
3           its stockholders if the distribution is not treated as  
4           personal income for Federal individual income tax  
5           purposes.

6           (ii) For taxable years beginning on or after January  
7           1, 1993, a distribution made by an investment company out  
8           of earnings and profits derived from interest that is  
9           statutorily free from State and local taxation under  
10           Article XXIX of the Tax Reform Code of 1971 or the laws  
11           of the United States.

12           "Employee." An individual from whose wages an employer is  
13           required under the Internal Revenue Code of 1986 to withhold  
14           Federal income tax.

15           "Employer." An individual, partnership, association,  
16           corporation, governmental body or agency or other entity that is  
17           required under the Internal Revenue Code of 1986 to withhold  
18           Federal income tax from wages paid to an employee.

19           "Fiduciary." A guardian, trustee, executor, administrator,  
20           receiver, conservator or person acting in a trust or similar  
21           capacity, whether domiciliary or ancillary.

22           "Health savings account." As defined in section 223(d) of  
23           the Internal Revenue Code of 1986, as amended.

24           "Income." For a resident individual, estate or trust, the  
25           term shall mean the same as compensation, net profits, gains,  
26           dividends, interest or income under section 2203.

27           "Income from sources within this Commonwealth." As follows:

28           (1) For a nonresident individual, estate or trust, the  
29           term shall mean the same as compensation, net profits, gains,  
30           dividends, interest or income under section 2203 to the

1 extent that the income is earned, received or acquired from  
2 sources within this Commonwealth:

3 (i) by reason of ownership or disposition of an  
4 interest in real or tangible personal property in this  
5 Commonwealth;

6 (ii) in connection with a trade, profession,  
7 occupation carried on in this Commonwealth or for the  
8 rendition of personal services performed in this  
9 Commonwealth;

10 (iii) as a distributive share of the income of an  
11 unincorporated business, Pennsylvania S corporation,  
12 profession, enterprise, undertaking or other activity as  
13 the result of work done, services rendered or other  
14 business activities conducted in this Commonwealth,  
15 except as allocated to another state under regulations  
16 promulgated by the department under this subpart;

17 (iv) from intangible personal property employed in a  
18 trade, profession, occupation or business carried on in  
19 this Commonwealth; or

20 (v) as gambling and lottery winnings by reason of a  
21 wager placed in this Commonwealth, the conduct of a game  
22 of chance or other gambling activity located in this  
23 Commonwealth or the redemption of a lottery prize from a  
24 lottery conducted in this Commonwealth, other than  
25 noncash prizes of the Pennsylvania State Lottery.

26 (2) For a nonresident individual, estate or trust, the  
27 term shall not include items of income specified in paragraph  
28 (1) received or acquired from an investment company  
29 registered with the Federal Securities and Exchange  
30 Commission under the Investment Company Act of 1940 (54 Stat.

1 789, 15 U.S.C. § 80a-1 et seq.).

2 "Individual." As follows:

3 (1) A natural person.

4 (2) The term shall include a member of a partnership or  
5 association and a shareholder of a Pennsylvania S  
6 corporation.

7 "Installment sales method of reporting." As follows:

8 (1) The method by which a taxpayer reports the gain upon  
9 the sale of tangible personal property or real property when  
10 at least one payment is to be received in a taxable year  
11 following the taxable year of sale, whether the property is  
12 sold or otherwise disposed of in an isolated transaction or  
13 from the inventory of a dealer or broker.

14 (2) Taxpayers may elect to allocate the gain upon the  
15 transactions in equal proportion to each payment to be  
16 received. Taxpayers who do not elect to allocate the gain  
17 upon the transactions in equal proportion to each payment  
18 received shall report all gains upon the sale in the taxable  
19 year in which the transaction occurred.

20 (3) For the purposes of this definition:

21 (i) The gain upon the transaction shall be the  
22 difference between the sales price and the seller's basis  
23 in the property.

24 (ii) The sales price shall be the face amount of the  
25 evidence of indebtedness given in exchange for the  
26 property sold or otherwise disposed of together with the  
27 value of other consideration received by the seller. If  
28 the evidence of indebtedness fails to state a price, the  
29 evidence of indebtedness shall be valued at the fair  
30 market value of the property sold, less the value of

1 other property or cash received in the same transaction.

2 (iii) The installment sales method of reporting  
3 shall not be used for transactions made to lend money or  
4 render services.

5 "Internal Revenue Code of 1986." The Internal Revenue Code  
6 of 1986, as amended to January 1, 1997, unless the reference  
7 contains the phrase "as amended" and refers to no other date, in  
8 which case the reference shall be to the Internal Revenue Code  
9 of 1986 as it exists as of the time of application of this  
10 subpart.

11 "Investment company." An incorporated or unincorporated  
12 enterprise registered with the Federal Securities and Exchange  
13 Commission under the Investment Company Act of 1940.

14 "Nonresident estate or trust." An estate or trust which is  
15 not a resident estate or trust. The term shall not include a  
16 charitable trust or pension or profit sharing trust.

17 "Nonresident individual." An individual who is not a  
18 resident of this Commonwealth.

19 "Partnership." A domestic or foreign general partnership,  
20 joint venture, limited partnership, limited liability company,  
21 business trust or other unincorporated entity that for Federal  
22 income tax purposes is classified as a partnership.

23 "Partnership item." An item, including income, gain or loss,  
24 deduction or credit determined at the partnership level, which  
25 is required to be taken into account for a partnership's taxable  
26 year.

27 "Pennsylvania S corporation." As follows:

28 (1) A small corporation that does not have a valid  
29 election under section 2231 (relating to election by small  
30 corporation) in effect.

1           (2) A qualified Subchapter S subsidiary owned by a  
2           Pennsylvania S corporation shall be treated as a Pennsylvania  
3           S corporation without regard to whether an election under  
4           section 2231 has been made with respect to the subsidiary.

5           "Person." An individual, employer, association, fiduciary,  
6           partnership, corporation or other entity, estate or trust,  
7           resident or nonresident. For the purpose of determining  
8           eligibility for special tax provisions, the term shall mean an  
9           individual.

10          "Poverty." An economic condition where the total amount of  
11          poverty income is insufficient to adequately provide a claimant,  
12          the claimant's spouse and dependent children with the  
13          necessities of life.

14          "Poverty income." For the purpose of determining eligibility  
15          for special tax provisions, all money or property, including  
16          interest, gains or income derived from obligations which are  
17          statutorily free from State or local taxation under the laws of  
18          the United States or this Commonwealth, received of any nature  
19          and from any source, but not including any of the following:

20                (1) Periodic payments for sickness and disability other  
21                than regular wages received during a period of sickness or  
22                disability.

23                (2) Disability, retirement or other payments arising  
24                under workers' compensation acts, occupational disease acts  
25                and similar legislation by a government.

26                (3) Payments commonly recognized as old age or  
27                retirement benefits that are excluded under paragraph (2)(ii)  
28                of the definition of "compensation" under this section.

29                (4) Payments commonly known as public assistance, or  
30                unemployment compensation payments by a governmental agency.

1           (5) Payments to reimburse actual expenses.

2           (6) Payments made by employers or labor unions for  
3 programs covering hospitalization, sickness, disability or  
4 death, supplemental unemployment benefits, strike benefits,  
5 Social Security and retirement.

6           (7) Compensation received by a member of the armed  
7 forces of the United States serving in a combat zone.

8           "Publicly traded partnership." An entity defined under  
9 section 7704 of the Internal Revenue Code of 1986 with equity  
10 securities registered with the Securities and Exchange  
11 Commission under section 12 of the Securities Exchange Act of  
12 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.).

13           "Qualified Subchapter S subsidiary." A domestic or foreign  
14 corporation which, for Federal income tax purposes, is treated  
15 as a qualified Subchapter S subsidiary as defined in section  
16 1361(b)(3)(B) of the Internal Revenue Code of 1986, as amended  
17 to January 1, 2005.

18           "Received." For the purpose of computation of income subject  
19 to tax under this subpart, the term shall mean "received, earned  
20 or acquired," and the phrase "received, earned or acquired"  
21 shall be construed according to the method of accounting  
22 required by the department under this subpart for computing and  
23 reporting income subject to the tax.

24           "Resident estate." The estate of a decedent who, at the time  
25 of the decedent's death, was a resident individual.

26           "Resident individual." An individual who:

27           (1) is domiciled in this Commonwealth, unless the  
28 individual maintains no permanent place of abode in this  
29 Commonwealth, maintains a permanent place of abode elsewhere  
30 and spends in the aggregate not more than 30 days of the

1 taxable year in this Commonwealth; or

2 (2) is not domiciled in this Commonwealth but maintains  
3 a permanent place of abode in this Commonwealth and spends in  
4 the aggregate more than 183 days of the taxable year in this  
5 Commonwealth.

6 "Resident trust." Any of the following:

7 (1) A trust created by the will of a decedent who, at  
8 the time of the decedent's death, was a resident individual.

9 (2) A trust created by, or consisting in whole or in  
10 part of property transferred to a trust by a person who at  
11 the time of the creation or transfer was a resident. The term  
12 under this paragraph shall not include a charitable trust or  
13 pension or profit-sharing trust.

14 "Small corporation." A corporation that has a valid election  
15 in effect under Subchapter S of Chapter 1 of the Internal  
16 Revenue Code of 1986, as amended to January 1, 2005.

17 "Social Security substitute pension." A pension that is  
18 provided in lieu of old age and survivor benefit payments under  
19 the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.)  
20 to a person whose employment was not covered under the Social  
21 Security Act.

22 "Special tax provisions." A refund or forgiveness of all or  
23 part of a claimant's liability under the provisions of this  
24 subpart.

25 "State." Except as provided under section 2303(a) (relating  
26 to income taxes imposed by other states), a state or  
27 commonwealth of the United States, the District of Columbia, the  
28 Commonwealth of Puerto Rico, a territory or possession of the  
29 United States or a foreign country.

30 "Tax." Includes interest, penalties, additions to tax and

1 the tax required to be withheld by an employer on compensation  
2 paid, unless a more limited meaning is disclosed by the context.

3 "Taxable year." Any of the following:

4 (1) The taxable period on the basis of which a taxpayer  
5 or claimant is required to file a Federal income tax return  
6 under the Internal Revenue Code of 1986.

7 (2) If a taxpayer or claimant is not required to or does  
8 not file a Federal income tax return, the calendar year. The  
9 following shall apply:

10 (i) For the initial period during which the tax is  
11 first imposed, the term shall mean the period beginning  
12 June 1, 1971, and ending with the taxable period on the  
13 basis of which a taxpayer or claimant is required to file  
14 the taxpayer's Federal income tax return under the  
15 Internal Revenue Code of 1986.

16 (ii) If the taxpayer or claimant is not required to  
17 or does not file a Federal income tax return, December  
18 31, 1971.

19 "Taxpayer." As follows:

20 (1) An individual, estate or trust subject to the tax  
21 imposed by this subpart.

22 (2) A partnership having a partner who is a taxpayer  
23 under this title.

24 (3) A Pennsylvania S corporation having a shareholder  
25 who is a taxpayer under this subpart and a person required to  
26 withhold tax under this subpart.

27 CHAPTER 22

28 TAXATION GENERALLY

29 Subchapter

30 A. Imposition of Tax



- 1 B. Estates and Trusts
- 2 C. Partnerships
- 3 D. Pennsylvania S Corporations
- 4 E. Other Entities
- 5 F. Nonresident Individuals

6 SUBCHAPTER A

7 IMPOSITION OF TAX

8 Sec.

9 2201. Imposition of tax.

10 2202. Rate changes occurring during taxable year.

11 2203. Classes of income.

12 2204. Special tax provisions for poverty.

13 2205. Alternative special tax provision for poverty study.

14 2206. Pennsylvania ABLE Savings Program tax exemption.

15 § 2201. Imposition of tax.

16 (a) Resident taxation.--Each resident individual, estate or  
17 trust shall be subject to, and shall pay for the privilege of  
18 receiving each of the classes of income enumerated in section  
19 2203 (relating to classes of income), a tax upon each dollar of  
20 income received by the resident during the resident's taxable  
21 year at the rate of 3.07%.

22 (b) Nonresident taxation.--Each nonresident individual,  
23 estate or trust shall be subject to, and shall pay for the  
24 privilege of receiving each of the classes of income enumerated  
25 in section 2203 from sources within this Commonwealth, a tax  
26 upon each dollar of income received by the nonresident during  
27 the nonresident's taxable year at the rate of 3.07%.

28 § 2202. Rate changes occurring during taxable year.

29 Notwithstanding the provisions of section 2201 (relating to  
30 imposition of tax), the tax rate used for the computation of tax

1 for a taxable year where the rate changes during the taxable  
2 year shall be the monthly weighted average of the rates  
3 applicable during the taxable year, regardless of when during  
4 the taxable year the income is received.

5 § 2203. Classes of income.

6 (a) Classes of income specified.--The classes of income are  
7 as follows:

8 (1) Compensation, which shall be defined as salaries,  
9 wages, commissions, bonuses and incentive payments, whether  
10 based on profits or otherwise, fees, tips and similar  
11 remuneration received for services rendered, whether directly  
12 or through an agent and whether in cash or in property,  
13 except income derived from the United States Government for  
14 active duty outside this Commonwealth as a member of the  
15 armed forces of the United States and income from the United  
16 States Government or the Commonwealth for active State duty  
17 for emergency within or outside this Commonwealth, including  
18 duty ordered under 35 Pa.C.S. Ch. 76 (relating to Emergency  
19 Management Assistance Compact). The following shall apply:

20 (i) Compensation of a cash-basis taxpayer shall be  
21 considered received if the compensation is actually or  
22 constructively received for Federal income tax purposes  
23 consistent with United States Treasury regulations and  
24 rulings under the Internal Revenue Code of 1986, as  
25 amended, except that, for purposes of computing tax under  
26 this subpart:

27 (A) Amounts lawfully deducted, not deferred, and  
28 withheld from the compensation of employees shall be  
29 considered received by the employee as compensation  
30 at the time the deduction is made.

1           (B) Contributions to an employees' trust, pooled  
2           fund or other arrangement which is not subject to the  
3           claims of creditors of the employer made by an  
4           employer on behalf of an employee or self-employed  
5           individual at the election of the employee or self-  
6           employed individual under a cash or deferred  
7           arrangement or salary reduction agreement shall be  
8           deemed received by the employee or individual as  
9           compensation at the time the contribution is made,  
10           regardless of when the election is made or a payment  
11           is received.

12           (C) A contribution to a plan by, on behalf of or  
13           attributable to a self-employed person shall be  
14           deemed received at the time the contribution is made.

15           (D) Employer contributions to a Roth IRA  
16           custodial account or employee annuity shall be deemed  
17           received, earned or acquired only when distributed,  
18           when the plan fails to meet the requirements of  
19           section 408A of the Internal Revenue Code of 1986, as  
20           amended, or when the plan is not operated in  
21           accordance with the requirements of section 408A of  
22           the Internal Revenue Code of 1986, as amended.

23           (E) Employee contributions to an employees'  
24           trust, pooled fund, custodial account or contract or  
25           employee annuity may not be deducted or excluded from  
26           compensation.

27           (ii) For purposes of determining when deferred  
28           compensation of employees other than employees of exempt  
29           organizations and State and local governments is required  
30           to be included in income, the rules of sections 83, 451

1 and 409A of the Internal Revenue Code of 1986, as  
2 amended, shall apply.

3 (iii) For purposes of determining when deferred  
4 compensation of employees of exempt organizations and  
5 State and local governments is required to be included in  
6 income, the rules of sections 83, 451, 457 and 409A of  
7 the Internal Revenue Code of 1986, as amended, shall  
8 apply.

9 (2) Net profits, which shall be defined as the net  
10 income from the operation of a business, profession or other  
11 activity, after provision for all costs and expenses incurred  
12 in the conduct of the business, profession or other activity,  
13 determined either on a cash or accrual basis in accordance  
14 with accepted accounting principles and practices but without  
15 deduction of taxes based on income. For purposes of  
16 calculating net income under this paragraph, to the extent a  
17 taxpayer properly deducts an amount under section 195(b)(1)  
18 (A) of the Internal Revenue Code of 1986, as amended, and the  
19 regulations promulgated under section 195(b)(1)(A) of the  
20 Internal Revenue Code of 1986, as amended, the taxpayer shall  
21 be permitted a deduction in equal amount in the same taxable  
22 year.

23 (3) Net gains or income from disposition of property as  
24 follows:

25 (i) The term shall be defined as net gains or net  
26 income, less net losses, derived from the sale, exchange  
27 or other disposition of property, including real  
28 property, tangible personal property, intangible personal  
29 property or obligations issued on or after the effective  
30 date of this paragraph by any of the following:

1           (A) The Commonwealth.

2           (B) A public authority, commission, board or  
3           other agency created by the Commonwealth.

4           (C) A political subdivision of the Commonwealth  
5           or a public authority created by a political  
6           subdivision.

7           (D) The Federal Government as determined in  
8           accordance with accepted accounting principles and  
9           practices.

10          (ii) For the purpose of this subpart:

11           (A) For the determination of the basis of any  
12           property, real and personal, if acquired prior to  
13           June 1, 1971, the date of acquisition shall be  
14           adjusted to June 1, 1971, as if the property had been  
15           acquired on that date. If the property was acquired  
16           after June 1, 1971, the actual date of acquisition  
17           shall be used in determination of the basis.

18           (B) The terms "net gains or income" and "net  
19           losses" shall not include gains or income or loss  
20           derived from obligations which are statutorily free  
21           from State or local taxation under Article XXIX of  
22           the Tax Reform Code of 1971 or the laws of the United  
23           States.

24          (iii) For the purpose of this subpart, the term  
25          "sale, exchange or other disposition" shall not include  
26          the exchange of stock or securities in a corporation that  
27          is a party to a reorganization in pursuance of a plan of  
28          reorganization, solely for stock or securities in the  
29          corporation or in another corporation that is a party to  
30          the reorganization and the transfer of property to a

1 corporation by one or more persons solely in exchange for  
2 stock or securities in the corporation if, immediately  
3 after the exchange, the person or persons are in control  
4 of the corporation. The following shall apply:

5 (A) For purposes of this subparagraph, stock or  
6 securities issued for services shall not be  
7 considered as issued in return for property.

8 (B) For purposes of this subparagraph, the term  
9 "reorganization" shall mean any of the following:

10 (I) A statutory merger or consolidation.

11 (II) The acquisition by one corporation in  
12 exchange solely for all or a part of its voting  
13 stock, or in exchange solely for all or a part of  
14 the voting stock of a corporation which is in  
15 control of the acquiring corporation, of stock of  
16 another corporation if, immediately after the  
17 acquisition, the acquiring corporation has  
18 control of the other corporation, whether or not  
19 the acquiring corporation had control immediately  
20 before the acquisition.

21 (III) The acquisition by one corporation, in  
22 exchange solely for all or a part of its voting  
23 stock, or in exchange solely for all or a part of  
24 the voting stock of a corporation which is in  
25 control of the acquiring corporation, of  
26 substantially all of the properties of another  
27 corporation. In determining whether the exchange  
28 is solely for stock, the assumption by the  
29 acquiring corporation of a liability of the other  
30 or the fact that property acquired is subject to

1 a liability shall be disregarded.

2 (IV) A transfer by a corporation of all or a  
3 part of its assets to another corporation if,  
4 immediately after the transfer, the transferor,  
5 or one or more of the transferor's shareholders,  
6 including persons who were shareholders  
7 immediately before the transfer, or any  
8 combination thereof, is in control of the  
9 corporation to which the assets are transferred.

10 (V) A recapitalization.

11 (VI) A mere change in identity, form or  
12 place of organization.

13 (C) The acquisition by one corporation, in  
14 exchange for stock of a corporation, referred to in  
15 this clause as a "controlling corporation," which is  
16 in control of the acquiring corporation, of  
17 substantially all of the properties of another  
18 corporation which in the transaction is merged into  
19 the acquiring corporation shall not disqualify a  
20 transaction under clause (B)(I) if the transaction  
21 would have qualified under clause (B)(I) if the  
22 merger had been into the controlling corporation and  
23 no stock of the acquiring corporation is used in the  
24 transaction.

25 (D) A transaction otherwise qualifying under  
26 clause (B)(I) shall not be disqualified by reason of  
27 the fact that stock of a corporation, referred to in  
28 this clause as a "controlling corporation," which,  
29 before the merger, was in control of the merged  
30 corporation is used in the transaction if, after the

1 transaction, the corporation surviving the merger  
2 holds substantially all of its properties and of the  
3 properties of the merged corporation, other than  
4 stock of the controlling corporation distributed in  
5 the transaction, and, in the transaction, former  
6 shareholders of the surviving corporation exchanged,  
7 for an amount of voting stock of the controlling  
8 corporation, an amount of stock in the surviving  
9 corporation which constitutes control of the  
10 corporation.

11 (E) For purposes of this subparagraph:

12 (I) The term "control" shall mean the  
13 ownership of stock possessing at least 80% of the  
14 total combined voting power of all classes of  
15 stock entitled to vote and at least 80% of the  
16 total number of shares of all other classes of  
17 stock of the corporation.

18 (II) The term "a party to a reorganization"  
19 shall include a corporation resulting from a  
20 reorganization, and both corporations, in the  
21 case of a reorganization resulting from the  
22 acquisition by one corporation of stock or  
23 properties of another. In the case of a  
24 reorganization qualifying under clause (B)(I) by  
25 reason of clause (C), the term "a party to a  
26 reorganization" shall include the controlling  
27 corporation referred to in clause (C).

28 (F) Notwithstanding any other provisions of this  
29 subparagraph, upon every exchange or conversion, the  
30 taxpayer's base for the stock or securities received



1 shall be the same as the taxpayer's actual or  
2 attributed base for the stock, securities or property  
3 surrendered in exchange for the stock or securities  
4 received.

