

## 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, in preliminary provisions relating to  
11 personal income tax, providing for definitions; and making  
12 related repeals.

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

15 The General Assembly finds and declares as follows:

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

22 (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 in the initial year of school property tax  
23 elimination only. (See 53 Pa.C.S. § 9017.)

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

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

1 Pa.C.S. Ch. 90A Subchs. C and F.) For this purpose,  
2 certain exclusions from taxation are eliminated,  
3 including clothing and certain food and beverages. (See  
4 the definitions of "sale at retail" and "use" in 72  
5 Pa.C.S. § 1102 and see 72 Pa.C.S. § 1321(17), (19) and  
6 (40), which effectuate these changes.)

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

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

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

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

26 CHAPTER 90

27 SCHOOL DISTRICT PROPERTY TAX ELIMINATION

28 Subchapter

29 A. Preliminary Provisions

30 B. Administration



1 "Secretary." The Secretary of Education 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 SUBCHAPTER B

5 ADMINISTRATION

6 Sec.

7 9011. Prohibition.

8 9012. School District Property Tax Elimination Appeals Board.

9 9013. School District Emergency Fund.

10 9014. Supplemental funding.

11 9015. Excess money.

12 9016. Effect on basic education funding allocation.

13 9017. Rent reductions.

14 § 9011. Prohibition.

15 (a) General rule.--Except as provided in subsection (b), for  
16 the first fiscal year beginning after June 30, 2021, and each  
17 fiscal year thereafter, a school district may not levy, assess  
18 or collect real property taxes.

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

21 (c) Penalty.--During any attempt after June 30, 2021, by a  
22 school district to reinstate real property taxes or levy against  
23 real property, the school district shall not be eligible to  
24 receive any future disbursements through the fund.

25 § 9012. School District Property Tax Elimination Appeals Board.

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

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

30 (1) Two representatives of the department, to be

1 appointed by the secretary.

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

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

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

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

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

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

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

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

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

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

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

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

29 (f) Quorum.--A majority of the appointed members of the  
30 board shall constitute a quorum. Action may be taken by the

1 board at a meeting upon a vote of a quorum of its members  
2 present in person or through electronic means.

3 (g) Meetings.--

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

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

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

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

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

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

18 (2) Develop and implement training regarding budget and  
19 financial management for school district officials as a  
20 result of the implementation of the fund.

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

28 (4) Make a determination as to a request for  
29 supplemental funding under section 9014 (relating to  
30 supplemental funding).

1 § 9013. School District Emergency Fund.

2 (a) Establishment.--The School District Emergency Fund is  
3 established as a separate fund in the State Treasury.

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

8 (c) Amount.--During the first two fiscal years immediately  
9 following the base year, \$250,000,000 for each fiscal year shall  
10 be appropriated from the General Fund to the emergency fund.

11 § 9014. Supplemental funding.

12 (a) Application.--

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

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

23 (ii) is subject to Article VI-A of the act of March  
24 10, 1949 (P.L.30, No.14), known as the Public School Code  
25 of 1949.

26 (2) The request for supplemental funding shall specify  
27 the reasons and amount of the request, along with any course  
28 of action that may mitigate the request.

29 (b) Review and determination.--The board shall, in a timely  
30 manner, review the application under subsection (a) and

1 determine the amount of supplemental funding to be received by  
2 the school district from the emergency fund.

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

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

13 § 9015. Excess money.

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

22 § 9016. Effect on basic education funding allocation.

23 This chapter is not intended to alter the basic education  
24 funding allocation.

25 § 9017. Rent reductions.

26 (a) Amount of reduction.--Each landlord shall reduce rental  
27 payments required of each residential or commercial tenant in an  
28 amount equal to the reduction of taxes on real property  
29 attributable to the tenant's unit unless the landlord can  
30 confirm to the department ???? by a written disclosure that

1 prior property tax increases over the past five years were not  
2 passed to each tenant. The amount of tax reduction attributable  
3 to each unit shall be based upon allocated square footage  
4 occupied or other reasonable criteria. The rental amount  
5 specified in a lease shall reflect any reduction in real  
6 property taxes under this chapter.

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

17 (c) Time of reduction.--A landlord shall reduce the rental  
18 payments required of each tenant commencing with the first date  
19 on which the tenant is required to pay rent subsequent to the  
20 effective date of the elimination of the school real property  
21 tax.

## 22 CHAPTER 90A

### 23 COUNTY AND SCHOOL DISTRICT TAXES

#### 24 Subchapter

25 A. Preliminary Provisions

26 B. Subjects of Taxation

27 C. Sales and Use Tax

28 D. Personal Income Tax

29 E. Credits and Exemptions

30 F. Disbursement



1 established under section 90A51 (relating to School District  
2 Property Tax Elimination Fund).

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

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

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

12 "Ordinance." Includes a resolution.

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

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

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

22 § 90A03. Scope and limitations.

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

25 SUBCHAPTER B

26 SUBJECTS OF TAXATION

27 Sec.

28 90A11. General tax authorization.

29 90A12. Continuity of tax.

30 § 90A11. General tax authorization.

1 (a) County.--Each county shall by ordinance levy, assess and  
2 collect or provide for the levying, assessment and collection of  
3 taxes on the subjects specified under this chapter within the  
4 geographical limits of the county.

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

10 § 90A12. Continuity of tax.

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

15 SUBCHAPTER C

16 SALES AND USE TAX

17 Sec.

18 90A21. Construction.