5 (iv) For the purpose of this subpart, the term  
6 "sale, exchange or other disposition" shall not include  
7 any of the following:

8 (A) A transfer by a common trust fund described  
9 in section 584 of the Internal Revenue Code of 1986  
10 of all or substantially all of its assets to one or  
11 more companies described in section 851 of the  
12 Internal Revenue Code of 1986 in exchange for stock  
13 or units of beneficial interest in the company or  
14 companies to which the assets are transferred and the  
15 distribution of the stock or units by the fund to its  
16 participants in exchange for the participants'  
17 interest in the fund, if no gain or loss is  
18 recognized on the transfer or distribution for  
19 Federal income tax purposes. Upon each exchange, the  
20 taxpayer's base for the assets, stock or units  
21 received shall be the same as the taxpayer's actual  
22 or attributed base for the assets, stock, units or  
23 interest surrendered in exchange for the assets,  
24 stock or units.

25 (B) A transfer of an interest in an enterprise  
26 treated as a partnership for purposes of this subpart  
27 in exchange for an interest in another enterprise  
28 treated as a partnership for purposes of this  
29 subpart, a liquidation made in connection with a  
30 transfer or an exchange made under a statutory

1 merger, consolidation or division of enterprises so  
2 treated unless taxable income or gain is recognized  
3 for Federal income tax purposes. Upon each exchange,  
4 the taxpayer's base for the interest received shall  
5 be the same as the taxpayer's actual or attributed  
6 base for the interest surrendered in exchange.

7 (v) For the purpose of this subpart, the term "net  
8 gains or net income, less net losses," shall not include  
9 a gain or loss from the sale, exchange or other  
10 disposition of the taxpayer's principal residence. The  
11 following shall apply:

12 (A) For purposes of this subparagraph, the term  
13 "principal residence" shall mean the property that  
14 has been owned and used by the taxpayer as the  
15 taxpayer's principal residence for periods  
16 aggregating two years or more during the five-year  
17 period ending on the date of the sale, exchange or  
18 disposition. The following apply:

19 (I) In the case of property only a portion  
20 of which, during the five-year period ending on  
21 the date of the sale, exchange or disposition,  
22 has been owned or used by the taxpayer as the  
23 taxpayer's principal residence for periods  
24 aggregating two years or more, this subparagraph  
25 shall apply with respect to the portion of the  
26 gain from the sale, exchange or disposition of  
27 the property as determined under regulations  
28 prescribed by the department to be attributable  
29 to that portion.

30 (II) In the case of a principal residence a

1 portion of which has never been subject to the  
2 allowance for depreciation, this subparagraph  
3 shall apply with respect to the portion of the  
4 gain from the sale, exchange or disposition of  
5 the property as is determined under regulations  
6 prescribed by the department to be attributable  
7 to that portion.

8 (B) The provisions of this subparagraph shall  
9 not apply to a sale, exchange or disposition if,  
10 during the two-year period ending upon the date of  
11 the sale, exchange or disposition, there was a prior  
12 sale, exchange or disposition by the taxpayer of a  
13 principal residence unless the sale, exchange or  
14 disposition is by reason of a change in employment,  
15 health or, to the extent provided in regulations,  
16 unforeseen circumstances.

17 (C) This subparagraph shall not apply to any  
18 sale, exchange or disposition made prior to January  
19 1, 1998.

20 (vi) For purposes of this subpart, the term "net  
21 gains or income" and "net losses" shall not include gains  
22 or income or losses which are excluded from Federal  
23 taxation under section 1400Z-2 of the Internal Revenue  
24 Code of 1986, as amended. Net gains or net income, less  
25 net losses, which are excluded under this subparagraph  
26 shall be included in income to the extent they are  
27 included in gross income under section 1400Z-2(b) of the  
28 Internal Revenue Code of 1986, as amended. Section 1400Z-  
29 2(c) of the Internal Revenue Code of 1986, as amended,  
30 shall apply in the computation of net gains or net income

1 and net losses.

2 (4) Net gains or income derived from or in the form of  
3 rents, royalties, patents and copyrights.

4 (5) Dividends. The term "dividends" shall not include  
5 gains or income or losses which are excluded from Federal  
6 taxation under section 1400Z-2 of the Internal Revenue Code  
7 of 1986, as amended. Gains or income or losses which are  
8 excluded under this paragraph shall be included in income to  
9 the extent they are included in gross income under section  
10 1400Z-2(b) of the Internal Revenue Code of 1986, as amended.  
11 Section 1400Z-2(c) of the Internal Revenue Code of 1986, as  
12 amended, shall apply in the computation of net gains or net  
13 income and net losses.

14 (6) Interest derived from obligations which are not  
15 statutorily free from State or local taxation under the laws  
16 of the United States or this Commonwealth, an amount paid  
17 under contract of life insurance or endowment or annuity  
18 contract which is includable in gross income for Federal  
19 income tax purposes and an amount paid out of the Archer  
20 Medical Savings Account (Archer MSA) or health savings  
21 account that is includable in the gross income of an account  
22 beneficiary for Federal income tax purposes.

23 (7) Gambling and lottery winnings other than noncash  
24 prizes of the Pennsylvania State Lottery.

25 (8) Net gains or income derived through estates or  
26 trusts. To the extent that income or gain is subject to tax  
27 under one of the classes of income enumerated in this  
28 section, the income or gain shall not be subject to tax under  
29 another class.

30 (b) Computation of income.--Income shall be computed under

1 the method of accounting on the basis of which the taxpayer  
2 regularly computes income in keeping the taxpayer's books. If  
3 the department determines that no method has been regularly used  
4 or the method used does not clearly reflect income, the  
5 computation of income shall be made under a method which, in the  
6 opinion of the department, clearly reflects income.

7 (c) Depreciation deduction.--The following shall apply:

8 (1) In computing income, a depreciation deduction shall  
9 be allowed for the exhaustion, wear and tear and obsolescence  
10 of property being employed in the operation of a business or  
11 held for the production of income.

12 (2) Except as provided in paragraph (3), the deduction  
13 must be reasonable and shall be computed in accordance with  
14 the property's adjusted basis at the time placed in service,  
15 reasonably estimated useful life and net salvage value at the  
16 end of the property's reasonably estimated useful economic  
17 life under the straight-line method or other method  
18 prescribed by the department.

19 (3) A taxpayer may use any depreciation method, recovery  
20 method or convention that is also used by the taxpayer in  
21 determining Federal net taxable income if, when placed in  
22 service, the property has the same adjusted basis for Federal  
23 income tax purposes and the method or convention is allowable  
24 for Federal income tax purposes at the time the property is  
25 placed in service or under the Internal Revenue Code of 1986,  
26 whichever is earlier.

27 (4) The basis of property shall be reduced, but not  
28 below zero, for depreciation by the greater of the following:

29 (i) The amount deducted on a return and not  
30 disallowed, but only to the extent the deduction results

1 in a reduction of income.

2 (ii) The amount allowable using the straight-line  
3 method of depreciation computed on the basis of the  
4 property's adjusted basis at the time placed in service,  
5 reasonably estimated useful life and net salvage value at  
6 the end of the property's reasonably estimated useful  
7 economic life, regardless of whether the deduction  
8 results in a reduction of income.

9 (d) Section 179 property.--The cost of property commonly  
10 referred to as Section 179 Property may be treated as a  
11 deductible expense only to the extent allowable under the  
12 version of section 179 of the Internal Revenue Code in effect at  
13 the time the property is placed in service or under section 179  
14 of the Internal Revenue Code of 1986 (26 U.S.C. § 179),  
15 whichever is earlier. The basis of Section 179 Property shall be  
16 reduced, but not below zero, for costs treated as a deductible  
17 expense. The amount of the reduction shall be the amount  
18 deducted on a return and not disallowed, regardless of whether  
19 the deduction results in a reduction of income.

20 (e) Federal limitations.--This subpart shall be subject to  
21 applicable Federal limitations on State income taxation.

22 (f) Applicability of Internal Revenue Code of 1986.--

23 (1) The requirements of section 1035 of the Internal  
24 Revenue Code of 1986, as amended, shall be applicable.

25 (2) Except as provided in this subpart and without  
26 regard to sections 220(f)(4) and 223(f)(4) of the Internal  
27 Revenue Code of 1986, the requirements of sections 106(b) and  
28 (d), 220 and 223 of the Internal Revenue Code of 1986 shall  
29 be applicable.

30 (3) The provisions of section 1033 of the Internal

1 Revenue Code of 1986, as amended, shall be applicable.

2 (g) Qualified tuition programs.--The following shall apply:

3 (1) An amount paid as a contribution to a qualified  
4 tuition program shall be deductible from taxable income on  
5 the annual personal income tax return. The amount paid as a  
6 contribution to a qualified tuition program allowable as a  
7 deduction under this subsection shall be subject to an annual  
8 limitation not to exceed the threshold for exclusion from  
9 gifts as provided in section 2503(b) of the Internal Revenue  
10 Code of 1986, as amended, per designated beneficiary. The  
11 deduction shall not result in taxable income being less than  
12 zero.

13 (2) The following shall apply:

14 (i) The following shall not be subject to tax under  
15 this subpart:

16 (A) An amount distributed from a qualified  
17 tuition program that is excludable from tax under  
18 section 529(c) (3) (B) of the Internal Revenue Code of  
19 1986, as amended.

20 (B) A rollover that is excludable from tax under  
21 section 529(c) (3) (C) of the Internal Revenue Code of  
22 1986, as amended.

23 (C) Undistributed earnings on a qualified  
24 tuition program.

25 (D) The value of a medal awarded by or prize  
26 money received from the United States Olympic  
27 Committee on account of competition in the Olympic  
28 Games or Paralympic Games.

29 (ii) A change in designated beneficiaries under  
30 section 529(c) (3) (C) of the Internal Revenue Code of

1 1986, as amended, shall not constitute a taxable event  
2 under this subpart.

3 (3) An amount distributed from a qualified tuition  
4 program that is not described under paragraph (2) shall be  
5 taxable under this subpart.

6 (4) For purposes of this subsection:

7 (i) The term "designated beneficiary" shall have the  
8 same meaning as provided in section 529(e)(1) of the  
9 Internal Revenue Code of 1986, as amended.

10 (ii) The term "qualified tuition program" shall have  
11 the same meaning as provided in section 529(b)(1) of the  
12 Internal Revenue Code of 1986, as amended.

13 (h) Drilling and development costs.--

14 (1) Except as provided in paragraph (2), a person who  
15 incurs intangible drilling and development costs as defined  
16 in section 263(c) of the Internal Revenue Code of 1986, as  
17 amended, and regulations under the Internal Revenue Code of  
18 1986, as amended, shall capitalize the costs and recover them  
19 over a 10-year period in the taxable year the costs are  
20 incurred.

21 (2) A person may elect to currently expense up to one-  
22 third of the costs in the taxable year in which the costs are  
23 incurred and recover the remaining costs over a 10-year  
24 period beginning in the taxable year the costs are incurred.

25 (i) Unconstitutional classes severable.--If one or more or  
26 part of one or more classes of income under subsection (a) are  
27 held to be unconstitutional by a final decision of a court of  
28 last resort, the unconstitutional class or classes or part of a  
29 class or classes of income shall be deemed severable, and the  
30 tax imposed by this subpart shall apply with respect to all the



1 remaining classes of income or parts of classes of income  
2 enumerated in subsection (a) as if the unconstitutional class or  
3 classes of income or part or parts of classes of income had not  
4 been included in this subpart.

5 § 2204. Special tax provisions for poverty.

6 (a) Intent.--The General Assembly, in recognition of the  
7 powers contained in section 2(b)(ii) of Article VIII of the  
8 Constitution of Pennsylvania which provides for the  
9 establishment as a class or classes of subjects of taxation the  
10 property or privileges of persons who, because of poverty, are  
11 determined to be in need of special tax provisions, declares as  
12 its legislative intent and purpose to establish special tax  
13 provisions as provided in this subpart.

14 (b) Public policy determination.--The General Assembly,  
15 having determined that there are individuals in this  
16 Commonwealth whose incomes are at a level that imposition of a  
17 tax on those incomes would deprive the individuals and the  
18 individuals' dependents of the bare necessities of life, and  
19 having further determined that poverty is a relative concept  
20 inextricably joined with actual income and the number of  
21 individuals dependent upon the income, deems it to be a matter  
22 of public policy to provide special tax provisions for that  
23 class of individuals designated to relieve the individuals'  
24 economic burden.

25 (c) Eligibility.--For the taxable year 1974 and each year  
26 thereafter, a claimant who meets the standards of eligibility  
27 for poverty specified in this section shall be deemed a separate  
28 class of subject of taxation and shall be entitled to the  
29 benefit of the special provisions of this subpart.

30 (d) Determination of poverty.--A claim for special tax

1 provisions under this section shall be determined in accordance  
2 with the following:

3 (1) If the poverty income of a claimant during an entire  
4 taxable year is \$6,500 or less, or, in the case of a married  
5 claimant, if the joint poverty income of the claimant and the  
6 claimant's spouse during an entire taxable year is \$13,000 or  
7 less, the claimant shall be entitled to a refund or  
8 forgiveness of money which has been paid over to, or would  
9 except for the provisions of this subpart be payable to, the  
10 Commonwealth under this subpart, with an additional income  
11 allowance of \$9,500 for each dependent of the claimant. For  
12 purposes of this subsection, a claimant shall not be  
13 considered to be married if all of the following apply:

14 (i) The claimant and the claimant's spouse file  
15 separate returns.

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

20 (2) If the poverty income of the claimant during an  
21 entire taxable year does not exceed the poverty income  
22 limitations under paragraph (1) by more than the dollar  
23 categories contained in this paragraph, the claimant shall be  
24 entitled to a refund or forgiveness based on the percentage  
25 prescribed in this paragraph of money which has been paid  
26 over to, or would except for the provisions of this subpart  
27 be payable to the Commonwealth under this subpart:

28 (i) Ninety percent if not more than \$250.

29 (ii) Eighty percent if not more than \$500.

30 (iii) Seventy percent if not more than \$750.

1 (iv) Sixty percent if not more than \$1,000.

2 (v) Fifty percent if not more than \$1,250.

3 (vi) Forty percent if not more than \$1,500.

4 (vii) Thirty percent if not more than \$1,750.

5 (viii) Twenty percent if not more than \$2,000.

6 (ix) Ten percent if not more than \$2,250.

7 (3) If an individual has a taxable year of less than 12  
8 months, the poverty income of the individual shall be  
9 annualized in a manner as the department may prescribe.

10 § 2205. Alternative special tax provision for poverty study.

11 (a) Study.--The General Assembly directs the Joint State  
12 Government Commission to conduct or provide for a comprehensive  
13 study to determine whether alternative forms of special tax  
14 provisions for poverty would be more beneficial to persons who,  
15 because of poverty, are determined to be in need of special tax  
16 provisions.

17 (b) Comparison study.--The study shall include a comparison  
18 between the special tax provisions for poverty specified under  
19 section 2204 (relating to special tax provisions for poverty)  
20 and the earned income credit allowable under section 32 of the  
21 Internal Revenue Code of 1986, as amended.

22 (c) Effects of Federal law.--The study shall consider any  
23 effects of linking the alternative special tax provisions for  
24 poverty to Federal law, including misuse that may be inherent in  
25 the Federal program.

26 (d) Fiscal costs.--The study shall ascertain any differences  
27 between the fiscal costs to the Commonwealth of the special tax  
28 provisions for poverty specified under section 2204 and  
29 projected fiscal costs of other alternative provisions.

30 (e) Consultants.--The Joint State Government Commission may

1 hire or retain consultants, utilizing a request for proposal  
2 procedure, as necessary to assist in the performance of its  
3 duties under this section.

4 (f) Report.--The executive director of the Joint State  
5 Government Commission shall present a report summarizing the  
6 results of this study to the chairperson and minority  
7 chairperson of the Finance Committee of the Senate and the  
8 chairperson and minority chairperson of the Finance Committee of  
9 the House of Representatives after August 1, 2009, and before  
10 September 1, 2009.

11 § 2206. Pennsylvania ABLE Savings Program tax exemption.

12 (a) Exempt amounts.--The following shall be exempt from all  
13 taxation by the Commonwealth and its political subdivisions:

14 (1) Undistributed earnings on an account.

15 (2) An amount distributed from an account that is not  
16 included in gross income under section 529A(c)(1) of the  
17 Internal Revenue Code of 1986.

18 (b) Contributions.--The following shall apply:

19 (1) An amount contributed to an account shall be  
20 deductible from the taxable income of the contributor under  
21 this subpart for the tax year the contribution was made.

22 (2) The total contributions made by a contributor during  
23 a taxable year to all accounts that are allowable as a  
24 deduction under this section may not exceed the dollar amount  
25 under section 2503(b) of the Internal Revenue Code of 1986.

26 (3) The deduction may not result in the contributor's  
27 taxable income being less than zero.

28 (4) The department and the Treasury Department shall  
29 cooperate in verifying account information relating to  
30 contributions to an account itemized by a contributor and the

1 contributor's specific contributions.

2 (c) Taxable income.--An amount that is distributed from an  
3 account and not otherwise exempt from taxation under this  
4 section shall be taxable income to the designated beneficiary  
5 under this subpart.

6 (d) Change in beneficiaries.--A change in designated  
7 beneficiaries under section 529A(c) of the Internal Revenue Code  
8 of 1986 shall not constitute a taxable event.

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

12 "Account." An ABLE savings account as defined in section 102  
13 of the Pennsylvania ABLE Act.

14 "Contributor." An individual who makes a contribution to an  
15 account as defined in section 102 of the Pennsylvania ABLE Act.

16 "Designated beneficiary." The term has the same meaning as  
17 in section 102 of the Pennsylvania ABLE Act.

18 "Pennsylvania ABLE Act." The act of April 18, 2016 (P.L.128,  
19 No.17), known as the Pennsylvania ABLE Act.

20 "Pennsylvania ABLE Savings Program." The program established  
21 under the Pennsylvania ABLE Act.

22 "Qualified disability expense." The term has the same  
23 meaning as in section 102 of the Pennsylvania ABLE Act.

24 SUBCHAPTER B

25 ESTATES AND TRUSTS

26 Sec.

27 2211. Taxability of estates, trusts and their beneficiaries.

28 § 2211. Taxability of estates, trusts and their beneficiaries.

29 The income of a beneficiary of an estate or trust with  
30 respect to the estate or trust shall consist of the part of the

1 income or gains received by the estate or trust for the estate's  
2 or trust's taxable year ending within or with the beneficiary's  
3 taxable year which, under the governing instrument and  
4 applicable State law, is required to be distributed, paid or  
5 credited to the beneficiary. The income or gains of the estate  
6 or trust, if any, taxable to the estate or trust shall consist  
7 of the income or gains received by the estate or trust which has  
8 not been distributed or credited to its beneficiaries.

9 SUBCHAPTER C

10 PARTNERSHIPS

11 Sec.

12 2221. Taxability of partners.

13 2222. Tax treatment determined at partnership level.

14 2223. Tax imposed at partnership level.

15 § 2221. Taxability of partners.

16 Except as provided under section 2223 (relating to tax  
17 imposed at partnership level), a partnership as an entity shall  
18 not be subject to the tax imposed by this subpart, but the  
19 income or gain of a member of a partnership with respect to the  
20 partnership shall be subject to the tax, and the tax shall be  
21 imposed on the member's share, whether or not distributed, of  
22 the income or gain received by the partnership for its taxable  
23 year ending within or with the member's taxable year.

24 § 2222. Tax treatment determined at partnership level.

25 The classification or character of a partnership item shall  
26 be determined at the partnership level. This section shall not  
27 prohibit the department from adjusting a partner's return.

28 § 2223. Tax imposed at partnership level.

29 (a) Underreported income.--The following shall apply:

30 (1) A partnership underreporting income by more than

1 \$1,000,000 for a tax year shall be liable for the tax,  
2 excluding interest, penalties or additions at the tax rate  
3 applicable to the tax year, on the underreported income  
4 without regard to the tax liability of the partners for the  
5 underreported income.

6 (2) The department shall assess the partnership for the  
7 tax on the underreported income.

8 (3) The department may not assess the partners for the  
9 underreported income or the tax on the underreported income.  
10 The partnership shall be required to provide an amended  
11 statement to each partner as required under section 2707(c)  
12 (3) (relating to requirements concerning returns, notices,  
13 records and statements) of the partner's pro rata share of  
14 the underreported income within 90 days of the assessment  
15 becoming final.

16 (4) Nothing in this subsection shall relieve the  
17 partners of the partners' tax liability on the underreported  
18 income.

19 (b) Credit.--Each partner shall be allowed a credit for the  
20 partner's share of the tax assessed against the partnership  
21 under subsection (a) and paid by the partnership. The credit  
22 shall be allowed for the partner's taxable year in which the  
23 underreported income was required to be reported.

24 (c) Applicability.--Subsection (a) shall apply to the  
25 following partnerships:

26 (1) A partnership that has 11 or more partners who are  
27 natural persons.

28 (2) A partnership that has at least one partner which is  
29 a corporation, limited liability company, partnership or  
30 trust.

1       (3) A partnership that has only partners who are natural  
2 persons and elects to be subject to this subsection. The  
3 election must be included on the partnership return to be  
4 filed with the department.

5       (d) Publicly traded partnership.--This section shall not  
6 apply to a publicly traded partnership.

7       (e) Tax liability.--Nothing under this section shall require  
8 one partner to be liable for the payment of a tax liability of  
9 another partner.

10       (f) Appeals.--Appeals involving a deficiency assessed under  
11 this section may only be pursued by the partnership. A  
12 reassessment of tax liability shall be binding on the partners.

#### 13                               SUBCHAPTER D

#### 14                               PENNSYLVANIA S CORPORATIONS

15 Sec.

16 2231. Election by small corporation.

17 2232. Manner of making election.

18 2233. Effective years of election.

19 2234. Revocation of election.

20 2235. Termination by corporation ceasing to be small  
21 corporation.

22 2236. Termination year.

23 2237. Taxable year of Pennsylvania S corporation.

24 2238. Income of Pennsylvania S corporation.

25 2239. Income of Pennsylvania S corporations taxed to  
26 shareholders.

27 2240. Limitation on pass-through of losses to shareholders.

28 2241. Adjustments to basis of stock of shareholders.

29 2242. Distributions.

30 § 2231. Election by small corporation.



1 A small corporation may elect not to be taxed as a  
2 Pennsylvania S corporation. The election requires the consent of  
3 100% of the outstanding shares of the small corporation on the  
4 day on which the election is made. A qualified Subchapter S  
5 subsidiary owned by a Pennsylvania S corporation shall be  
6 treated as a Pennsylvania S corporation whether or not an  
7 election has been made with respect to the subsidiary.

8 § 2232. Manner of making election.

9 (a) General rule.--An election made under section 2231  
10 (relating to election by small corporation) shall be made in the  
11 manner prescribed by the department.

12 (b) Election.--An election under section 2231 may be made  
13 for any taxable year at any time during the preceding taxable  
14 year or at any time on or before the due date or extended due  
15 date of the small corporation's tax return under Article IV of  
16 the Tax Reform Code of 1971.

17 § 2233. Effective years of election.

18 An election made under section 2231 (relating to election by  
19 small corporation) shall be effective for the taxable year for  
20 which the election is made and for each succeeding taxable year  
21 unless revoked or terminated.

22 § 2234. Revocation of election.

23 (a) Revocation of election.--An election under section 2231  
24 (relating to election by small corporation) may be revoked if  
25 shareholders holding more than one-half of the shares of stock  
26 of the corporation consent to the revocation. The corporation  
27 and a successor corporation shall not be eligible to revoke an  
28 election under this section for a taxable year prior to its  
29 fifth taxable year which begins after the first taxable year for  
30 which an election is effective unless the corporation becomes a

1 qualified Subchapter S subsidiary.

2 (b) Effective date of revocation.--A revocation under  
3 subsection (a) shall be effective on the first day of the  
4 taxable year if made on or before the 15th day of the third  
5 month of the taxable year. If the revocation is made after that  
6 date, the revocation shall be effective for the following  
7 taxable year.

8 § 2235. Termination by corporation ceasing to be small  
9 corporation.

10 (a) Termination of status.--If a corporation ceases to be a  
11 small corporation, the corporation's status as a Pennsylvania S  
12 corporation shall terminate.

13 (b) Effective date of termination.--The termination shall be  
14 effective on the date on which the corporation ceases to be a  
15 small corporation.

16 § 2236. Termination year.

17 (a) Termination year generally.--The portion of the  
18 termination year of a Pennsylvania S corporation ending before  
19 the first day the termination is effective shall be treated as a  
20 short taxable year for which the corporation is a Pennsylvania S  
21 corporation.

22 (b) Termination year as short taxable year.--The portion of  
23 the year beginning on the first day the termination is effective  
24 shall be treated as a short taxable year for purposes of the tax  
25 imposed under Article IV of the Tax Reform Code of 1971.

26 (c) Income and expenses.--The allocation of income and  
27 expense items to be taken into consideration in each short year  
28 shall be made in accordance with regulations as may be issued by  
29 the department.

30 § 2237. Taxable year of Pennsylvania S corporation.

1 The taxable year of a Pennsylvania S corporation shall be the  
2 same taxable year that the corporation uses for Federal income  
3 tax purposes.

4 § 2238. Income of Pennsylvania S corporation.

5 (a) General rule.--A Pennsylvania S corporation shall not be  
6 subject to the tax imposed under this subpart, except as  
7 provided under subsection (f), but the shareholders of the  
8 Pennsylvania S corporation shall be subject to the tax imposed  
9 under this subpart.

10 (b) Imposed tax treated as loss.--If a tax is imposed on a  
11 Pennsylvania S corporation or a qualified Subchapter S  
12 subsidiary owned by a Pennsylvania S corporation under section  
13 1374 of the Internal Revenue Code of 1986, as amended to January  
14 1, 1997, or under Article IV or former Article VI of the Tax  
15 Reform Code of 1971 for a taxable year, for purposes of section  
16 2239 (relating to income of Pennsylvania S corporations taxed to  
17 shareholders), the amount of tax imposed shall be treated as a  
18 loss sustained by the Pennsylvania S corporation during that  
19 year. In the case of taxes imposed under section 1374 of the  
20 Internal Revenue Code of 1986, as amended to January 1, 1997, or  
21 former Article VI of the Tax Reform Code of 1971, the character  
22 of the loss shall be determined by allocating the loss  
23 proportionately among the recognized built-in gains giving rise  
24 to the tax.

25 (c) Distribution of property.--If a Pennsylvania S  
26 corporation makes a distribution of property, other than an  
27 obligation of the corporation, with respect to the Pennsylvania  
28 S corporation's stock and the fair market value of the property  
29 exceeds the property's adjusted basis in the hands of the  
30 corporation, gain shall be recognized on the distribution as if

1 the property had been sold to the distributee at its fair market  
2 value.

3 (d) Computation of items.--An election which may affect the  
4 computation of items derived from a Pennsylvania S corporation  
5 shall be made by the corporation.

6 (e) Deduction.--A deduction, except a net loss deduction,  
7 which was disallowed when a corporation was subject to the tax  
8 imposed under Article IV of the Tax Reform Code of 1971 shall be  
9 allowed in years in which the corporation is a Pennsylvania S  
10 corporation to the same extent and in the same manner that the  
11 deduction would have been allowed if the corporation had  
12 remained subject to the tax imposed under Article IV of the Tax  
13 Reform Code of 1971.

14 (f) Underreported income.--A Pennsylvania S corporation with  
15 underreported income shall be subject to the following:

16 (1) The following apply:

17 (i) A Pennsylvania S corporation underreporting  
18 income by more than \$1,000,000 for any tax year shall be  
19 liable for the tax, excluding interest, penalties or  
20 additions, at the tax rate applicable to the tax year, on  
21 the underreported income without regard to the tax  
22 liability of the shareholders for the underreported  
23 income.

24 (ii) The department shall assess the Pennsylvania S  
25 corporation for the tax on the underreported income. The  
26 department shall not assess the shareholders for the  
27 underreported income or the tax on the underreported  
28 income. The Pennsylvania S corporation shall be required  
29 to provide an amended statement to each shareholder as  
30 required under section 2702 (relating to return of

1 Pennsylvania S corporation) of the shareholder's pro rata  
2 share of the underreported income within 90 days of the  
3 assessment becoming final.

4 (iii) Nothing in this subsection shall relieve the  
5 shareholders of the shareholders' tax liability on the  
6 underreported income.

7 (2) Each shareholder shall be allowed a credit for the  
8 shareholder's share of the tax assessed against the  
9 Pennsylvania S corporation under paragraph (1) and paid by  
10 the Pennsylvania S corporation. The credit shall be allowed  
11 for the shareholder's taxable year in which the underreported  
12 income was required to be reported.

13 (3) Paragraph (1) shall apply to the following  
14 Pennsylvania S corporations:

15 (i) A Pennsylvania S corporation which has 11 or  
16 more shareholders.

17 (ii) A Pennsylvania S corporation which elects to be  
18 subject to this subsection. The election must be included  
19 on the Pennsylvania S corporation return filed with the  
20 department.

21 (4) Nothing in this section shall require one  
22 shareholder to be liable for the payment of a tax liability  
23 of another shareholder.

24 (5) Appeals involving the deficiency assessed under this  
25 section may be filed only by the Pennsylvania S corporation.  
26 A reassessment of tax liability shall be binding on the  
27 shareholders.

28 § 2239. Income of Pennsylvania S corporations taxed to  
29 shareholders.

30 (a) Shareholder income or loss.--Each shareholder of a

1 Pennsylvania S corporation shall take into income the  
2 shareholder's pro rata share of the income or loss in each  
3 applicable class of income received by the corporation for its  
4 taxable year ending within or with the shareholder's taxable  
5 year.

6 (b) Calculation.--Each shareholder's pro rata share of an  
7 item for any taxable year shall be the sum of the amounts  
8 determined with respect to the shareholder by assigning an equal  
9 portion of all items to each day of the taxable year and then  
10 dividing that portion pro rata among the shares outstanding on  
11 that day.

12 (c) Determination of items.--The character of an item  
13 included in the shareholder's pro rata share shall be determined  
14 as if the item were realized directly by the shareholder from  
15 the source from which the item was realized by the corporation  
16 or incurred in the same manner as incurred by the corporation.

17 (d) Deduction.--With respect to a deduction allowed under  
18 section 2238(e) (relating to income of Pennsylvania S  
19 corporation), a nonresident shareholder shall be allowed the  
20 deduction only to the extent that the previously disallowed  
21 deduction would have been considered a deduction related to  
22 income from sources within this Commonwealth, within the meaning  
23 of section 2102 (relating to definitions), during the taxable  
24 year when the deduction was disallowed.

25 (e) Subsidiary not separate corporation.--For the purposes  
26 of this subpart, a qualified Subchapter S subsidiary owned by a  
27 Pennsylvania S corporation shall not be treated as a separate  
28 corporation. All assets, liabilities and items of income,  
29 deduction and credit of the qualified Subchapter S subsidiary  
30 shall be treated as assets, liabilities and items of income,

1 deduction and credit of the parent Pennsylvania S corporation.  
2 § 2240. Limitation on pass-through of losses to shareholders.

3 (a) Aggregate losses.--The aggregate amount of losses taken  
4 into account by a shareholder of a Pennsylvania S corporation  
5 under section 2239 (relating to income of Pennsylvania S  
6 corporations taxed to shareholders) shall not exceed the sum of  
7 the adjusted basis of the shareholder's stock in the  
8 Pennsylvania S corporation, determined after applying section  
9 2241(a) (relating to adjustments to basis of stock of  
10 shareholders) for the taxable year and the shareholder's  
11 adjusted basis of indebtedness of the Pennsylvania S corporation  
12 to the shareholder, determined before applying section 2241(d)  
13 for the taxable year.

14 (b) Carryover of losses prohibited.--There shall be no  
15 carryover of losses by the shareholders of a Pennsylvania S  
16 corporation.

17 § 2241. Adjustments to basis of stock of shareholders.

18 (a) Increase of basis.--The basis of the stock of a  
19 shareholder in a Pennsylvania S corporation shall be increased  
20 for any period by the shareholder's share of the corporation's  
21 income, including nontaxable income, as determined under section  
22 2239 (relating to income of Pennsylvania S corporations taxed to  
23 shareholders).

24 (b) Decrease of basis.--The basis of a shareholder's stock  
25 in a Pennsylvania S corporation shall be decreased for any  
26 period, but not below zero, by a distribution by the corporation  
27 to the shareholder which was not included in the income of the  
28 shareholder under section 2242 (relating to distributions) and  
29 by the shareholder's share of the corporation's losses as  
30 determined under section 2239 to the extent that the loss

1 reduced the shareholder's income subject to the tax imposed  
2 under this subpart or a tax measured by net income, imposed on  
3 the shareholder by another state.

4 (c) Excess losses.--If for a taxable year a shareholder's  
5 basis in the stock of a Pennsylvania S corporation is reduced to  
6 zero, excess losses will reduce the shareholder's basis, but not  
7 below zero, in any indebtedness of the Pennsylvania S  
8 corporation to the shareholder.

9 (d) Reduced basis.--If a shareholder's basis in any  
10 indebtedness is reduced under subsection (c), the reduction  
11 shall be restored before the shareholder's basis in the  
12 Pennsylvania S corporation's stock is increased.

13 § 2242. Distributions.

14 (a) Distribution of property to shareholder.--A distribution  
15 of property by a Pennsylvania S corporation which has no  
16 accumulated earnings and profits to a shareholder of the  
17 corporation shall not be included in the shareholder's income to  
18 the extent that it does not exceed the shareholder's adjusted  
19 basis in the stock. An amount of the distribution in excess of  
20 the adjusted basis in the stock shall be treated as a gain from  
21 the sale, exchange or other disposition of property.

22 (b) Excess treated as dividend.--

23 (1) A distribution of property by a Pennsylvania S  
24 corporation which has accumulated earnings and profits shall  
25 be treated in the same manner as a distribution by a  
26 Pennsylvania S corporation without earnings and profits to  
27 the extent of the corporation's accumulated adjustment  
28 account.

29 (2) The portion of the distribution in excess of the  
30 accumulated adjustment account will be treated as a dividend



1 to the extent of the accumulated earnings and profits of the  
2 corporation.

3 (3) A portion of the distribution in excess of the  
4 accumulated earnings and profits of the corporation shall be  
5 treated in the same manner as a distribution from a  
6 Pennsylvania S corporation without accumulated earnings and  
7 profits.

8 (c) Non-pro rata distribution.--In the case of a non-pro  
9 rata distribution of property, the adjustment shall be limited  
10 to an amount which bears the same ratio to the balance in the  
11 account as the number of shares sold, exchanged or otherwise  
12 disposed of bears to the number of shares in the corporation  
13 outstanding immediately before the sale, exchange or  
14 disposition.

15 (d) Definitions.--As used in this section, the following  
16 words and phrases shall have the meanings given to them in this  
17 subsection unless the context clearly indicates otherwise:

18 "Accumulated adjustment account." An account of the  
19 Pennsylvania S corporation which is cumulatively adjusted for  
20 the most recent continuous period during which the corporation  
21 has been a Pennsylvania S corporation by increasing the account  
22 for corporate income and decreasing the account for corporate  
23 losses and all distributions of property by the corporation to  
24 the shareholders which were not included in the income of the  
25 shareholders, provided that no adjustment shall be made for  
26 income or loss not in any of the classes of income enumerated in  
27 section 2203 (relating to classes of income) or for a  
28 nondeductible expense.

29 SUBCHAPTER E

30 OTHER ENTITIES

1 Sec.

2 2251. Treatment of unincorporated entities with single owners.

3 § 2251. Treatment of unincorporated entities with single  
4 owners.

5 Unless subject to tax under Article IV of the Tax Reform Code  
6 of 1971, an unincorporated entity that has a single owner shall  
7 be disregarded as an entity separate from the entity's owner.

8 SUBCHAPTER F

9 NONRESIDENT INDIVIDUALS

10 Sec.

11 2261. Nonresident individuals and taxable income.

12 2262. Spouses.

13 2263. Allocation of income of nonresident.

14 § 2261. Nonresident individuals and taxable income.

15 The income of a nonresident individual shall be the part of  
16 the nonresident individual's income derived from sources within  
17 this Commonwealth as defined in this subpart.

18 § 2262. Spouses.

19 (a) Separate return.--For spouses who are both nonresidents  
20 of this Commonwealth and subject to tax under this subpart, if  
21 the income of either spouse is determined on a separately filed  
22 return, each spouse's income from sources within this  
23 Commonwealth shall be separately determined.

24 (b) One spouse a nonresident.--If a spouse is a nonresident  
25 of this Commonwealth and the other spouse is a resident of this  
26 Commonwealth, separate taxes shall be determined on the spouses'  
27 separate incomes on forms as the department shall prescribe,  
28 unless both spouses elect to determine the spouses' joint income  
29 as if both spouses were residents of this Commonwealth, in which  
30 case the spouses' tax liabilities shall be joint and several.

1 § 2263. Allocation of income of nonresident.

2 If a nonresident taxpayer earns, receives or acquires income  
3 from sources partly within and partly outside this Commonwealth  
4 or engages in a business, trade, profession or occupation partly  
5 within and partly outside this Commonwealth and that portion of  
6 the income derived from or connected with sources within this  
7 Commonwealth cannot readily or accurately be ascertained, the  
8 department shall by regulation prescribe uniform rules for  
9 apportionment or allocation of the amount of the taxpayer's  
10 income as fairly and equitably represents income derived from  
11 sources within this Commonwealth and subject to tax under this  
12 subpart.

13 CHAPTER 23

14 CREDITS AGAINST TAX

15 Sec.

16 2301. Tax withheld.

17 2302. Tax paid under previous act.

18 2303. Income taxes imposed by other states.

19 § 2301. Tax withheld.

20 The amount withheld under section 2502 (relating to  
21 requirement of withholding tax) shall be allowed to the taxpayer  
22 from whose income the tax was withheld as a credit against the  
23 tax imposed on the taxpayer by this subpart.

24 § 2302. Tax paid under previous act.

25 The amount of tax withheld from an employee and paid over to  
26 the Commonwealth or paid over by a taxpayer as an estimated  
27 payment under repealed Article III of the act of March 4, 1971  
28 (P.L.6, No.2), known as the Tax Reform Code of 1971, which was  
29 repealed by the act of August 31, 1971 (P.L.362, No.93), shall  
30 be held as a credit against the tax imposed by former Article

1 III of the Tax Reform Code of 1971.

2 § 2303. Income taxes imposed by other states.

3 (a) Credit.--The following shall apply:

4 (1) A resident taxpayer, before allowance of a credit  
5 under section 2301 (relating to tax withheld), shall be  
6 allowed a credit against the tax otherwise due under this  
7 subpart for the amount of income tax, wage tax or tax on or  
8 measured by gross or net earned or unearned income imposed on  
9 the resident taxpayer or on a Pennsylvania S corporation in  
10 which the resident taxpayer is a shareholder, to the extent  
11 of the resident taxpayer's pro rata share of the tax  
12 determined under section 2239 (relating to income of  
13 Pennsylvania S corporations taxed to shareholders), by  
14 another state with respect to income which is also subject to  
15 tax under this subpart.

16 (2) For purposes of this subsection, the term "state"  
17 shall only include a state of the United States, the District  
18 of Columbia, the Commonwealth of Puerto Rico and a territory  
19 or possession of the United States.

20 (b) Credit limit.--The credit provided under this section  
21 shall not exceed the proportion of the tax otherwise due under  
22 this subpart that the amount of the taxpayer's income subject to  
23 tax by the other jurisdiction bears to the taxpayer's entire  
24 taxable income.

25 CHAPTER 24

26 CONTRIBUTIONS OF REFUNDS BY CHECKOFF

27 Subchapter

28 A. Preliminary Provisions

29 B. Contributions

30 SUBCHAPTER A

1 PRELIMINARY PROVISIONS

2 Sec.

3 2401. Definitions.

4 2402. Operational provisions.

5 § 2401. Definitions.

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

9 "Individual income tax." The tax imposed under this subpart.

10 § 2402. Operational provisions.

11 (a) Expiration.--Except as set forth in subsection (b), a  
12 checkoff established under this chapter and applicable for the  
13 first time in a taxable year beginning after December 31, 2009,  
14 shall expire four years after the beginning of the first taxable  
15 year.

16 (b) No expiration.--Notwithstanding subsection (a), the  
17 checkoffs established under the following sections shall not  
18 expire:

19 (1) Section 2411 (relating to contributions to breast  
20 and cervical cancer research).

21 (2) Section 2412 (relating to contributions for wild  
22 resource conservation).

23 (3) Section 2413 (relating to contributions for organ  
24 and tissue donation awareness).

25 (4) Section 2414 (relating to contributions for juvenile  
26 diabetes cure research).

27 (5) Section 2415 (relating to contributions for military  
28 family relief assistance).

29 (6) Section 2416 (relating to contributions for  
30 Children's Trust Fund).



1 (d) Instructions for contributions.--The department shall  
2 provide adequate information concerning the checkoff for breast  
3 and cervical cancer research in the instructions which accompany  
4 State income tax return forms, which shall include the listing  
5 of an address furnished to it by the Department of Health to  
6 which contributions may be sent by taxpayers wishing to  
7 contribute to this effort but who do not receive refunds. The  
8 Pennsylvania Breast Cancer Coalition shall conduct a public  
9 information campaign on the opportunity to contribute to breast  
10 and cervical cancer research to Pennsylvania taxpayers.

11 (e) Report.--The Pennsylvania Breast Cancer Coalition shall  
12 report annually to the chairperson and minority chairperson of  
13 the Health and Human Services Committee of the Senate and the  
14 chairperson and minority chairperson of the Health Committee of  
15 the House of Representatives the amount received from the  
16 checkoff plan and how the money was utilized.

17 (f) Appropriation.--The General Assembly may appropriate  
18 funds for breast and cervical cancer research.

19 § 2412. Contributions for wild resource conservation.

20 (a) Contribution.--The department shall provide a space on  
21 the Pennsylvania individual income tax return form where an  
22 individual may voluntarily designate a contribution of any  
23 amount to the Wild Resource Conservation Fund established under  
24 section 5 of the act of June 23, 1982 (P.L.597, No.170), known  
25 as the Wild Resource Conservation Act.

26 (b) Deduction from refund.--The amount designated by an  
27 individual on the income tax return form shall be deducted from  
28 the tax refund to which the individual is entitled and shall not  
29 constitute a charge against the income tax revenues due to the  
30 Commonwealth.

1 (c) Total designation.--The department shall determine  
2 annually the total amount designated under this section and  
3 shall report the amount to the State Treasurer who shall  
4 transfer the amount from the General Fund to the Wild Resource  
5 Conservation Fund for use as provided in the Wild Resource  
6 Conservation Act. The department shall be reimbursed from the  
7 fund for administrative costs incurred above and beyond the cost  
8 savings the department realizes as a result of individual total  
9 refund designations.

10 (d) Instructions for contributions.--The department shall  
11 provide adequate information concerning the Wild Resource  
12 Conservation Fund in the instructions which accompany State  
13 income tax return forms, which shall include the listing of an  
14 address furnished to it by the Wild Resource Conservation Board  
15 to which contributions may be sent by taxpayers wishing to  
16 contribute to the fund but who do not receive refunds.

17 (e) Applicability.--This section shall apply to taxable  
18 years beginning on or after January 1, 1997.  
19 § 2413. Contributions for organ and tissue donation awareness.

20 (a) Contribution.--The department shall provide a space on  
21 the Pennsylvania individual income tax return form where an  
22 individual may voluntarily designate a contribution of any  
23 amount to the Governor Robert P. Casey Memorial Organ and Tissue  
24 Donation Awareness Trust Fund established under 20 Pa.C.S. §  
25 8622 (relating to the Governor Robert P. Casey Memorial Organ  
26 and Tissue Donation Awareness Trust Fund).

27 (b) Deduction from refund.--The amount designated by an  
28 individual on the Pennsylvania individual income tax return form  
29 shall be deducted from the tax refund to which the individual is  
30 entitled and shall not constitute a charge against the income



1 tax revenues due to the Commonwealth.

2 (c) Total designation.--The department shall annually  
3 determine the total amount designated under this section and  
4 shall report the amount to the State Treasurer who shall  
5 transfer the amount to the Governor Robert P. Casey Memorial  
6 Organ and Tissue Donation Awareness Trust Fund.

7 (d) Instructions for contributions.--The department shall  
8 provide on its forms or in the instructions which accompany  
9 Pennsylvania individual income tax return forms adequate  
10 information concerning the Governor Robert P. Casey Memorial  
11 Organ and Tissue Donation Awareness Trust Fund, which shall  
12 include the listing of an address furnished to it by the Organ  
13 Donation Advisory Committee to which contributions may be sent  
14 by taxpayers wishing to contribute to the fund but who do not  
15 receive refunds.

16 (e) Applicability.--This section shall apply to taxable  
17 years beginning on or after January 1, 1997.  
18 § 2414. Contributions for juvenile diabetes cure research.

19 (a) Contribution.--The department shall provide a space on  
20 the Pennsylvania individual income tax return form where an  
21 individual may voluntarily designate a contribution of any  
22 amount for juvenile diabetes cure research related to:

- 23 (1) Restoring normal blood sugar levels.  
24 (2) Preventing and reversing complications.  
25 (3) Preventing juvenile diabetes.

26 (b) Deduction from refund.--The amount designated on the  
27 Pennsylvania individual income tax return form shall be deducted  
28 from the tax refund to which the individual is entitled and  
29 shall not constitute a charge against the income tax revenues  
30 due to the Commonwealth.

1 (c) Total designation.--

2 (1) The department shall determine annually the total  
3 amount designated under this section, less reasonable  
4 administrative costs, and shall report the amount to the  
5 State Treasurer, who shall transfer the amount to a  
6 restricted revenue account within the General Fund to be used  
7 by the Department of Health for aiding juvenile diabetes cure  
8 research.

9 (2) The Department of Health shall distribute the  
10 amounts to institutions of higher education and independent  
11 research institutes of this Commonwealth to support projects  
12 that have been subject to an established peer and scientific  
13 review process identical or similar to the National  
14 Institutes of Health review system.

15 (d) Instructions for contributions.--The department shall  
16 provide adequate information concerning the checkoff for  
17 juvenile diabetes cure research in the instructions which  
18 accompany the Pennsylvania income tax return forms, which shall  
19 include the listing of an address furnished to it by the  
20 Department of Health to which contributions may be sent by  
21 taxpayers wishing to contribute to this effort but who do not  
22 receive refunds.

23 (e) Report.--The Department of Health shall report annually  
24 to the chairperson and minority chairperson of the Health and  
25 Human Services Committee of the Senate and the chairperson and  
26 minority chairperson of the Health Committee of the House of  
27 Representatives the amount received from the checkoff plan and  
28 how the money was utilized.

29 § 2415. Contributions for military family relief assistance.

30 (a) Contribution.--Beginning with taxable years ending after

1 December 31, 2004, the department shall provide a space on the  
2 Pennsylvania individual income tax return form where an  
3 individual may voluntarily designate a contribution of any  
4 amount to a fund for military family relief assistance.

5 (b) Deduction from refund.--The amount designated on the  
6 Pennsylvania individual income tax return form shall be deducted  
7 from the tax refund to which the individual is entitled and  
8 shall not constitute a charge against the income tax revenues  
9 due to the Commonwealth.

10 (c) Total designation.--The department shall determine  
11 annually the total amount designated under this section, less  
12 reasonable administrative costs, and shall report the amount to  
13 the State Treasurer who shall transfer the amount to a  
14 restricted revenue account within the General Fund to be used by  
15 the Department of Military and Veterans Affairs for  
16 contributions to military family relief assistance as provided  
17 by statute.

18 (d) Instructions for contributions.--The department shall  
19 provide adequate information concerning the checkoff for  
20 military family relief assistance in the instructions which  
21 accompany the Pennsylvania income tax return forms, which shall  
22 include the listing of an address furnished to it by the  
23 Department of Military and Veterans Affairs to which  
24 contributions may be sent by taxpayers wishing to contribute to  
25 this effort but who do not receive refunds.

26 (e) Report.--The Department of Military and Veterans Affairs  
27 shall report annually to the chairperson and minority  
28 chairperson of the Veterans Affairs and Emergency Preparedness  
29 Committee of the Senate and the chairperson and minority  
30 chairperson of the Veterans Affairs and Emergency Preparedness

1 Committee of the House of Representatives the amount received  
2 from the checkoff plan and how the money was utilized.

3 § 2416. Contributions for Children's Trust Fund.

4 (a) Contribution.--The department shall provide a space on  
5 the Pennsylvania individual income tax return form where an  
6 individual may voluntarily designate a contribution of any  
7 amount to the Children's Trust Fund established in section 8 of  
8 the act of December 15, 1988 (P.L.1235, No.151), known as the  
9 Children's Trust Fund Act.

10 (b) Deduction from refund.--The amount designated under  
11 subsection (a) by an individual on the income tax return form  
12 shall be deducted from the tax refund to which the individual is  
13 entitled and shall not constitute a charge against the income  
14 tax revenues due to the Commonwealth.

15 (c) Total designation.--The department shall determine  
16 annually the total amount designated under this section, less  
17 reasonable administrative costs, and shall report the amount to  
18 the State Treasurer, who shall transfer the amount from the  
19 General Fund to the Children's Trust Fund.

20 § 2417. Contributions for American Red Cross.

21 (a) Contribution.--The department shall provide a space on  
22 the Pennsylvania individual income tax return form where an  
23 individual may voluntarily designate a contribution of any  
24 amount to the American Red Cross established under 36 U.S.C. Ch.  
25 3001 (relating to the American National Red Cross).

26 (b) Deduction from refund.--The amount designated under  
27 subsection (a) by an individual on the income tax return form  
28 shall be deducted from the tax refund to which the individual is  
29 entitled and shall not constitute a charge against the income  
30 tax revenues due to the Commonwealth.

1 (c) Total designation.--The department shall determine  
2 annually the total amount designated under this section, less  
3 reasonable administrative costs, and shall report the amount to  
4 the State Treasurer, who shall transfer the amount from the  
5 General Fund to the American Red Cross.

6 § 2418. Contributions for tuition account programs.

7 (a) Contribution.--Beginning with the 2016 Pennsylvania  
8 individual income tax return, the department shall provide a  
9 space on the income tax return form by which a taxpayer who is  
10 an account owner may voluntarily designate a contribution to a  
11 beneficiary's Tuition Account Guaranteed Savings Program or the  
12 Tuition Account Investment Program established under the act of  
13 April 3, 1992 (P.L.28, No.11), known as the Tuition Account  
14 Programs and College Savings Bond Act.

15 (b) Deduction from refund.--The amount designated under  
16 subsection (a) by a taxpayer on the income tax return form shall  
17 be deducted from the tax refund to which the individual is  
18 entitled and shall not constitute a charge against the income  
19 tax revenues due to the Commonwealth.

20 (c) Total designation.--The department shall determine  
21 annually the amount designated under this section and shall  
22 report the amount to the State Treasurer, who shall transfer the  
23 amount from the General Fund to the appropriate account within  
24 the Tuition Account Guaranteed Savings Program or the Tuition  
25 Account Investment Program.

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

29 "Account owner." As defined in section 302 of the Tuition  
30 Account Programs and College Savings Bond Act.

1 "Beneficiary." As defined in section 302 of the Tuition  
2 Account Programs and College Savings Bond Act.  
3 § 2419. Contributions for pediatric cancer research.

4 (a) Contribution.--The department shall provide a space on  
5 the Pennsylvania individual income tax return form where an  
6 individual may voluntarily designate a contribution of any  
7 amount to be utilized for pediatric cancer research. On or  
8 before December 1 of each year, the Secretary of Health shall  
9 designate hospitals within this Commonwealth conducting  
10 pediatric cancer research that are eligible to receive funding  
11 under this section for the following calendar year.

12 (b) Deduction from refund.--The amount designated on the  
13 individual income tax return form shall be deducted from the tax  
14 refund to which the individual is entitled and shall not  
15 constitute a charge against the income tax revenues due to the  
16 Commonwealth.

17 (c) Total designation.--The department shall determine  
18 annually the total amount designated under this section, less  
19 reasonable administrative costs, and shall report the amount to  
20 the State Treasurer, who shall transfer the amount from the  
21 General Fund to the Pennsylvania Cancer Control, Prevention and  
22 Research Advisory Board within the Department of Health.

23 (d) Instructions for contributions.--The department shall  
24 provide adequate information concerning the checkoff for  
25 pediatric cancer research in the instructions that accompany  
26 State income tax return forms, which shall include the listing  
27 of an address furnished to it by the Department of Health to  
28 which contributions may be sent by taxpayers wishing to  
29 contribute to this effort but who do not receive refunds. The  
30 Department of Health shall conduct a public information campaign

1 on the availability of this opportunity to Pennsylvania  
2 taxpayers.

3 (e) Report.--The Department of Health shall report annually  
4 to the chairperson and minority chairperson of the Health and  
5 Human Services Committee of the Senate and the chairperson and  
6 minority chairperson of the Health Committee of the House of  
7 Representatives the amount received from the checkoff plan and  
8 how the money was utilized.

9 § 2420. Contributions for Veterans' Trust Fund.

10 (a) Contribution.--For taxable years beginning after  
11 December 31, 2019, the department shall provide a space on the  
12 Pennsylvania individual income tax return form where an  
13 individual may voluntarily designate a contribution, in any  
14 amount, to the Veterans' Trust Fund.

15 (b) Deduction from refund.--The amount designated on the  
16 individual income tax return shall be deducted from the tax  
17 refund to which the individual is entitled and shall not  
18 constitute a charge against the income tax revenues due to the  
19 Commonwealth.

20 (c) Total designation.--The department shall determine  
21 annually the total amount designated under this section, less  
22 reasonable administrative costs, and shall report the amount to  
23 the State Treasurer who shall transfer the amount to the  
24 Veterans' Trust Fund.

25 (d) Instructions for contributions.--The department shall  
26 provide adequate information concerning the checkoff for the  
27 Veterans' Trust Fund in its instructions that accompany the  
28 State income tax return forms, which shall include the listing  
29 of an address furnished by the Department of Military and  
30 Veterans Affairs to which contributions may be sent by taxpayers

1 wishing to contribute to this effort but who do not receive  
2 refunds.

3 (e) Report.--The Department of Military and Veterans Affairs  
4 shall report annually to the respective committees of the Senate  
5 and the House of Representatives which have jurisdiction over  
6 military and veterans affairs on the amount received from the  
7 checkoff plan and how the funds were utilized.

8 CHAPTER 25

9 WITHHOLDING OF TAX

10 Subchapter

11 A. Withholding Tax Generally

12 B. Withholding Tax on Income from Sources Within  
13 Commonwealth

14 SUBCHAPTER A

15 WITHHOLDING TAX GENERALLY

16 Sec.

17 2501. Definitions.

18 2502. Requirement of withholding tax.

19 2503. Withholding tax requirement for nonemployer payors.

20 2504. Information statement.

21 2505. Information statement for nonemployer payors.

22 2506. Information statement for payees.

23 2507. Time for filing withholding returns.

24 2508. Time for filing payors' returns.

25 2509. Payment of taxes withheld.

26 2510. Payment of taxes withheld for nonemployer payors.

27 2511. Liability for withheld taxes.

28 2512. Payor's liability for withheld taxes.

29 2513. Failure to withhold.

30 2514. Bulk and auction sales and transfers and notice.



1 2515. Payor's failure to withhold.

2 2516. Designation of third parties to perform acts required of  
3 employers.

4 2517. When withholding not required.

5 § 2501. Definitions.

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

9 "Payee." The person receiving the payments subject to  
10 withholding under this subchapter.

11 "Payments." The term shall not include a partner or  
12 shareholder's distributive share of income from a partnership or  
13 Pennsylvania S corporation.

14 "Payor." The person required to withhold under this  
15 subchapter.

16 § 2502. Requirement of withholding tax.

17 (a) General rule.--An employer maintaining an office or  
18 transacting business within this Commonwealth and making payment  
19 of compensation to a resident individual or a nonresident  
20 individual taxpayer performing services on behalf of the  
21 employer within this Commonwealth shall deduct and withhold from  
22 the employee's compensation for each payroll period a tax  
23 computed in a manner as to result in withholding from the  
24 employee's compensation during each calendar year an amount  
25 substantially equivalent to the tax reasonably estimated to be  
26 due for the year with respect to the compensation. The method of  
27 determining the amount to be withheld shall be prescribed by  
28 regulations of the department.

29 (b) Lottery winnings.--If the Pennsylvania State Lottery or  
30 a person making a Pennsylvania State Lottery prize payment in

1 the form of an annuity is required to withhold Federal income  
2 tax under section 3402 of the Internal Revenue Code of 1986 or  
3 backup withholding under section 3406 of the Internal Revenue  
4 Code of 1986 from a gambling or lottery prize payment awarded by  
5 the Pennsylvania State Lottery that is taxable under this  
6 chapter, the Pennsylvania State Lottery or the person making the  
7 annuity payment shall deduct and withhold from the prize payment  
8 an amount equal to the amount of the prize payment subject to  
9 withholding under section 3402 or 3406 of the Internal Revenue  
10 Code of 1986 multiplied by the tax rate in effect under this  
11 subpart at the time the prize payment is made.

12 § 2503. Withholding tax requirement for nonemployer payors.

13 (a) General requirements.--Notwithstanding the provisions of  
14 section 2502 (relating to requirement of withholding tax), a  
15 person shall deduct and withhold from the payments an amount  
16 equal to the net amount of the payments multiplied by the tax  
17 rate specified under section 2201(b) (relating to imposition of  
18 tax) if the person:

19 (1) makes payments of income from sources within this  
20 Commonwealth described in section 2203(a)(1) or (2) (relating  
21 to classes of income) to either a nonresident individual or  
22 an entity that is disregarded under section 2251 (relating to  
23 treatment of unincorporated entities with single owners) that  
24 has a nonresident member; and

25 (2) is required under section 2707(f)(1) (relating to  
26 requirements concerning returns, notices, records and  
27 statements) to file a copy of form 1099-MISC with the  
28 department regarding the payments.

29 (b) Optional withholding.--Withholding of tax by payors is  
30 optional and at the discretion of the payor with respect to

1 payees who receive payments of less than \$5,000 annually from  
2 the payor.

3 (c) Nonapplicability.--This section shall not apply to  
4 payments made by a payor to a payee if the payor is any of the  
5 following:

6 (1) The United States or an agency or instrumentality of  
7 the United States.

8 (2) The Commonwealth or an agency, instrumentality or  
9 political subdivision of the Commonwealth.

10 (d) Regulations.--The department may prescribe regulations  
11 to implement and clarify the withholding requirement specified  
12 in this section.

13 § 2504. Information statement.

14 (a) Statement.--The following shall apply:

15 (1) An employer required to deduct and withhold tax  
16 under section 2502(a) (relating to requirement of withholding  
17 tax) shall furnish to each employee paid compensation during  
18 the calendar year a written statement in the manner and form  
19 prescribed by the department showing:

20 (i) The amount of compensation paid by the employer  
21 to the employee.

22 (ii) The amount deducted and withheld as tax under  
23 section 2502(a).

24 (iii) Other information as the department shall  
25 prescribe.

26 (2) Each statement required by this section for a  
27 calendar year shall be furnished to the employee on or before  
28 January 31 of the year succeeding the calendar year.

29 (3) If the employee's employment is terminated before  
30 the close of the calendar year, the employer shall furnish

1 the statement to the employee at any time after the  
2 termination but no later than January 31 of the year  
3 succeeding the calendar year.

4 (4) If an employee who is terminated before the close of  
5 the calendar year requests the employer in writing to furnish  
6 the employee the statement at an earlier time and, if there  
7 is no reasonable expectation on the part of the employer and  
8 employee of further employment during the calendar year, the  
9 employer shall furnish the statement to the employee on or  
10 before the 30th day after the day of the request or the 30th  
11 day after the day on which the last payment of wages is made,  
12 whichever occurs later.

13 (b) Lottery winnings.--A person required to deduct and  
14 withhold tax under section 2502(b) shall report the prize and  
15 the amount of withholding to the taxpayer on Internal Revenue  
16 Service Form W-2G or similar form used for reporting Federal  
17 income tax withholding from the prize.

18 § 2505. Information statement for nonemployer payors.

19 (a) Form to be furnished.--A payor required to deduct and  
20 withhold tax under section 2503 (relating to withholding tax  
21 requirement for nonemployer payors) shall furnish to a payee to  
22 whom the payor has paid income from sources within this  
23 Commonwealth during the calendar year a copy of form 1099-MISC  
24 required under section 2707(f)(1) (relating to requirements  
25 concerning returns, notices, records and statements).

26 (b) Time frame.--The copy of form 1099-MISC required by this  
27 section for each calendar year shall be forwarded to the payee  
28 on or before March 1 of the year succeeding the calendar year.

29 § 2506. Information statement for payees.

30 A payee receiving a copy of form 1099-MISC from a payor under

1 section 2505 (relating to information statement for nonemployer  
2 payors) shall file a duplicate of the form with the payee's  
3 State income tax return.

4 § 2507. Time for filing withholding returns.

5 (a) Quarterly filing.--The following shall apply:

6 (1) An employer required to deduct and withhold tax  
7 under section 2502(a) (relating to requirement of withholding  
8 tax) shall file a quarterly withholding return on or before  
9 the last day of April, July, October and January for the  
10 three months ending the last day of March, June, September  
11 and December.

12 (2) Quarterly returns shall be filed with the department  
13 at the department's main office or at any branch office that  
14 the department designates for filing returns.

15 (b) Time frame for filing.--A person required to deduct and  
16 withhold tax under section 2502(b) shall file a withholding tax  
17 return at the same time the person is required to file the  
18 person's annual return of withheld Federal income tax,  
19 designated as IRS Form 945, from nonpayroll payments. The return  
20 shall be filed with the department.

21 § 2508. Time for filing payors' returns.

22 (a) Quarterly filing.--A payor required to deduct and  
23 withhold tax under section 2503 (relating to withholding tax  
24 requirement for nonemployer payors) shall file a quarterly  
25 withholding return on or before the last day of April, July,  
26 October and January for each three-month period ending the last  
27 day of March, June, September and December.

28 (b) Manner of filing.--The quarterly returns shall be filed  
29 with the department in the manner prescribed by regulation.

30 § 2509. Payment of taxes withheld.

1 (a) Payment of tax by employer.--

2 (1) An employer withholding tax under section 2502(a)  
3 (relating to requirement of withholding tax) shall pay over  
4 to the department or to a depository designated by the  
5 department the tax required to be deducted and withheld under  
6 section 2502(a). The following shall apply:

7 (i) If the aggregated amount required to be deducted  
8 and withheld by an employer for a calendar year is  
9 expected to be less than \$1,200, the employer shall file  
10 a return and pay the tax on or before the last day for  
11 filing a quarterly return under section 2507 (relating to  
12 time for filing withholding returns).

13 (ii) If the aggregated amount required to be  
14 deducted and withheld by an employer for a calendar year  
15 is expected to be \$1,200 or more but less than \$4,000,  
16 the employer shall pay the tax monthly on or before the  
17 15th day of the month succeeding the months of January to  
18 November, inclusive, and on or before the last day of  
19 January following the month of December.

20 (iii) If the aggregated amount required to be  
21 deducted and withheld by an employer for a calendar year  
22 is expected to be \$4,000 or more but less than \$20,000,  
23 the employer shall pay the tax semimonthly within three  
24 banking days after the close of the semimonthly period.

25 (iv) If the aggregated amount required to be  
26 deducted and withheld by an employer for a calendar year  
27 is expected to be \$20,000 or more, the employer shall pay  
28 the tax on the Wednesday after payday if the payday falls  
29 on a Wednesday, Thursday or Friday and on the Friday  
30 after payday if the payday falls on a Saturday, Sunday,

1 Monday or Tuesday.

2 (2) The following shall apply:

3 (i) Notwithstanding any provision to the contrary,  
4 if an employer fails to deduct, truthfully account for or  
5 pay the tax withheld or file returns as prescribed by  
6 this chapter, the department may serve a notice on the  
7 employer requiring the employer to:

8 (A) withhold taxes which are required to be  
9 deducted under section 2502(a);

10 (B) deposit the taxes in a bank approved by the  
11 department in a separate account in trust for and  
12 payable to the department; and

13 (C) keep the amount of the tax in the account  
14 until payment is made to the department.

15 (ii) The notice under subparagraph (i) shall remain  
16 in effect until the department serves a notice of  
17 cancellation on the employer.

18 (b) Frequency of remittance.--A person deducting and  
19 withholding tax under section 2502(b) shall remit the tax to the  
20 department on the same frequency that the person is required to  
21 remit Federal income tax withheld from nonpayroll payments.

22 § 2510. Payment of taxes withheld for nonemployer payors.

23 A payor withholding tax under section 2503 (relating to  
24 withholding tax requirement for nonemployer payors) shall pay  
25 over to the department or a depository designated by the  
26 department the tax required to be deducted and withheld under  
27 section 2503. The time for paying over the withheld tax shall be  
28 as specified in section 2509(a)(1)(i), (ii), (iii) and (iv)  
29 (relating to payment of taxes withheld).

30 § 2511. Liability for withheld taxes.

1 (a) Liability.--A person required to deduct and withhold tax  
2 under section 2502 (relating to requirement of withholding tax)  
3 is liable for the tax.

4 (b) Enforcement.--

5 (1) For purposes of assessment and collection, an amount  
6 required to be withheld and paid to the department and  
7 additions to tax penalties and interest shall be considered  
8 the tax of the person.

9 (2) Taxes deducted and withheld under section 2502 or  
10 under color of section 2502 shall constitute a trust fund for  
11 the Commonwealth and shall be enforceable against the person,  
12 the person's representative or any other person receiving a  
13 part of the fund.

14 § 2512. Payor's liability for withheld taxes.

15 (a) Liability.--A payor required to deduct and withhold tax  
16 under section 2503 (relating to withholding tax requirement for  
17 nonemployer payors) is liable for the tax.

18 (b) Enforcement.--

19 (1) For purposes of assessment and collection, an amount  
20 required to be withheld and paid to the department and  
21 additions to tax, penalties and interest shall be considered  
22 the tax of the payor.

23 (2) Taxes deducted and withheld from payees under  
24 section 2503 or under color of section 2503 shall constitute  
25 a trust fund for the Commonwealth and shall be enforceable  
26 against the payor, the payor's representative or any other  
27 person receiving a part of the fund.

28 § 2513. Failure to withhold.

29 If a person fails to deduct and withhold tax as prescribed in  
30 this subchapter but subsequently pays the tax, the tax which was



1 required to be deducted and withheld shall not be collected from  
2 the person, but the person shall be liable for penalties,  
3 interest or additions imposed for failure to deduct and withhold  
4 the tax.

5 § 2514. Bulk and auction sales and transfers and notice.

6 An employer liable for filing returns in accordance with this  
7 subpart who sells, causes to be sold at auction or sells or  
8 transfers in bulk 51% or more of the employer's stock of goods,  
9 wares, merchandise, fixtures, machinery, equipment, buildings or  
10 real estate held by or on behalf of the employer shall be  
11 subject to section 1403 of the Fiscal Code.

12 § 2515. Payor's failure to withhold.

13 If a payor fails to deduct and withhold tax as prescribed  
14 under section 2503 (relating to withholding tax requirement for  
15 nonemployer payors) but subsequently pays the tax, the tax which  
16 was required to be deducted and withheld shall not be collected  
17 from the payor, but the payor shall be liable for penalties,  
18 interest or additions imposed for failure to deduct and  
19 withhold.

20 § 2516. Designation of third parties to perform acts required  
21 of employers.

22 If a fiduciary, agent or other person has the control,  
23 receipt, custody or disposal of or pays the compensation of an  
24 employee or a group of employees employed by one or more  
25 employers, the department may designate the fiduciary, agent or  
26 other person to perform acts required of employers under this  
27 subpart as the department may by regulation prescribe. Except as  
28 otherwise prescribed by the department, all provisions of this  
29 subpart which are applicable to an employer shall be applicable  
30 to a fiduciary, agent or other person.

1 § 2517. When withholding not required.

2 Notwithstanding any provision to the contrary, on and after  
3 January 1, 1975, an employer shall not be required to withhold  
4 tax upon payment of wages to an employee if the employee can  
5 certify that the employee:

6 (1) incurred no personal income tax liability for the  
7 preceding tax year; and

8 (2) anticipates no liability for personal income tax for  
9 the current taxable year.

10 SUBCHAPTER B

11 WITHHOLDING TAX ON INCOME FROM SOURCES

12 WITHIN COMMONWEALTH

13 Sec.

14 2521. General rule.

15 2522. Amount of withholding tax.

16 2523. Treatment of nonresident partners, members or  
17 shareholders.

18 2524. Liability for tax, interest, penalties and additions.

19 2525. Withholding on income.

20 2526. Annual withholding statement.

21 § 2521. General rule.

22 (a) Time for payment.--

23 (1) If a partnership, estate, trust or Pennsylvania S  
24 corporation receives income from sources within this  
25 Commonwealth for a taxable year and a portion of the income  
26 is allocable to a nonresident partner, beneficiary, member or  
27 shareholder of the partnership, estate, trust or Pennsylvania  
28 S corporation, the partnership, estate, trust or Pennsylvania  
29 S corporation shall pay a withholding tax under this section  
30 at the time and in the manner prescribed by the department.

1 (2) Notwithstanding any other provision of this subpart,  
2 all withholding tax shall be paid on or before the 15th day  
3 of the fourth month following the end of the taxable year.

4 (b) Applicability.--This section shall not apply to a  
5 publicly traded partnership as defined under section 7704 of the  
6 Internal Revenue Code of 1986 with equity securities registered  
7 with the Securities and Exchange Commission under section 12 of  
8 the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. §  
9 78a et seq.).

10 § 2522. Amount of withholding tax.

11 (a) Calculation.--The amount of tax withheld from  
12 nonresidents and the amount of withholding tax payable under  
13 section 2521 (relating to general rule) shall be equal to the  
14 income from sources within this Commonwealth of the partnership,  
15 association or Pennsylvania S corporation which is allocable to  
16 nonresident partners, members or shareholders multiplied by the  
17 tax rate specified in section 2201(b) (relating to imposition of  
18 tax).

19 (b) Income, gain, loss or deduction.--There shall not be  
20 taken into account items of income, gain, loss or deduction to  
21 the extent allocable to a partner, member or shareholder who is  
22 not a nonresident.

23 (c) Share of income.--There shall not be taken into account  
24 a share of income of a nonresident partner, member or  
25 shareholder from sources within this Commonwealth to the extent  
26 that the amount was subject to withholding under section 2526  
27 (relating to annual withholding statement) and to the extent  
28 withholding actually occurred under section 2525 (relating to  
29 withholding on income) by the time withholding is required to be  
30 made by the partnership, association or Pennsylvania S

1 corporation under section 2521.

2 § 2523. Treatment of nonresident partners, members or  
3 shareholders.

4 (a) Credit for partner, member, shareholder or holder of  
5 beneficial interest.--The following shall apply:

6 (1) A nonresident partner, member, shareholder or holder  
7 of a beneficial interest shall be allowed a credit for the  
8 partner's, member's, shareholder's or holder of a beneficial  
9 interest's share of the withholding tax paid by the  
10 partnership, association or Pennsylvania S corporation.

11 (2) The credit shall be allowed for the partner's,  
12 member's, shareholder's or holder of a beneficial interest's  
13 taxable year in which the partnership's, association's or  
14 Pennsylvania S corporation's taxable year for which the tax  
15 was paid ends.

16 (b) Nonresident lessor credit.--The following shall apply:

17 (1) A nonresident lessor shall be allowed a credit for  
18 the nonresident lessor's share of the withholding tax paid by  
19 the lessee under section 2525 (relating to withholding on  
20 income).

21 (2) The credit under this subsection shall be allowed  
22 for the nonresident lessor's taxable year in which the lessee  
23 withheld tax.

24 § 2524. Liability for tax, interest, penalties and additions.

25 If a partnership, association or Pennsylvania S corporation  
26 fails to pay withholding tax as prescribed in this subchapter  
27 but subsequently pays the tax, the partnership, association or  
28 Pennsylvania S corporation shall be liable for penalties,  
29 interest or additions imposed for failure to properly withhold  
30 the tax.

1 \$ 2525. Withholding on income.

2 (a) Income tax on lease payments.--A lessee of real estate  
3 in this Commonwealth who makes a lease payment in the course of  
4 a trade or business to a nonresident lessor shall withhold  
5 Pennsylvania personal income tax on lease payments to the  
6 nonresident lessor.

7 (b) Amount of tax.--A lessee shall withhold from each  
8 payment made to a lessor an amount equal to the net amount  
9 payable to the lessor multiplied by the tax rate specified under  
10 section 2201(b) (relating to imposition of tax).

11 (c) Optional withholding.--The withholding of tax under this  
12 section is optional and at the discretion of the lessee if the  
13 lessee pays the lessor less than \$5,000 annually on a lease.

14 (d) Definitions.--As used in this section, the following  
15 words and phrases shall have the meanings given to them in this  
16 subsection unless the context clearly indicates otherwise:

17 "In the course of a trade or business." Includes a person,  
18 other than a tenant of residential property, making lease  
19 payments to a nonresident or agent of a nonresident who collects  
20 rent or lease payments on behalf of a nonresident owner.

21 "Lease payment." The following shall apply:

22 (1) The term includes rents, royalties, bonus payments,  
23 damage payments, delay rents and other payments made under a  
24 lease, other than compensation derived from intangible  
25 property having a taxable or business situs in this  
26 Commonwealth.

27 (2) Classification as a "lease payment" under this  
28 section is solely for the purposes of establishing  
29 withholding requirements and is not relevant for a  
30 determination as to the proper income classification of a

1 lease payment.

2 "Lessor." Includes an individual, estate or trust.

3 § 2526. Annual withholding statement.

4 (a) Annual statement to lessor.--A lessee shall furnish to a  
5 lessor an annual statement at the time and in the manner  
6 prescribed by the department showing the total payments made by  
7 the lessee to the lessor during the preceding taxable year and  
8 showing the amount of the tax deducted and withheld from the  
9 payments under section 2525 (relating to withholding on income).

10 (b) Annual statement to department.--A lessee shall file  
11 with the department an annual statement at the time and in the  
12 manner prescribed by the department showing the total payments  
13 made to each lessor subject to withholding during the preceding  
14 taxable year or any portion of the preceding taxable year and  
15 the total amount of tax deducted and withheld under section  
16 2525.

17 (c) Duplicate.--A lessor shall file a duplicate of the  
18 annual statement furnished by the lessee under this section with  
19 the lessor's State income tax return.

20 CHAPTER 26

21 ESTIMATED TAX

22 Sec.

23 2601. Definitions.

24 2602. Declarations of estimated tax.

25 2603. Payments of estimated tax.

26 § 2601. Definitions.

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

30 "Estimated tax." The amount that an individual, trust or

1 estate estimates to be the tax due under this subpart for the  
2 taxable year, less the amount estimated to be the sum of credits  
3 allowable against the tax under this subpart.

4 § 2602. Declarations of estimated tax.

5 (a) Declaration.--A resident or nonresident individual,  
6 trust or estate shall, at the time specified under this section,  
7 make a declaration of the estimated tax for the taxable year  
8 containing information as the department may prescribe by  
9 regulation, if the individual's, trust's or estate's income,  
10 other than from income on which tax is withheld under this  
11 subchapter, is expected to exceed \$8,000.

12 (b) Joint declaration.--

13 (1) Spouses may make a joint declaration of estimated  
14 tax under this section as if they were one taxpayer, in which  
15 case the liability with respect to the estimated tax shall be  
16 joint and several.

17 (2) If a joint declaration is made but the spouses elect  
18 to determine each spouse's taxes separately, the spouses may  
19 choose to treat the estimated tax for the year as the  
20 estimated tax of either spouse or to divide the estimated tax  
21 between them.

22 (c) Date for filing.--Except as otherwise provided in this  
23 section, the date for filing a declaration of estimated tax  
24 shall depend upon when the resident or nonresident individual,  
25 trust or estate determines that the income on which no tax has  
26 been withheld under this subchapter is expected to exceed \$8,000  
27 in the taxable year. The following shall apply:

28 (1) If the determination is made on or before April 1 of  
29 the taxable year, a declaration of estimated tax shall be  
30 filed no later than April 15 of the taxable year.

1 (2) If the determination is made after April 1 but  
2 before June 2 of the taxable year, the declaration shall be  
3 filed no later than June 15 of the taxable year.

4 (3) If the determination is made after June 1 but before  
5 September 2 of the taxable year, the declaration shall be  
6 filed no later than September 15 of the taxable year.

7 (4) If the determination is made after September 1 of  
8 the taxable year, the declaration shall be filed no later  
9 than January 15 of the year succeeding the taxable year.

10 (d) Income from farming.--

11 (1) Notwithstanding subsection (c), a declaration of  
12 estimated tax of an individual having an estimated gross  
13 income from farming for the taxable year which is at least  
14 two-thirds of the individual's total estimated gross income  
15 for the taxable year may be filed at any time on or before  
16 January 15 of the succeeding year.

17 (2) If a farmer files a final return and pays the entire  
18 tax by March 1, the return may be considered the declaration  
19 due on or before January 15.

20 (e) Estimated tax less than \$100.--A declaration of  
21 estimated tax of an individual, trust or estate having a total  
22 estimated tax for the taxable year of \$100 or less may be filed  
23 at any time on or before January 15 of the succeeding year under  
24 regulations of the department.

25 (f) Amendment of declaration.--An individual, trust or  
26 estate may amend a declaration under regulations of the  
27 department.

28 (g) Filing and paying for full year.--If, on or before  
29 January 31 of the year succeeding a taxable year, an individual,  
30 trust or estate files a return for the entire taxable year for



1 which a declaration was required to be filed within the time  
2 prescribed under subsection (c) (4) and pays the full amount of  
3 the tax due on the return:

4 (1) The return shall be considered the declaration which  
5 was required to be filed no later than January 15.

6 (2) The return shall be considered as the amendment  
7 permitted under subsection (f) to be filed on or before  
8 January 15, if the amount of tax shown on the return is  
9 greater than the amount of estimated tax shown in a  
10 declaration previously made.

11 (h) Noncalendar taxable year.--This subpart shall apply to a  
12 taxable year other than a calendar year by the substitution of  
13 the months of the fiscal year for the corresponding months  
14 specified in this section.

15 (i) Short taxable year.--This subpart shall apply to an  
16 individual, trust or estate having a taxable year of less than  
17 12 months in accordance with regulations of the department.  
18 § 2603. Payments of estimated tax.

19 (a) Payments generally.--Subject to the provisions of  
20 section 2602(i) (relating to declarations of estimated tax), the  
21 estimated tax with respect to which a declaration is required  
22 shall be paid as follows:

23 (1) If the declaration is filed on or before April 15 of  
24 the taxable year, the estimated tax shall be paid in four  
25 equal installments as follows:

26 (i) The first installment shall be paid at the time  
27 the declaration is filed.

28 (ii) The second installment shall be paid on or  
29 before the succeeding June 15.

30 (iii) The third installment shall be paid on or

1 before the succeeding September 15.

2 (iv) The fourth installment shall be paid on or  
3 before the succeeding January 15.

4 (2) If the declaration is not required to be filed on or  
5 before April 15 of the taxable year and is filed after April  
6 15 but before June 16 of the taxable year, the estimated tax  
7 shall be paid in three equal installments as follows:

8 (i) The first installment shall be paid at the time  
9 the declaration is filed.

10 (ii) The second installment shall be paid on the  
11 succeeding September 15.

12 (iii) The third installment shall be paid on the  
13 succeeding January 15.

14 (3) If the declaration is not required to be filed on or  
15 before June 15 of the taxable year and is filed after June 15  
16 but before September 16 of the taxable year, the estimated  
17 tax shall be paid in two equal installments as follows:

18 (i) The first installment shall be paid at the time  
19 the declaration is filed.

20 (ii) The second installment shall be paid on the  
21 succeeding January 15.

22 (4) If the declaration is not required to be filed on or  
23 before September 15 of the taxable year and is filed after  
24 September 15 of the taxable year, the estimated tax shall be  
25 paid in full at the time the declaration is filed.

26 (5) If the declaration is not filed within the time  
27 prescribed in this section or after the expiration of an  
28 extension of time, paragraphs (2), (3) and (4) shall not  
29 apply, and all installments of estimated tax which were due  
30 and payable on or before the date the declaration was filed

1 shall be paid at the time the declaration is filed. Remaining  
2 installments shall be paid at the times and in the amounts as  
3 if the declaration had been filed when due.

4 (b) Farming.--If an individual described in section 2602(d)  
5 (relating to declarations of estimated tax) makes a declaration  
6 of estimated tax after September 15 of the taxable year but  
7 before the following March 1, the estimated tax shall be paid in  
8 full at the time of the filing of the declaration.

9 (c) Amendment of declaration.--

10 (1) If an amendment of a declaration is filed, the  
11 remaining unpaid installments, if any, shall be ratably  
12 increased or decreased to reflect an increase or decrease in  
13 the estimated tax by reason of the amendment.

14 (2) If an amendment is made after September 15 of the  
15 taxable year, an increase in the estimated tax by reason of  
16 the amendment shall be paid at the time the amendment is  
17 made.

## 18 CHAPTER 27

### 19 RETURNS AND PAYMENT OF TAX

20 Sec.

21 2701. Returns and liability.

22 2702. Return of Pennsylvania S corporation.

23 2703. Returns of married, deceased or disabled individuals and  
24 fiduciaries.

25 2704. Time and place for filing returns and paying tax.

26 2705. Signing of returns and other documents.

27 2706. Extension of time.

28 2707. Requirements concerning returns, notices, records and  
29 statements.

30 2708. Timely mailing treated as timely filing and payment.

1 2709. Procedure for claiming special tax provisions.

2 2710. Proof of eligibility.

3 2711. Paid tax return preparers and required information on  
4 personal income tax returns.

5 § 2701. Returns and liability.

6 (a) Tax return.--On or before the date when the taxpayer's  
7 Federal income tax return is due or would be due if the taxpayer  
8 were required to file a Federal income tax return under the  
9 Internal Revenue Code of 1954, a tax return under this subpart  
10 shall be made and filed by or for every taxpayer having income  
11 for the taxable year.

12 (b) Special provisions for members of armed forces.--

13 (1) This subsection shall apply to an individual:

14 (i) serving in the armed forces of the United States  
15 in an area designated by the President of the United  
16 States by Executive order as a "combat zone" as described  
17 in section 7508 of the Internal Revenue Code of 1986, as  
18 amended, at any time during a period designated by the  
19 President by Executive order as the period of combatant  
20 activities in the combat zone;

21 (ii) hospitalized within or outside the United  
22 States as a result of injury received while serving in  
23 the combat zone during that time specified in  
24 subparagraph (i); or

25 (iii) serving in a military capacity as a result of  
26 a Federal callup to active duty or civilian capacity  
27 outside this Commonwealth in support of the armed forces.

28 (2) The period of service in the area specified in  
29 paragraph (1), plus the period of hospitalization within or  
30 outside the United States attributable to injury, and the

1 next 180 days shall be disregarded, with respect to tax  
2 liability under this subpart, including interest, penalty,  
3 additional amount or addition to the tax of the individual,  
4 in determining any of the following:

5 (i) Whether any of the following acts were performed  
6 within the time prescribed in this paragraph:

7 (A) Filing a return of income tax, except income  
8 tax withheld at source.

9 (B) Payment of income tax, except income tax  
10 withheld at source, an installment of income tax  
11 withheld at source or any other tax liability to the  
12 Commonwealth.

13 (C) Filing a petition for redetermination of a  
14 deficiency or review of a decision rendered by the  
15 department.

16 (D) Allowance of a credit or refund of a tax.

17 (E) Filing a claim for credit or refund of a  
18 tax.

19 (F) Bringing suit upon a claim for credit.

20 (G) Assessment of a tax.

21 (H) Giving or making a notice or demand for the  
22 payment of a tax or a tax liability to the  
23 Commonwealth.

24 (I) Collection by the department of a tax  
25 liability.

26 (J) Bringing suit by the Commonwealth, or any  
27 officer on its behalf, in respect of any liability in  
28 respect of any tax.

29 (K) Any other act required or permitted under  
30 this subpart specified in regulations prescribed by

1 the department.

2 (ii) The amount of a credit or refund, including  
3 interest.

4 (3) This subsection shall apply to the spouse of an  
5 individual entitled to the benefits under this subsection.  
6 This paragraph shall not cause this subsection to apply for a  
7 spouse for a taxable year beginning more than one year after  
8 the date of termination of combatant activities in a combat  
9 zone.

10 (4) The period of service in the area referred to in  
11 this subsection shall include the period during which an  
12 individual entitled to benefits under this subsection is in a  
13 missing status.

14 (5) If a qualified individual under paragraph (1) is  
15 killed while serving in a combat zone, the tax liability of  
16 the decedent for the year of death and the immediately prior  
17 year shall be waived by the Commonwealth.

18 § 2702. Return of Pennsylvania S corporation.

19 (a) Annual return.--Each Pennsylvania S corporation shall  
20 make a return for each taxable year stating all of the  
21 following:

22 (1) All items of gross income and deductions.

23 (2) The names and addresses of all persons owning stock  
24 in the corporation at any time during the taxable year.

25 (3) The number of shares of stock owned by each  
26 shareholder at all times during the taxable year.

27 (4) The amount of money and other property distributed  
28 by the corporation during the taxable year to each  
29 shareholder.

30 (5) The date of each distribution.

1       (6) Each shareholder's pro rata share of each item of  
2       the corporation for the taxable year.

3       (7) Other information as the department may require.

4       (b) Time for filing.--The return shall be filed on or before  
5       30 days after the date the corporation's Federal income tax  
6       return is due.

7       (c) Copy of income tax return required.--Each Pennsylvania S  
8       corporation shall also submit to the department a true copy of  
9       the income tax return filed with the Federal Government at the  
10       time the return required under subsection (a) is filed.

11       (d) Statement to shareholders.--Each Pennsylvania S  
12       corporation required to file a return under subsection (a) for a  
13       taxable year shall, on or before the day on which the return for  
14       the taxable year was filed, furnish to each person who is a  
15       shareholder at any time during the taxable year a written  
16       statement of the shareholder's pro rata share of each item on  
17       the corporate return on a form required by the department.

18       § 2703. Returns of married, deceased or disabled individuals  
19       and fiduciaries.

20       (a) Separate liabilities.--If the income tax liability of a  
21       spouse is determined on a separate return, each spouse's tax  
22       liabilities under this subpart shall be separate.

23       (b) Joint liabilities.--If the income tax liabilities of  
24       each spouse are determined on a joint return, the spouses' tax  
25       liabilities under this subpart shall be joint and several.

26       (c) Nonresident spouse.--

27       (1) Subject to paragraph (2), if either spouse is a  
28       resident and the other is a nonresident, the spouses shall  
29       file separate returns under this subpart on a single form or  
30       separate forms as required by the department, in which event

1 the spouses' tax liabilities under this subpart shall be  
2 separate, except as provided in subsection (d).

3 (2) Notwithstanding paragraph (1), spouses may determine  
4 their joint taxable income as if both were residents, in  
5 which event the spouses' tax liabilities under this subpart  
6 shall be joint and several.

7 (d) Excess credited to spouse.--

8 (1) Subject to paragraph (2), if spouses file separate  
9 tax returns under this subpart on a single form under  
10 subsection (a) or (c), the following shall apply:

11 (i) If the sum of the payments by either spouse,  
12 including withheld and estimated taxes, exceeds the  
13 amount of the tax for which the spouse is separately  
14 liable, the excess may be applied by the department to  
15 the credit of the other spouse if the sum of the payments  
16 by the other spouse, including withheld and estimated  
17 taxes, is less than the amount of the tax for which the  
18 other spouse is separately liable.

19 (ii) If the sum of the payments made by both spouses  
20 with respect to the taxes for which the spouses are  
21 separately liable, including withheld and estimated  
22 taxes, exceeds the total of the taxes due, a refund of  
23 the excess may be made payable to both spouses or, if  
24 either is deceased, to the survivor spouse.

25 (2) Paragraph (1) shall not apply if the return of  
26 either spouse includes a demand that an overpayment made by  
27 either spouse shall be applied only on account of the  
28 separate liability.

29 (e) Return of deceased individual.--Except as provided under  
30 subsections (f) and (g), the final return for a deceased



1 individual shall be made, signed and filed by the executor,  
2 administrator or other personal representative charged with the  
3 deceased individual's property.

4 (f) Return of surviving spouse.--

5 (1) The following shall apply:

6 (i) During the year in which a spouse dies, a  
7 surviving spouse may file a return for the year jointly  
8 with the final return of the deceased spouse if the joint  
9 return could have been filed if both spouses were living  
10 for the entire taxable year.

11 (ii) If a personal representative, executor,  
12 administrator or other fiduciary is appointed on behalf  
13 of the deceased spouse before the deceased spouse's tax  
14 return is filed, the surviving spouse may not file a  
15 joint return without the consent of the fiduciary.

16 (iii) If a joint return is filed, both the fiduciary  
17 of the deceased spouse's estate and the surviving spouse  
18 must sign the joint return.

19 (2) The following shall apply:

20 (i) A surviving spouse may make, sign and file the  
21 final tax return of the deceased spouse if the deceased  
22 spouse did not previously file a return for that taxable  
23 year and if a personal representative, executor or  
24 administrator has not been appointed by the time the  
25 return is made, signed and filed.

26 (ii) If the surviving spouse properly files a final  
27 return for the deceased spouse under this paragraph, a  
28 fiduciary who is later appointed for the deceased spouse  
29 may supersede the final return filed by the surviving  
30 spouse by filing a separate return for the deceased

1 spouse.

2 (iii) A joint return improperly filed by the  
3 surviving spouse or superseded by the fiduciary shall be  
4 treated as void.

5 (iv) If the surviving spouse files a return jointly  
6 with the deceased spouse's return under this paragraph  
7 and the return is superseded by the filing of a return by  
8 the deceased spouse's fiduciary, the surviving spouse  
9 shall be required to file a separate return within 90  
10 days of the filing of the fiduciary's return.

11 (v) The surviving spouse's separate return shall be  
12 deemed to be filed on:

13 (A) the day the joint return was filed if the  
14 joint return is filed on time; or

15 (B) the date the department receives it.

16 (g) Joint return for deceased spouses.--

17 (1) If both taxpayers die during the same tax year, a  
18 final return for each deceased spouse may be jointly filed if  
19 a joint return could have been filed had both spouses lived  
20 for the entire taxable year and with the consent of the  
21 personal representatives, executors or administrators of both  
22 deceased spouses under subsection (f) by the due date,  
23 including extensions, of the joint tax return.

24 (2) Both fiduciaries must sign the joint return under  
25 paragraph (1).

26 (h) Individual unable to complete return.--The return for an  
27 individual who is unable to make a return by reason of age or  
28 disability shall be made and filed by a guardian, committee,  
29 fiduciary or other person charged with the care of the  
30 individual and the individual's property or by a duly authorized

1 agent.

2 (i) Estates and trusts.--The return for an estate or trust  
3 shall be made and filed by the fiduciary. If two or more  
4 fiduciaries are acting jointly, the return may be made by any  
5 one of them. If the executor of the estate and trustee of the  
6 trust make an election under section 645 of the Internal Revenue  
7 Code of 1986, as amended, to treat the income of the trust as  
8 part of the estate, the fiduciary may make and file a joint tax  
9 return for the estate and trust under this subsection for the  
10 taxable years when the trust income is reported as part of the  
11 estate income in accordance with section 645 of the Internal  
12 Revenue Code of 1986, as amended. If the income tax liabilities  
13 of the estate and trust are filed on a joint tax return under  
14 this subsection, the tax liabilities of the estate and trust  
15 shall be joint and several. The provisions of subsection (d)  
16 shall be applicable to a joint tax return filed under this  
17 subsection.

18 § 2704. Time and place for filing returns and paying tax.

19 (a) Payment.--A person required to make and file a return  
20 under this subpart shall, without assessment, notice or demand,  
21 pay a tax due to the department on or before the date fixed for  
22 filing the return, as determined without regard to an extension  
23 of time for filing the return.

24 (b) Place and documents for filing.--The department shall  
25 prescribe by regulation the following:

26 (1) The place for filing a return.

27 (2) Forms for returns, declarations, statements or other  
28 documents required under this subpart.

29 (3) Payment of a tax.

30 § 2705. Signing of returns and other documents.

1 (a) Return to be signed.--A return other than an estimated  
2 return under section 2602 (relating to declarations of estimated  
3 tax), statement or other document required to be made under this  
4 subpart shall be signed in accordance with regulations or  
5 instructions prescribed by the department.

6 (b) Partnerships.--A return, statement or other document  
7 required of a partnership shall be signed by one or more  
8 partners. The fact that a partner's name is signed to a return,  
9 statement or other document shall be prima facie evidence for  
10 all purposes that the partner is authorized to sign on behalf of  
11 the partnership.

12 (c) Certification of return, declaration, statement or other  
13 document.--The making or filing of a return, declaration,  
14 statement or other document or copy of a return, declaration,  
15 statement or other document required to be made or filed under  
16 this subpart shall constitute a certification by the person  
17 making or filing the return, declaration, statement or other  
18 document or copy of a return, declaration, statement or other  
19 document that the statements contained in the return,  
20 declaration, statement or other document are true and that a  
21 copy filed is a true copy.

22 § 2706. Extension of time.

23 (a) Authorization.--The department may, upon application,  
24 grant a reasonable extension of time for filing a return,  
25 declaration, statement, or other document required under this  
26 subpart on terms and conditions as the department may require.

27 (b) Limitation.--Except for a taxpayer who is outside the  
28 United States, an extension for filing a return, declaration,  
29 statement or other document shall not exceed six months.

30 § 2707. Requirements concerning returns, notices, records and

1 statements.

2 (a) Regulations.--

3 (1) The department may prescribe by regulation for the  
4 following:

5 (i) The keeping of records.

6 (ii) The content and form of returns, declarations,  
7 statements and other documents.

8 (iii) The filing of copies of Federal income tax  
9 returns and determinations.

10 (2) The department may require a person, by regulation  
11 or notice served upon the person, to make returns, render  
12 statements or keep records as the department deems sufficient  
13 to show whether or not the person is liable for tax under  
14 this subpart.

15 (b) Identifying information.--

16 (1) When required by regulation prescribed by the  
17 department:

18 (i) A person required under the authority of this  
19 subpart to make a return, declaration, statement or other  
20 document shall include in the return, declaration,  
21 statement or other document an identifying number as may  
22 be prescribed for securing proper identification of the  
23 person.

24 (ii) A person with respect to whom a return,  
25 declaration, statement or other document is required  
26 under the authority of this subpart to make a return,  
27 declaration, statement or other document with respect to  
28 another person shall request from the other person, and  
29 shall include in a return, declaration, statement or  
30 other document, an identifying number as may be

1 prescribed for securing proper identification of the  
2 other person.

3 (2) For purposes of this section, the department may  
4 require information necessary to assign an identifying number  
5 to a person.

6 (c) Partnerships, estates and trusts.--

7 (1) The following shall apply:

8 (i) Each partnership, estate or trust having a  
9 resident partner or resident beneficiary or each  
10 partnership, estate or trust having income derived from  
11 sources within this Commonwealth shall make a return for  
12 the taxable year setting forth all items of income, loss  
13 and deduction and other pertinent information as the  
14 department may require.

15 (ii) The return shall be filed on or before the 15th  
16 day of the fourth month following the close of each  
17 taxable year.

18 (iii) For purposes of this subsection, "taxable  
19 year" means the year or period which would be a taxable  
20 year of the partnership if the partnership is subject to  
21 tax under this subpart.

22 (2) Each partnership, estate or trust required to file a  
23 return under paragraph (1) shall also file with the  
24 department a true copy of the income tax return filed with  
25 the Federal Government at the time the return required under  
26 paragraph (1) is filed.

27 (3) Each partnership, estate or trust required to file a  
28 return under paragraph (1) for any taxable year shall, on or  
29 before the day the return is filed, furnish to each partner  
30 or nominee for another person or to each beneficiary to whom

1 the income or gains of the estate or trust is taxable a  
2 written statement of the partner's pro rata share of each  
3 item on the partnership return or the beneficiary's pro rata  
4 share of income on the estate or trust return in a form  
5 required by the department.

6 (4) The following shall apply:

7 (i) A partnership required to file a return under  
8 paragraph (1) for a taxable year shall, on or before the  
9 day the return is filed, furnish to each partner  
10 classified as a corporation, partnership or disregarded  
11 entity for Federal income tax purposes a copy of the  
12 Pennsylvania income tax form reporting corporate partner  
13 apportioned business income or loss.

14 (ii) A reporting partnership shall not be required  
15 to provide a partner who is either a partnership or  
16 disregarded entity a copy of the form if the reporting  
17 partnership is able to determine that an entity  
18 classified as a corporation for Federal income tax  
19 purposes is not an indirect owner of the reporting  
20 partnership.

21 (d) Returns of information.--

22 (1) The department may prescribe regulations requiring  
23 returns of information to be made and filed on or before  
24 February 28 of each year as to the payment or credit in any  
25 calendar year of amounts of \$10 or more to a taxpayer.

26 (2) Returns may be required of:

27 (i) A person, including a lessee or mortgagor of  
28 real or personal property, a fiduciary and an employer.

29 (ii) All officers and employees of this  
30 Commonwealth.

1           (iii) A municipal corporation or political  
2           subdivision of this Commonwealth having the control,  
3           receipt, custody, disposal or payment of interest, rents,  
4           salaries, wages, premiums, annuities, compensations,  
5           remunerations, emoluments or other fixed or determinable  
6           gains, profits or income, except interest coupons payable  
7           to bearer.

8           (3) A duplicate of the statement of tax withheld on  
9           compensation required to be furnished by an employer to an  
10           employee shall constitute the return of information required  
11           to be made under this section with respect to compensation.

12           (e) Gambling and lottery winnings.--A person who is required  
13           to make a form W-2G return to the United States Secretary of the  
14           Treasury in regard to taxable gambling or lottery winnings from  
15           sources within this Commonwealth shall file a copy of the form  
16           with the department by March 1 of each year or, if filed  
17           electronically, by March 31 of each year.

18           (f) Form 1099-MISC.--The following shall apply:

19           (1) A person shall file a copy of form 1099-MISC with  
20           the department and send a copy of the form to a payee by  
21           March 1 of each year or, if filed electronically, by March 31  
22           of each year if the person:

23           (i) makes payments of Pennsylvania source income  
24           that fall within any of the classes of income enumerated  
25           in section 2203(a) (relating to classes of income);

26           (ii) makes payments to an individual, an entity  
27           treated as a partnership for tax purposes or a single  
28           member limited liability company; and

29           (iii) is required to make a form 1099-MISC return to  
30           the United States Secretary of the Treasury with respect



1 to the payments.

2 (2) If the form 1099-MISC filed by a payor with the  
3 United States Secretary of the Treasury is not completed in a  
4 manner that State income and State tax withheld information,  
5 currently boxes 16 through 18 on Federal form 1099-MISC, is  
6 reflected, the payor shall update the copies of form 1099-  
7 MISC to be provided under this section to reflect the  
8 information prior to filing it with the department and  
9 sending it to the payee.

10 (3) If the payor is required to perform electronic  
11 filing for Pennsylvania employer withholding purposes, the  
12 form 1099-MISC shall be filed electronically with the  
13 department.

14 (4) As used in this subsection, the following words and  
15 phrases shall have the meanings given to them in this  
16 paragraph unless the context clearly indicates otherwise:

17 "Payee." The person receiving the payments subject to  
18 withholding under this subsection.

19 "Payments." The term does not include a partner or  
20 shareholder's distributive share of income from a partnership  
21 or Pennsylvania S corporation.

22 "Payor." The person required to withhold under this  
23 subsection.

24 (g) List of partners, members, beneficiaries or  
25 shareholders.--

26 (1) The following shall apply:

27 (i) Each estate, trust, Pennsylvania S corporation  
28 or partnership, other than a publicly traded partnership,  
29 shall maintain at the end of the entity's taxable year an  
30 accurate list of partners, members, beneficiaries and

1 shareholders.

2 (ii) The list shall include the name, current  
3 address and tax identification number of all existing  
4 partners, members, beneficiaries and shareholders and of  
5 all partners, members, beneficiaries and shareholders who  
6 were admitted or who withdrew during the taxable year,  
7 including the date of admittance or withdrawal.

8 (2) If the entity under paragraph (1) does not maintain  
9 an accurate list as required, the tax, penalty and interest  
10 with respect to the entity shall be considered the tax,  
11 penalty and interest of the partnership, estate, trust or  
12 Pennsylvania S corporation and of the general partner, tax  
13 matters partner, corporate officer or trustee.

14 § 2708. Timely mailing treated as timely filing and payment.

15 (a) Timely mailing.--Notwithstanding the provisions of any  
16 State tax law to the contrary, when a report or payment of all  
17 or a portion of a State tax is required by law to be received by  
18 the department or other agency of the Commonwealth on or before  
19 a day certain, the taxpayer shall be deemed to have complied  
20 with the law if the letter transmitting the report or payment of  
21 the tax received by the department is postmarked by the United  
22 States Postal Service on or prior to the final day on which the  
23 payment is due.

24 (b) Receipt as evidence.--For the purposes of this subpart,  
25 presentation of a receipt indicating that the report or payment  
26 was mailed by registered or certified mail on or before the due  
27 date shall be evidence of timely filing and payment.

28 § 2709. Procedure for claiming special tax provisions.

29 The following procedures shall be employed for claiming  
30 special tax provisions:

1       (1) A claimant may claim the special tax provisions upon  
2 the expiration of the taxable year in which the claimant  
3 filed an annual return under this subpart. Notwithstanding  
4 any other provisions of this subpart to the contrary, the  
5 department shall promulgate rules or regulations as it deems  
6 necessary to implement the provisions of this section.

7       (2) If a claimant receives income as defined in this  
8 subpart, other than compensation from an employer, the  
9 claimant may claim the special tax provisions in connection  
10 with the filing of estimated tax returns.

11 § 2710. Proof of eligibility.

12       (a) Establishment of eligibility procedures.--The department  
13 shall establish rules, regulations, schedules and other  
14 procedures necessary for the submission and establishment of  
15 proof of eligibility of persons for special tax provisions or  
16 other matters relating to the provisions of this subpart.

17       (b) Procedures.--Procedures may include, but not be limited  
18 to, the submission of requisite information and certifications  
19 upon forms provided by the department, including special tax  
20 return or report forms as necessary.

21 § 2711. Paid tax return preparers and required information on  
22 personal income tax returns.

23       (a) Signature and tax identification number.--For taxable  
24 years beginning on or after January 1, 2020, a personal income  
25 tax return prepared by a paid tax return preparer shall be  
26 signed by the paid tax return preparer and shall bear the paid  
27 tax return preparer's Internal Revenue Service preparer tax  
28 identification number.

29       (b) Administrative penalty.--The following shall apply:

30       (1) The department may impose an administrative penalty

1 of \$50 on a paid tax return preparer each time the paid tax  
2 return preparer fails to sign the return or fails to provide  
3 the preparer's tax identification number.

4 (2) The maximum amount imposed on any individual paid  
5 tax return preparer under paragraph (1) shall not exceed  
6 \$25,000 per paid tax return preparer in a calendar year.

7 (c) Definitions.--As used in this section, the following  
8 words and phrases shall have the meanings given to them in this  
9 subsection unless the context clearly indicates otherwise:

10 "Paid tax return preparer." A person who prepares for  
11 compensation, or employs one or more persons to prepare for  
12 compensation, a personal income tax return required to be filed  
13 under this title. Preparation of a substantial portion of a  
14 personal income tax return shall be treated as if it were the  
15 preparation of the personal income tax return.

16 CHAPTER 28

17 PROCEDURE AND ADMINISTRATION

18 Sec.

19 2801. Payment on notice and demand.

20 2802. Assessment.

21 2803. Jeopardy assessments.

22 2804. Procedure for reassessment.

23 2805. Collection of tax.

24 2806. Collection upon failure to request reassessment, review  
25 or appeal.

26 2807. Lien for tax.

27 2808. Refund or credit of overpayment.

28 2809. Restrictions on refunds.

29 2810. Limitations on assessment and collection.

30 2811. Extension of limitation period.

- 1 2812. Limitations on refund or credit.  
2 2813. Interest.  
3 2814. Additions, penalties and fees.  
4 2815. Abatement of additions or penalties.  
5 2816. Citation authority.  
6 2817. Crimes.  
7 2818. Rules and regulations.  
8 2819. Examination.  
9 2820. Cooperation with other governmental agencies.

10 2821. Appropriation for refunds.

11 § 2801. Payment on notice and demand.

12 Upon receipt of notice and demand from the department, the  
13 amount of a tax due under the provisions of this subpart stated  
14 in the notice and demand shall be paid.

15 § 2802. Assessment.

16 (a) Duty of department.--The department shall make the  
17 inquiries, determinations and assessments of all taxes imposed  
18 by this subpart.

19 (b) Procedure or time for assessment.--If the procedure or  
20 time for the assessment of a tax is not otherwise provided for,  
21 the department may establish the procedure or time for the  
22 assessment of a tax by regulations.

23 (c) Estimated assessment.--

24 (1) If a taxpayer fails to file a return required by  
25 this subpart, the department may make an estimated assessment  
26 of the proper amount of tax owed by the taxpayer based on  
27 available information.

28 (2) A notice of assessment in the estimated amount shall  
29 be sent to the taxpayer.

30 (3) The tax shall be paid within 90 days after a notice

1 of the estimated assessment has been mailed to the taxpayer,  
2 unless the taxpayer has filed a petition for reassessment in  
3 the manner prescribed by Article XXVII of the Tax Reform Code  
4 of 1971 within the 90-day period.

5 (d) Notice.--A notice of assessment issued by the department  
6 under this subpart shall be mailed to the taxpayer. The notice  
7 shall specify the basis of the assessment.

8 § 2803. Jeopardy assessments.

9 (a) Jeopardy assessments, filing and notice.--If the  
10 department believes that the assessment or the collection of a  
11 deficiency will be jeopardized in whole or in part by delay, the  
12 department may mail or issue notice of the department's finding  
13 to the taxpayer, together with a demand for immediate payment of  
14 the tax or the deficiency declared to be in jeopardy, including  
15 interest, penalties and additions.

16 (b) Closing of taxable year.--The department shall declare  
17 the taxable period for a taxpayer immediately terminated and  
18 shall cause notice of the finding and declaration to be given to  
19 a taxpayer, together with a demand for immediate payment of the  
20 tax for the taxable period declared terminated and the tax for  
21 the preceding taxable year or as much of the tax as is unpaid if  
22 the department believes that a taxpayer is planning to do any of  
23 the following:

24 (1) Leave this Commonwealth to escape tax collection  
25 proceedings.

26 (2) Remove the taxpayer's property from this  
27 Commonwealth to escape tax collection proceedings.

28 (3) Conceal the taxpayer or the taxpayer's property in  
29 this Commonwealth to escape tax collection proceedings.

30 (4) Commit any other act which would prejudice or render

1 ineffectual proceedings to collect the tax for the current or  
2 previous taxable year unless the proceedings are brought  
3 without delay.

4 (c) Jeopardy assessments and collection.--

5 (1) A jeopardy assessment is immediately due and  
6 payable, and proceedings for collection may be commenced  
7 immediately after notice is issued to the taxpayer.

8 (2) The following shall apply:

9 (i) The taxpayer may stay collection and prevent the  
10 jeopardy assessment from becoming final by filing, within  
11 10 days after the date of the notice of jeopardy  
12 assessment, a petition for reassessment, notwithstanding  
13 the provisions of section 2702 of the Tax Reform Code of  
14 1971 to the contrary.

15 (ii) The petition shall be accompanied by a bond or  
16 other security in an amount the department deems  
17 necessary.

18 (iii) The amount of the bond or security may not  
19 exceed double the amount, including interest, penalties  
20 and additions, of tax for which the stay is desired.

21 (d) Final jeopardy assessment.--If a petition for  
22 reassessment, accompanied by bond or other security, is not  
23 filed within the 10-day period, the assessment shall become  
24 final.

25 (e) Hearing on jeopardy assessment.--If a taxpayer requests  
26 a hearing on the petition for reassessment, the department shall  
27 grant the taxpayer or the taxpayer's authorized representative  
28 an oral hearing.

29 (f) Action on petition for reassessment.--

30 (1) The department shall consider the petition for

1 reassessment and notify the taxpayer of the department's  
2 decision.

3 (2) The department's decision as to the validity of the  
4 jeopardy assessment shall be final unless the taxpayer,  
5 within 90 days after notification of the department's  
6 decision, files a petition for review authorized under  
7 section 2704 of the Tax Reform Code of 1971.

8 (g) Presumptive evidence of jeopardy.--

9 (1) In a proceeding brought to enforce payment of taxes  
10 made due and payable under this section, the belief of the  
11 department under subsection (a), whether made after notice to  
12 the taxpayer or not, is presumptive evidence that the  
13 assessment or collection of the tax or the deficiency was in  
14 jeopardy.

15 (2) A certification by the department of the mailing or  
16 issuing of the notices specified in this section is  
17 presumptive evidence that the notices were mailed or issued.

18 § 2804. Procedure for reassessment.

19 A taxpayer against whom an assessment is made may petition  
20 the department for a reassessment under Article XXVII of the Tax  
21 Reform Code of 1971.

22 § 2805. Collection of tax.

23 The department shall collect taxes imposed under this subpart  
24 in the manner provided by law for the collection of taxes  
25 imposed by the laws of this Commonwealth.

26 § 2806. Collection upon failure to request reassessment, review  
27 or appeal.

28 (a) Time frames.--The department may collect a tax:

29 (1) Ninety days after the date a copy of the notice of  
30 assessment was mailed, if no petition for reassessment has



1 been filed.

2 (2) Ninety days after the date of mailing of the notice  
3 of the department's action on the reassessment, if no  
4 petition for review has been filed.

5 (3) Thirty days after the date of mailing of the notice  
6 of the decision of the Board of Finance and Revenue upon a  
7 petition for review or from the expiration of the board's  
8 time for acting upon the petition, if no decision has been  
9 made.

10 (4) Immediately, in all cases of judicial sales,  
11 receiverships, assignments or bankruptcies.

12 (b) Administrative remedies to be exhausted.--In a  
13 proceeding for the collection of the tax imposed under this  
14 subpart, the person against whom the assessment was made shall  
15 not be permitted to set up a ground of defense that might have  
16 been presented to the department, the Board of Finance and  
17 Revenue or the Commonwealth Court if the person had properly  
18 pursued the administrative remedies under this subpart.

19 § 2807. Lien for tax.

20 (a) Lien.--

21 (1) If a person liable to pay a tax neglects or refuses  
22 to pay the tax on the date the tax becomes collectible, the  
23 amount of the tax, together with costs which may accrue in  
24 addition to the tax, shall be a lien in favor of the  
25 Commonwealth against the real and personal property of the  
26 person after the lien has been duly entered and docketed of  
27 record by the prothonotary of the county where the property  
28 is situated.

29 (2) A prothonotary may not require, as a condition  
30 precedent to the entry of the lien, the payment of costs for

1 entry and docketing of the lien.

2 (b) Record and priority of lien.--

3 (1) The department may transmit to the prothonotaries of  
4 the respective counties certified copies of all liens for  
5 taxes imposed under this subpart.

6 (2) A prothonotary receiving a lien from the department  
7 shall enter and docket the lien of record in the  
8 prothonotary's office. Each lien shall be indexed in the same  
9 manner as a judgment.

10 (3) A lien shall have priority to, and be fully paid  
11 before, any other obligation, judgment, claim, lien or estate  
12 paid and satisfied out of the judicial sale of real and  
13 personal property with which the property may subsequently  
14 become charged, or for which the property may subsequently  
15 become liable, subject to mortgage or other liens existing  
16 and duly recorded at the time the tax lien is recorded,  
17 except the cost of sale, the writ upon which the sale is made  
18 and real estate taxes imposed or assessed upon the property.

19 (4) A writ of execution may directly issue upon the lien  
20 without the issuance and prosecution to judgment of a writ of  
21 scire facias if, not less than 10 days before issuance of an  
22 execution on the lien, notice of the filing and effect of the  
23 lien is sent by certified mail to the taxpayer at the  
24 taxpayer's last known mailing address.

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

30 (c) Violation and penalties.--A prothonotary who willfully

1 fails to carry out a duty imposed upon the prothonotary by this  
2 section commits a misdemeanor and shall, upon conviction, be  
3 sentenced to pay a fine not exceeding \$1,000 and costs of  
4 prosecution or to imprisonment for not more than one year, or  
5 both.

6 § 2808. Refund or credit of overpayment.

7 (a) Overpayment.--In the case of a payment of tax not due  
8 under this subpart, the department may credit the amount of the  
9 overpayment against any liability of the tax imposed by this  
10 subpart to the person who made the overpayment and shall refund  
11 any balance to the person.

12 (b) Credit regulations.--The department shall prescribe  
13 regulations providing for the crediting against the estimated  
14 tax for a taxable year of the amount determined to be an  
15 overpayment of the tax for a preceding taxable year.

16 (c) Overpayment of installment.--If a taxpayer has paid as  
17 an installment of estimated tax more than the correct amount of  
18 the installment, the overpayment shall be credited against the  
19 unpaid installments, if any. If the amount paid, whether or not  
20 on the basis of installments, exceeds the amount determined to  
21 be the correct amount of the tax, the overpayment shall be  
22 credited or refunded as provided in subsection (a) or (b).

23 § 2809. Restrictions on refunds.

24 A credit or refund may be made under section 2808 (relating  
25 to refund or credit of overpayment):

26 (1) By reason of the overpayment of an installment of  
27 estimated tax.

28 (2) Upon reassessment.

29 (3) Upon the filing of a final return or amended final  
30 return showing an overpayment of tax.

1 § 2810. Limitations on assessment and collection.

2 (a) Time period for assessment.--The amount of a tax imposed  
3 by this subpart shall be assessed within three years after the  
4 return is filed. For the purposes of this subsection and  
5 subsection (b), a return filed before the last day prescribed  
6 for the filing of the return, or before the last day of an  
7 extension of time for the filing of the return, shall be  
8 considered filed on the last day.

9 (b) Incorrect income filed.--If a taxpayer omits from income  
10 an amount includable in the person's income in excess of 25% of  
11 the amount of income stated in the return, the tax may be  
12 assessed at any time within six years after the return was  
13 filed.

14 (c) No return or amended return filed.--If no return is  
15 filed, or if a taxpayer fails to file an amended return when  
16 required, the amount of the tax due may be assessed at any time.

17 (d) False or fraudulent return.--If a taxpayer files a false  
18 or fraudulent return with intent to evade the tax imposed by  
19 this subpart, the amount of tax due may be assessed at any time.

20 (e) Assessment for erroneous credit or refund.--The  
21 department may file an assessment to recover a refund, part of a  
22 refund, credit or part of a credit which was erroneously made or  
23 allowed within three years of the granting of the refund or  
24 credit or within the period in which an assessment or  
25 reassessment could have been filed by the department with  
26 respect to the taxable period for which the refund was granted,  
27 whichever period occurs later.

28 § 2811. Extension of limitation period.

29 (a) Consent for extension.--Notwithstanding section 2810  
30 (relating to limitations on assessment and collection), if a

1 taxpayer consents in writing to an extension of the time period  
2 for assessment, the amount of tax due may be assessed at any  
3 time within the extended period.

4 (b) Further extensions.--The extension period may be further  
5 extended by subsequent consents in writing made before the  
6 expiration of the extended period.

7 § 2812. Limitations on refund or credit.

8 An application for refund must be filed with the department  
9 under Article XXVII of the Tax Reform Code of 1971 within the  
10 time limits of section 3003.1 of the Tax Reform Code of 1971.

11 § 2813. Interest.

12 (a) Applicability.--This section shall not apply to a  
13 failure to pay estimated tax.

14 (b) Interest generally.--

15 (1) If an amount of tax imposed by Subchapter A of  
16 Chapter 22 (relating to imposition of tax) is not paid on or  
17 before the last date prescribed for payment, interest on the  
18 amount at the rate established under section 806 of the  
19 Fiscal Code shall be paid for the period from the last date  
20 to the date paid.

21 (2) The last date prescribed for payment shall be  
22 determined without regard to any extension of time for filing  
23 the return.

24 (c) Interest on underpayment.--If an amount of tax required  
25 to be withheld by an employer and paid to the department under  
26 Subchapter A of Chapter 25 (relating to withholding tax  
27 generally) is not paid by the due date prescribed under section  
28 2509 (relating to payment of taxes withheld), interest on the  
29 amount at the rate established under section 806 of the Fiscal  
30 Code shall be paid from that date for the period of

1 underpayment.

2 § 2814. Additions, penalties and fees.

3 (a) Addition for failure to file.--

4 (1) In the case of failure to file a return required  
5 under this subpart on the date prescribed for filing,  
6 determined with regard to any extension of time for filing,  
7 unless it is shown that the failure is due to reasonable  
8 cause and not due to willful neglect, 5% shall be added to  
9 the amount required to be shown as tax on the return if the  
10 failure is for not more than one month, with an additional 5%  
11 for each additional month or fraction of a month during which  
12 the failure continues, not to exceed 25% in the aggregate.  
13 The amount added shall not be less than \$5.

14 (2) The amount of tax required to be shown on the return  
15 shall, for purposes of computing the additions for the first  
16 month, be reduced by the amount of any part of the tax which  
17 is paid on or before the date prescribed for payment of the  
18 tax and by the amount of a credit against the tax which may  
19 be claimed on the return.

20 (3) The amount of tax required to be shown on the return  
21 shall, for purposes of computing the addition for any  
22 subsequent month, be reduced by the amount of any part of the  
23 tax which is paid by the beginning of the subsequent month  
24 and by the amount of a credit against the tax which may be  
25 claimed on the return.

26 (b) Addition for underpayment.--

27 (1) If an underpayment of a tax imposed by Chapter 22  
28 (relating to taxation generally) is due to negligence or  
29 intentional disregard of rules and regulations, but without  
30 intent to defraud, 5% of the amount of the underpayment shall

1 be added to the tax.

2 (2) If an underpayment of a tax imposed by Chapter 22 is  
3 due to negligence or intentional disregard of rules and  
4 regulations, but without intent to defraud, and the taxpayer  
5 omits from income an amount includable in the taxpayer's  
6 income in excess of 25% of the amount of income stated in the  
7 return, 25% of the amount of the underpayment shall be added  
8 to the tax.

9 (c) Underpayment due to fraud.--If an underpayment of tax  
10 required under this subpart to be shown on a return is due to  
11 fraud, 50% of the amount of the underpayment shall be added to  
12 the tax. This amount shall be in lieu of any amount determined  
13 under subsection (b) or (h).

14 (d) Underpayment of installments.--

15 (1) The following shall apply:

16 (i) If a taxpayer fails to pay all or part of an  
17 installment of estimated tax, the taxpayer shall be  
18 deemed to have made an underpayment of estimated tax.

19 (ii) An amount shall be added to the tax for the  
20 taxable year at the rate established under section 806 of  
21 the Fiscal Code for the period of the underpayment but  
22 not beyond the 15th day of the fourth month following the  
23 close of the taxable year.

24 (iii) The amount of the underpayment shall be the  
25 excess of the amount of the installment which would be  
26 required to be paid if the estimated tax were equal to  
27 90% of the tax, or two-thirds in the case of an  
28 individual described in section 2602(e) (relating to  
29 declarations of estimated tax), shown on the return for  
30 the taxable year or, if no return was filed, of the tax

1 for the year, over the amount, if any, of the  
2 installments paid on or before the last day prescribed  
3 for payment.

4 (iv) No underpayment shall be deemed to exist with  
5 respect to an installment otherwise due on or after the  
6 taxpayer's death or, in the case of a decedent's estate  
7 or a trust created by the decedent to receive the residue  
8 of the decedent's estate, for a period of two years after  
9 the decedent's death.

10 (2) No addition to tax shall be imposed if the total  
11 amount of all payments of estimated tax made on or before the  
12 last date prescribed for the payment of the installment  
13 equals or exceeds the lesser of the following:

14 (i) The amount required to be paid on or before the  
15 date if the estimated tax were an amount equal to the tax  
16 computed after consideration of the special tax  
17 provisions for poverty at the rates applicable to the  
18 taxable year, but otherwise on the basis of the facts  
19 shown on the return for, and the law applicable to, the  
20 preceding taxable year.

21 (ii) An amount equal to 90% of the tax computed, at  
22 the rates applicable to the taxable year, on the basis of  
23 the actual income for the months in the taxable year  
24 ending before the month in which the installment is  
25 required to be paid, or, in the case of a trust or  
26 estate, an amount equal to 90% of the applicable  
27 percentage of the tax for the taxable year as determined  
28 under section 6654(d)(2)(C)(ii) of the Internal Revenue  
29 Code of 1986, as amended, at rates applicable to the  
30 taxable year computed on an annualized basis in



1 accordance with United States Treasury regulations, based  
2 upon the actual income for the months of the taxable year  
3 ending with the last day of the second preceding month  
4 prior to the month in which the installment is required  
5 to be paid.

6 (e) Penalties.--

7 (1) In addition to other penalties provided by law, a  
8 person required to collect, account for and pay over a tax  
9 imposed by this subpart who willfully fails to collect the  
10 tax or truthfully account for and pay over the tax, or  
11 attempts to evade or defeat a tax or the payment of a tax,  
12 shall be liable to a penalty equal to the total amount of the  
13 tax evaded, not collected or not accounted for and paid over.

14 (2) No penalty shall be imposed under subsection (b),  
15 (c) or (h) for an offense to which this subsection is  
16 applicable.

17 (3) As used in this subsection, the term "person"  
18 includes an officer or employee of a corporation or a member  
19 or employee of a partnership who, as an officer, employee or  
20 member, has a duty to collect, account for and pay over a tax  
21 imposed by this subpart for which the violation occurs.

22 (f) Penalties.--

23 (1) A person required under the provisions of section  
24 2504 (relating to information statement) to furnish a  
25 statement to an employee who willfully furnishes a false or  
26 fraudulent statement, or who willfully fails to furnish a  
27 statement in the manner, at the time and showing the  
28 information required under section 2404 and the regulations  
29 prescribed under section 2404, shall for each failure be  
30 subject to a penalty of \$50 for each employee.

1       (2) A person required to furnish an information return  
2 who furnishes a false or fraudulent return or who fails to  
3 file or provide an information return shall be subject to a  
4 penalty of \$250.

5       (3) Each partnership, estate, trust or Pennsylvania S  
6 corporation required to file a return with the department  
7 under section 2702 (relating to return of Pennsylvania S  
8 corporation) or 2707(c) (relating to requirements concerning  
9 returns, notices, records and statements) who furnishes a  
10 false or fraudulent return or who fails to file the return in  
11 the manner and at the time required under section 2702 or  
12 2707(c) shall, for each failure, be subject to a penalty of  
13 \$250.

14       (4) A person required to file a copy of form 1099-MISC  
15 with the department under section 2707(f) who willfully  
16 furnishes a false or fraudulent form or who willfully fails  
17 to file the form in the manner, at the time and showing the  
18 information required under section 2707(f), shall for each  
19 failure be subject to a penalty of \$50.

20       (5) A person required under section 2707(f) to furnish a  
21 copy of form 1099-MISC to a payee who willfully furnishes a  
22 false or fraudulent form or who willfully fails to furnish a  
23 form in the manner, at the time and showing the information  
24 required by section 2707(f), shall for each failure be  
25 subject to a penalty of \$50.

26       (6) A person required to file an annual statement with  
27 the department under section 2526 (relating to annual  
28 withholding statement) who willfully furnishes a false or  
29 fraudulent statement or who willfully fails to file the  
30 statement in the manner, at the time and showing the

1 information required under section 2526 and the regulations  
2 prescribed under section 2526, shall for each failure be  
3 subject to a penalty of \$50.

4 (7) A person required under the provisions of section  
5 2526 to furnish an annual statement to a lessor who willfully  
6 furnishes a false or fraudulent statement or who willfully  
7 fails to furnish a statement in the manner, at the time and  
8 showing the information required by section 2526 and the  
9 regulations prescribed under section 2526, shall for each  
10 failure be subject to a penalty of \$50.

11 (g) Penalty for underpayment.--

12 (1) If an amount of tax required to be withheld by an  
13 employer and paid over to the department under section 2509  
14 (relating to payment of taxes withheld) or 2510 (relating to  
15 payment of taxes withheld for nonemployer payors) is not paid  
16 on or before the due date prescribed for filing the quarterly  
17 return under section 2507 (relating to time for filing  
18 withholding returns) or 2508 (relating to time for filing  
19 payors' returns), determined without regard to an extension  
20 of time for filing, 5% of the amount of the underpayment  
21 shall be added to the tax and paid to the department for each  
22 month or fraction of a month from the due date for the period  
23 from the due date to the date paid.

24 (2) The underpayment shall, for purposes of computing  
25 the addition for a month, be reduced by the amount of the tax  
26 that is paid by the beginning of that month.

27 (3) The total of the additions shall not exceed 50% of  
28 the amount of tax required to be shown on the return reduced  
29 by the amount of any part of the tax which is paid by the  
30 return due date and by the amount of any credit against the

1 tax which may be claimed on the return.

2 (h) Penalty for incorrect self-assessment.--If an  
3 individual, estate or trust files a return required under  
4 section 2701 (relating to returns and liability) which does not  
5 contain information on which the substantial correctness of the  
6 self-assessment may be judged or which contains information that  
7 on its face indicates that the self-assessment is substantially  
8 incorrect and the self-assessment is due to a position that is  
9 frivolous or a desire which appears on the purported return to  
10 delay or impede the administration of Pennsylvania income tax  
11 laws, the individual, estate or trust shall pay a penalty of  
12 \$500. The penalty imposed by this subsection shall be in  
13 addition to any other penalty provided by law.

14 (i) Penalty for underpayment by partnership, association,  
15 Pennsylvania S corporation or lessee.--

16 (1) If an amount of tax required to be withheld by a  
17 partnership, association, Pennsylvania S corporation or  
18 lessee and paid over to the department under section 2521  
19 (relating to general rule) or 2525 (relating to withholding  
20 on income) is not paid on or before the date prescribed, 5%  
21 of the amount of the underpayment shall be added to the tax  
22 and paid to the department for each month or fraction of a  
23 month from the due date, for the period from the due date to  
24 the date paid.

25 (2) The underpayment shall, for purposes of computing  
26 the addition for any month, be reduced by the amount of any  
27 part of the tax which is paid by the beginning of that month.

28 (3) The total of the additions shall not exceed 50% of  
29 the amount of the tax.

30 § 2815. Abatement of additions or penalties.

1 Upon the filing of a petition for reassessment or petition  
2 for review by a taxpayer, other than an employer, as provided  
3 under this subpart, the department may waive or abate, in whole  
4 or in part, additions or penalties of \$300 or less imposed upon  
5 the taxpayer for a taxable year if the taxpayer has established  
6 that the taxpayer acted in good faith with no negligence or  
7 intent to defraud.

8 § 2816. Citation authority.

9 (a) Penalties.--Notwithstanding any other provision of this  
10 part, a person who does any of the following commits a summary  
11 offense and shall, upon conviction, be subject to the fines and  
12 penalties imposed under section 1335(c) (relating to penalties):

13 (1) Does not pay withholding tax, interest or penalties  
14 within 90 days after the due date, and the tax liability due  
15 has not been timely appealed or subject to a duly authorized  
16 deferred payment plan.

17 (2) Underpays a withholding tax, interest or penalty  
18 within 90 days after the due date, and the tax liability due  
19 has not been timely appealed or subject to a duly authorized  
20 deferred payment plan.

21 (3) Fails to file a tax withholding return, report or  
22 other reporting document within 90 days after the due date of  
23 the applicable payment or return, report or other reporting  
24 document.

25 (b) Additional penalties.--The penalties imposed under this  
26 section shall be in addition to other penalties imposed under  
27 this subpart.

28 (c) Enforcement.--The secretary may designate employees of  
29 the department to enforce this section. Employees shall exhibit  
30 proof of and be within the scope of the designation when

1 instituting proceedings as provided under the Pennsylvania Rules  
2 of Criminal Procedure.

3 § 2817. Crimes.

4 (a) Evasion, defeat or nonpayment of tax.--A person who  
5 willfully attempts in any manner to evade or defeat a tax  
6 imposed by this subpart or the payment of a tax, in addition to  
7 other penalties provided by law, commits a misdemeanor and  
8 shall, upon conviction, be sentenced to pay a fine not exceeding  
9 \$25,000 or to imprisonment not exceeding two years, or both.

10 (b) Failure to collect tax.--A person required under this  
11 subpart to collect, account for and pay over a tax imposed by  
12 this subpart who willfully fails to collect or truthfully  
13 account for and pay over the tax, in addition to other penalties  
14 provided by law, commits a misdemeanor and shall, upon  
15 conviction, be sentenced to pay a fine not exceeding \$25,000 or  
16 to imprisonment not exceeding two years, or both.

17 (c) Failure to supply records or information.--A person  
18 required under this subpart to pay a tax, make a return, keep  
19 records or supply information who willfully fails to pay the  
20 tax, make the return, keep records or supply information at the  
21 time required by law or regulations, in addition to other  
22 penalties provided by law, commits a misdemeanor and shall, upon  
23 conviction, be sentenced to pay a fine not exceeding \$5,000 or  
24 to imprisonment not exceeding two years, or both.

25 (d) False statements or claims.--A person who willfully  
26 makes and subscribes a return, statement or other document that  
27 is verified by a written declaration to be made under the  
28 penalties of perjury and which the person does not believe to be  
29 true and correct as to every material matter, or willfully aids  
30 or assists in, procures, counsels or advises the preparation or

1 presentation of a return, affidavit, claim or other document  
2 which is fraudulent or is false as to a material matter, whether  
3 or not the falsity or fraud is with the knowledge or consent of  
4 the person authorized or required to present the return,  
5 affidavit, claim or document, commits a misdemeanor and shall,  
6 upon conviction, be sentenced to pay a fine not exceeding \$5,000  
7 or to imprisonment not exceeding two years, or both.

8 (e) Fraudulent information.--A person who willfully delivers  
9 or discloses to the department a list, return, account,  
10 statement or other document known by the person to be fraudulent  
11 or false as to a material matter commits a misdemeanor and  
12 shall, upon conviction, be sentenced to pay a fine not exceeding  
13 \$5,000 or to imprisonment not exceeding two years, or both.

14 (f) Disclosure of information.--

15 (1) It shall be unlawful for an officer, agent or  
16 employee of the Commonwealth to divulge or make known in any  
17 manner not provided by law, except for official purposes, to  
18 any person the amount or source of income, profits, losses,  
19 expenditures or other information disclosed in a return, or  
20 to permit a return or copy of a return or a book containing  
21 an abstract or other information to be seen or examined by a  
22 person except as provided by law.

23 (2) It shall be unlawful for a person to print or  
24 publish in any manner not provided by law, a return, part of  
25 a return, source of income, profits, losses or expenditures  
26 appearing in a return.

27 (3) A person who violates paragraph (1) or (2) commits a  
28 misdemeanor and shall, upon conviction, be sentenced to pay a  
29 fine not exceeding \$1,000 or to imprisonment not exceeding  
30 one year, or both, together with the costs of prosecution. If

1 the offender is an officer or employee of the Commonwealth,  
2 the offender shall be dismissed from office or discharged  
3 from employment.

4 (g) Disclosure of information to court.--

5 (1) Notwithstanding subsection (f), it shall be lawful  
6 for an officer or employee of the Commonwealth having custody  
7 of returns to produce the returns or evidence of information  
8 contained in the returns in an action or proceeding in any  
9 court on behalf of the department under the provisions of  
10 this subpart to which the department is a party, or on behalf  
11 of a party to an action or proceeding under the provisions of  
12 this subpart when the returns or facts shown are directly  
13 involved in the action or proceeding where the court requires  
14 the production of and may admit into evidence the returns or  
15 the facts shown by the returns as are pertinent to the action  
16 or proceeding and no more.

17 (2) Nothing in this section shall be construed to  
18 prohibit any of the following:

19 (i) The delivery to a taxpayer or the taxpayer's  
20 duly authorized representative of a certified copy of a  
21 return filed in connection with the taxpayer's tax.

22 (ii) The publication of statistics classified to  
23 prevent the identification of particular returns and the  
24 items of the returns.

25 (iii) The inspection by the Attorney General or  
26 other legal representatives of the Commonwealth of the  
27 return of a taxpayer who shall bring action to review the  
28 tax based on the return or against whom an action or  
29 proceeding has been instituted for the collection or  
30 recovery of the tax imposed by this subpart.



1           (iv) The delivery to the Pennsylvania Higher  
2           Education Assistance Agency of a certified copy or  
3           extract of a State income tax return requested by the  
4           agency for use in determining the eligibility of  
5           applicants for State grants, if the executive director of  
6           the agency certifies that the agency has in its  
7           possession a statement signed by the applicant and the  
8           applicant's parent, parents, guardian or guardians  
9           authorizing the agency to obtain a certified copy or  
10           extract of a State income tax return from the director of  
11           the State Income Tax Bureau.

12 § 2818. Rules and regulations.

13           The department shall enforce the provisions of this subpart  
14           and shall prescribe, adopt, promulgate and enforce rules and  
15           regulations relating to any matter or thing pertaining to the  
16           administration and enforcement of the provisions of this subpart  
17           and the collection of taxes imposed by this subpart.

18 § 2819. Examination.

19           (a) Examination of records.--The department, or an agent  
20           authorized in writing by the department, may examine the books,  
21           papers and records of a taxpayer or supposed taxpayer and  
22           require the production of a copy of the taxpayer's return as  
23           made to and filed with the Federal Government, if one was made  
24           and filed, in order to verify the accuracy of a return made or,  
25           if no return was made, to ascertain and assess the tax imposed  
26           by this subpart.

27           (b) Taxpayer to provide access.--Each taxpayer or supposed  
28           taxpayer is directed and required to give to the department or  
29           the department's duly authorized agent the means, facilities and  
30           opportunity for examinations and investigations as are provided

1 and authorized.

2 (c) Inquisitorial powers.--The department shall examine a  
3 person under oath concerning income which was or should have  
4 been returned for taxation, and may compel the production of  
5 books, papers and records and the attendance of all persons,  
6 whether as parties or witnesses, whom the department believes  
7 have knowledge of the income. The procedure for the hearing or  
8 examination shall be the same as that provided by the Fiscal  
9 Code relating to inquisitorial powers of fiscal officers.

10 § 2820. Cooperation with other governmental agencies.

11 (a) Inspection of returns.--

12 (1) Notwithstanding the provisions of section 2817(f)  
13 (relating to crimes), the department may:

14 (i) permit the United States Commissioner of  
15 Internal Revenue, the proper officer of a political  
16 subdivision of this Commonwealth or any other state  
17 imposing tax based upon the incomes of individuals or the  
18 authorized representative of an officer to inspect the  
19 tax returns of a taxpayer; or

20 (ii) furnish to the officer or the officer's  
21 authorized representative an abstract of the return of  
22 income of a taxpayer or supply to the officer or the  
23 officer's authorized representative information  
24 concerning an item of income contained in a return of a  
25 taxpayer.

26 (2) The following shall apply:

27 (i) Permission shall be granted or information  
28 furnished to an officer or the officer's representative  
29 only if the statutes of the United States or another  
30 state grant substantially similar privileges to the

1 proper officer of this Commonwealth charged with the  
2 administration of the personal income tax law of this  
3 Commonwealth.

4 (ii) An officer or authorized agent of a county  
5 imposing a personal property tax shall be furnished the  
6 following information from the returns upon payment to  
7 the department of the cost of collecting and reproducing  
8 the requested information:

9 (A) The name, address and Social Security number  
10 of the taxpayer.

11 (B) If the taxpayer has reported dividends or  
12 interest.

13 (b) Reciprocal agreements.--

14 (1) The department may enter into an agreement with the  
15 taxing authorities of a state which imposes a tax on or  
16 measured by income to provide that compensation paid in the  
17 state to residents of this Commonwealth shall be exempt from  
18 the tax.

19 (2) Compensation paid in this Commonwealth to residents  
20 of another state shall be exempt from Pennsylvania personal  
21 income tax.

22 (3) The department, in the agreements, may provide for  
23 reciprocal withholding, employer liability, exchange of  
24 information and all other matters relating to cooperation  
25 between the states.

26 § 2821. Appropriation for refunds.

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



1       (1) Notwithstanding subsection (a), a rate of tax  
2 imposed by ordinance of a city of the first class under the  
3 Sterling Act on salaries, wages, commissions, compensation or  
4 other income received or to be received for work done or  
5 services performed within the city by persons who are not  
6 legal residents of the city, shall not, except as otherwise  
7 provided in this section, exceed the tax imposition rate of  
8 4.3125% for the tax year 1977 or for any tax year thereafter.

9       (2) If a city under paragraph (1) by ordinance imposes a  
10 tax rate on residents or nonresidents in excess of the tax  
11 rate under paragraph (1) on the income categories enumerated  
12 in this subpart:

13       (i) The provisions of the ordinance imposing the tax  
14 rate increase on income of persons who are legal  
15 residents of the city shall be deemed valid and legally  
16 effective within the meaning and application of  
17 subsection (a).

18       (ii) The provisions of the ordinance imposing a tax  
19 rate in excess of 4.3125% with respect to persons who are  
20 not legal residents of the city shall be deemed suspended  
21 and without validity to the extent that the tax rate  
22 exceeds the 4.3125% on income of the nonresidents. The  
23 excess tax rate provisions shall remain suspended and  
24 without validity until the date on which the city by  
25 ordinance imposes a rate of tax on income of both legal  
26 residents or nonresidents of the city in excess of the  
27 tax rate imposition of 5.75% per year. In that case, the  
28 General Assembly declares the suspension to be removed  
29 and the tax rate valid as to nonresidents, provided that  
30 the suspension is removed and the rate deemed valid only

1 to the extent the tax rate imposed on income of the  
2 nonresidents does not exceed 75% of the tax rate imposed  
3 by ordinance per year on the income of legal residents of  
4 the city. It is the intention of the General Assembly by  
5 this subsection to impose certain terms and conditions  
6 with respect to the validity and legal effectiveness of  
7 the Sterling Act or an ordinance of the city of the first  
8 class enacted under the Sterling Act which imposes a tax  
9 on the income of nonresidents of the city.

10 (3) Notwithstanding the suspension provisions under this  
11 section, each city of the first class which imposes a tax  
12 under the Sterling Act shall by ordinance direct every  
13 employer maintaining an office or transacting business within  
14 the city and making payment of compensation to a resident  
15 individual or nonresident individual taxpayer performing  
16 services on behalf of the employer within the city to deduct  
17 and withhold from the compensation for each payroll period a  
18 tax computed in a manner as to result, so far as practicable,  
19 in withholding from the employee's compensation during each  
20 calendar year an amount substantially equivalent to the tax  
21 reasonably estimated to be due for that year with respect to  
22 the compensation. The method of determining the amount to be  
23 withheld shall be to withhold the highest amount of tax  
24 imposed with provision in the ordinance to provide refunds of  
25 the excess tax withheld to qualified nonresident taxpayers  
26 within four months of the end of each calendar year.

27 (4) If all or part of the provisions of subsection (b)  
28 are declared by a court to be unconstitutional, it shall be  
29 the duty of the court to construe the remaining provisions of  
30 this subpart in accordance with section 2901 (relating to

1 constitutional construction).

2 (c) Revenue commissioner, deductions and payments.--

3 (1) Each employer having a place of business within this  
4 Commonwealth who employs one or more persons who are  
5 residents of a city of the first class shall:

6 (i) within 30 days after becoming such an employer,  
7 register with the revenue commissioner of a city of the  
8 first class the employer's name and address and other  
9 information as the revenue commissioner may require; and

10 (ii) at the time of payment to the employee, deduct  
11 from the salary, wages, commissions or compensation due  
12 the employee the tax imposed by the city of the first  
13 class on any salary, wage, commission or other  
14 compensation due the employee.

15 (2) An employer required to withhold taxes under this  
16 subsection shall calculate the amount of salary, wages,  
17 commissions and compensation of each employee as determined  
18 under the classes of income under section 2203 (relating to  
19 classes of income).

20 (3) Each employer employing one or more persons who are  
21 residents of a city of the first class who pay a tax imposed  
22 under this subpart shall file a return and pay to the revenue  
23 commissioner the amount of taxes deducted as provided under  
24 paragraph (2). The following shall apply:

25 (i) The return shall be on a form furnished by the  
26 revenue commissioner.

27 (ii) The return shall specify the following:

28 (A) The names and residences of each employee of  
29 that employer during all or any part of the period  
30 covered by the return.

1           (B) The amounts of salaries, wages, commissions  
2           or other compensation earned during the period by  
3           each employee.

4           (C) Other information as the revenue  
5           commissioner may require.

6           (4) The employer shall remit the return and the total  
7           tax deducted in accordance with time frames established by  
8           section 2509 (relating to payment of taxes withheld).

9           (5) Annually, on or before the 28th day of February,  
10          each employer who has filed returns of tax withheld and  
11          remitted the tax through the year shall be required to file  
12          an Employer's Annual Reconciliation of Wage Tax Withheld,  
13          along with a copy of Form W-2 of the Internal Revenue Service  
14          for each employee, other listings or electronic data  
15          processing tapes, setting forth the following information:

16           (i) The name and address of the employer.

17           (ii) The employer's Federal identification number.

18           (iii) The full name and residence address of each  
19          employee.

20           (iv) The employee's Social Security number.

21           (v) The total wages paid during the year before any  
22          deductions.

23           (vi) The employer's city account number.

24          (6) Employers or their designated agents required to  
25          file with the revenue commissioner under this subsection  
26          shall not be required by the revenue commissioner to be  
27          bonded. Employer liability for taxes withheld under this  
28          subsection shall be the same as provided in sections 2511  
29          (relating to liability for withheld taxes) and 2513 (relating  
30          to failure to withhold).



1       (7) If an employer fails to deduct and withhold tax as  
2       prescribed in this subsection, it shall not relieve the  
3       employee from payment of the tax where payment cannot, for  
4       any reason, be obtained from the employer.

5 § 2903. Applicability.

6       (a) General rule.--The tax under this subpart shall first  
7       apply and be imposed upon income received by or accrued to a  
8       taxpayer on and after June 1, 1971.

9       (b) Exception.--A taxpayer who filed returns on the basis of  
10       a fiscal year or who is the beneficiary of an estate or trust or  
11       member of a partnership which files its returns under this  
12       subpart on the basis of a fiscal year shall be subject to tax  
13       for the first taxable period on the portion of the fiscal year  
14       or of the fiscal year of the estate, trust or partnership which  
15       postdates May 31, 1971, as prescribed by the department by  
16       regulations.

17       (c) Additions or penalties.--Section 2814 (relating to  
18       additions, penalties and fees), which provides for additions or  
19       penalties to the tax, shall not take effect until March 20,  
20       1972.

21       Section 3. Repeals are as follows:

22               (1) The General Assembly declares that the repeals under  
23       paragraph (2) are necessary to effectuate the addition of 53  
24       Pa.C.S. Ch. 90.

25               (2) The following are repealed:

26                       (i) Section 1730-E of the act of April 9, 1929  
27                       (P.L.343, No.176), known as The Fiscal Code.

28                       (ii) Section 3171-B(a)(4)(ii) and (iii) and (b)(2)  
29                       of the act of July 28, 1953 (P.L.723, No.230), known as  
30                       the Second Class County Code.

1 (iii) Chapter 13 of the act of June 27, 2006 (1st  
2 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief  
3 Act.

4 (3) The General Assembly declares that the repeal under  
5 paragraph (4) is necessary to effectuate the addition of 53  
6 Pa.C.S. Ch. 90A Subch. F.

7 (4) Section 688 of the act of March 10, 1949 (P.L.30,  
8 No.14), known as the Public School Code of 1949, is repealed.

9 (5) The General Assembly declares that the repeal under  
10 paragraph (6) is necessary to effectuate the addition of 72  
11 Pa.C.S. Pt. II Subpt. A.

12 (6) Article II of the act of March 4, 1971 (P.L.6,  
13 No.2), known as the Tax Reform Code of 1971, is repealed.

14 (7) The General Assembly declares that the repeal under  
15 paragraph (8) is necessary to effectuate the addition of 72  
16 Pa.C.S. Pt. II Subpt. B.

17 (8) Article III of the act of March 4, 1971 (P.L.6,  
18 No.2), known as the Tax Reform Code of 1971, is repealed.

19 (9) The following acts and parts of acts are repealed  
20 insofar as they are inconsistent with this act:

21 (i) Except as provided under paragraph (4), any  
22 provision of the act of March 10, 1949 (P.L.30, No.14),  
23 known as the Public School Code of 1949, and of any other  
24 law relating to the authority of a school district to  
25 levy, assess and collect a tax on real property and the  
26 power of a city of the first class to levy, assess and  
27 collect a tax on real property.

28 (ii) Any provision of the act of August 9, 1963  
29 (P.L.643, No.341), known as the First Class City Public  
30 Education Home Rule Act, and any home rule school

1 district charter adopted under the First Class City  
2 Public Education Home Rule Act.

3 (iii) Except as provided under paragraph (2)(iii),  
4 any provision of the act of June 27, 2006 (1st Sp.Sess.,  
5 P.L.1873, No.1), known as the Taxpayer Relief Act.

6 (10) All acts and parts of acts that are inconsistent  
7 with this act are repealed to the extent of the  
8 inconsistency.

9 Section 4. The addition of 72 Pa.C.S. Pt. II Subpt. A is a  
10 continuation of Article II of the act of March 4, 1971 (P.L.6,  
11 No.2), known as the Tax Reform Code of 1971. The following  
12 apply:

13 (1) Except as otherwise provided in 72 Pa.C.S. Pt. II  
14 Subpt. A, all activities initiated under Article II of the  
15 Tax Reform Code of 1971 shall continue and remain in full  
16 force and effect and may be completed under 72 Pa.C.S. Pt. II  
17 Subpt. A. Orders, regulations, rules and decisions which were  
18 made under Article II of the Tax Reform Code of 1971 and  
19 which are in effect on the effective date of section 3(6) of  
20 this act shall remain in full force and effect until revoked,  
21 vacated or modified under 72 Pa.C.S. Pt. II Subpt. A.

22 Contracts, obligations and collective bargaining agreements  
23 entered into under Article II of the Tax Reform Code of 1971  
24 are not affected nor impaired by the repeal of Article II of  
25 the Tax Reform Code of 1971.

26 (2) Except as set forth in paragraph (3), any difference  
27 in language between 72 Pa.C.S. Pt. II Subpt. A and Article II  
28 of the Tax Reform Code of 1971 is intended only to conform to  
29 the style of the Pennsylvania Consolidated Statutes and is  
30 not intended to change or affect the legislative intent,

1 judicial construction or administration and implementation of  
2 Article II of the Tax Reform Code of 1971.

3 (3) Paragraph (2) does not apply to the addition of the  
4 following provisions:

5 (i) Paragraph (1)(iv) of the definition of the term  
6 "sale at retail" under 72 Pa.C.S. § 1102.

7 (ii) Paragraph (1)(ii)(D) of the definition of the  
8 term "use" under 72 Pa.C.S. § 1102.

9 (iii) 72 Pa.C.S. § 1321(17).

10 (iv) 72 Pa.C.S. § 1321(19).

11 (v) 72 Pa.C.S. § 1321(40).

12 (vi) 72 Pa.C.S. § 1321(59).

13 (vii) 72 Pa.C.S. § 1358.

14 Section 5. The addition of 72 Pa.C.S. Pt. II Subpt. B is a  
15 continuation of Article III of the act of March 4, 1971 (P.L.6,  
16 No.2), known as the Tax Reform Code of 1971. The following  
17 apply:

18 (1) Except as otherwise provided in 72 Pa.C.S. Pt. II  
19 Subpt. B, all activities initiated under Article III of the  
20 Tax Reform Code of 1971 shall continue and remain in full  
21 force and effect and may be completed under 72 Pa.C.S. Pt. II  
22 Subpt. B. Orders, regulations, rules and decisions which were  
23 made under Article III of the Tax Reform Code of 1971 and  
24 which are in effect on the effective date of section 3(8) of  
25 this act shall remain in full force and effect until revoked,  
26 vacated or modified under 72 Pa.C.S. Pt. II Subpt. B.  
27 Contracts, obligations and collective bargaining agreements  
28 entered into under Article III of the Tax Reform Code of 1971  
29 are not affected nor impaired by the repeal of Article III of  
30 the Tax Reform Code of 1971.

1 (2) Except as set forth in paragraph (3), any difference  
2 in language between 72 Pa.C.S. Pt. II Subpt. B and Article  
3 III of the Tax Reform Code of 1971 is intended only to  
4 conform to the style of the Pennsylvania Consolidated  
5 Statutes and is not intended to change or affect the  
6 legislative intent, judicial construction or administration  
7 and implementation of Article III of the Tax Reform Code of  
8 1971.

9 (3) Paragraph (2) does not apply to the addition of the  
10 definition of the terms "compensation," "poverty income" and  
11 "Social Security substitute pension" under 72 Pa.C.S. § 2102.  
12 Section 6. Repeals are applicable as follows:

13 (1) The repeals under section 3 of this act, insofar as  
14 they relate to the prohibition on the levy, assessment or  
15 collection of real property taxes under 53 Pa.C.S. § 9011 by  
16 school districts which use a January to December fiscal year,  
17 shall apply beginning January 1, 2022.

18 (2) The repeals under section 3 of this act, insofar as  
19 they relate to the prohibition on the levy, assessment or  
20 collection of real property taxes under 53 Pa.C.S. § 9011 by  
21 school districts which use a July to June fiscal year, shall  
22 apply beginning July 1, 2022.

23 Section 7. This act shall take effect as follows:

24 (1) The following provisions shall take effect October  
25 1, 2021:

26 (i) The addition of 72 Pa.C.S. Pt. II.

27 (ii) Section 3(6) and (8) of this act.

28 (2) Except as provided in paragraph (1)(ii), section 3  
29 of this act shall take effect January 1, 2022.

30 (3) The remainder of this act shall take effect

1 immediately.

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