19 90A22. Imposition.

20 90A23. Situs.

21 90A24. Licenses.

22 90A25. Rules and regulations; collection costs.

23 90A26. Procedure and administration.

24 § 90A21. Construction.

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

1 § 90A22. Imposition.

2 (a) Sales.--Each governing body shall, beginning October 1,  
3 2020, levy and assess on each separate sale at retail of  
4 tangible personal property or services, as defined in 72 Pa.C.S.  
5 § 1102 (relating to definitions), within the boundaries of the  
6 county, a tax on the purchase price. The tax shall be collected  
7 by the vendor from the purchaser and shall be paid over to the  
8 Commonwealth.

9 (b) Use.--Each governing body shall, beginning October 1,  
10 2020, levy and assess a tax on the use, within the county, of  
11 tangible personal property purchased at retail and on services  
12 purchased at retail, as defined in 72 Pa.C.S. § 1102 (relating  
13 to definitions), on the purchase price. The tax shall be paid  
14 over to the Commonwealth by the person who makes the use. The  
15 use tax imposed under this subchapter shall not be paid over to  
16 the Commonwealth by any person who has paid the tax imposed  
17 under:

18 (1) Subsection (a).

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

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

27 (d) Rate and uniformity.--

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

30 (2) The tax imposed by subsections (a), (b) and (c)

1 shall be uniform.

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

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

9 § 90A23. Situs.

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

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

28 (c) Telecommunications service.--The situs of  
29 telecommunications service under this chapter shall be  
30 determined in accordance with regulations adopted by the

1 department, which shall be uniform among all counties, and shall  
2 be consistent with regulations promulgated under Subdivision (e)  
3 of Article XXXI-B of the Second Class County Code, 72 Pa.C.S.  
4 Pt. II Subpt. A and Chapter 5 of the Pennsylvania  
5 Intergovernmental Cooperation Authority Act for Cities of the  
6 First Class.  
7 § 90A24. Licenses.

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

15 § 90A25. Rules and regulations; collection costs.

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

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

1 of collection in the preceding fiscal year, together with all  
2 supporting details.

3 § 90A26. Procedure and administration.

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

8 SUBCHAPTER D

9 PERSONAL INCOME TAX

10 Sec.

11 90A31. Construction.

12 90A32. Local personal income tax.

13 90A33. Collections.

14 90A34. Rules and regulations.

15 90A35. Procedure and administration.

16 § 90A31. Construction.

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

24 § 90A32. Local personal income tax.

25 Each school district shall adopt a resolution to, beginning  
26 October 1, 2020, levy, assess and collect a local tax on the  
27 personal income of resident taxpayers of the county up to a  
28 maximum rate of 1.85%.

29 § 90A33. Collections.

30 Each school district imposing a tax under section 90A32

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

9 § 90A34. Rules and regulations.

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

14 § 90A35. Procedure and administration.

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

20 SUBCHAPTER E

21 CREDITS AND EXEMPTIONS

22 Sec.

23 90A41. Credits.

24 90A42. Low-income tax provisions.

25 90A43. Regulations.

26 § 90A41. Credits.

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

1 the personal income tax.

2 § 90A42. Low-income tax provisions.

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

7 § 90A43. Regulations.

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

10 SUBCHAPTER F

11 DISBURSEMENT

12 Sec.

13 90A51. School District Property Tax Elimination Fund.

14 90A52. Payments to counties.

15 90A53. Payments by counties.

16 § 90A51. School District Property Tax Elimination Fund.

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

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

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

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

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

1           (3) Return on money in the fund.

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

4   § 90A52. Payments to counties.

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

12           The General Assembly shall appropriate as much money as  
13           necessary to allow the fund to remain solvent to make the  
14           distributions.

15           (b) Subsequent amounts.--During the fourth fiscal year  
16           immediately following the base year, and each fiscal year  
17           thereafter, the State Treasurer shall make distributions to each  
18           county, on behalf of school districts within the county, from  
19           the fund based on the amount of money contained in the fund in  
20           proportion to the amounts distributed under subsection (a).

21   § 90A53. Payments by counties.

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

25           (b) Disbursement to school districts.--Each county shall  
26           distribute to each school district a portion of the total  
27           disbursement to school districts which is equal to the total  
28           disbursement to school districts multiplied by the ratio of  
29           average daily membership of the school district divided by the  
30           sum of the average daily membership of all school districts in

1 the county. For the purposes of this subsection, the term  
2 "average daily membership" shall mean "average daily membership"  
3 as defined by the act of March 10, 1949 (P.L.30, No.14), known  
4 as the Public School Code of 1949. For school districts located  
5 in more than one county, the average daily membership shall be  
6 multiplied by a factor calculated by dividing the square mileage  
7 of the school district located in the county by the total square  
8 mileage of the school district.

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

10 PART I

11 PRELIMINARY PROVISIONS

12 Chapter

13 1. General Provisions

14 CHAPTER 1

15 GENERAL PROVISIONS

16 Sec.

17 101. Scope of title.

18 102. Definitions.

19 § 101. Scope of title.

20 This title relates to taxation and fiscal affairs.

21 § 102. Definitions.

22 Subject to additional definitions contained in subsequent  
23 provisions of this title which are applicable to specific  
24 provisions under this title, the following words and phrases  
25 when used in this title shall have the meanings given to them in  
26 this section unless the context clearly indicates otherwise:

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

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

30 "Internal Revenue Code of 1954." The Internal Revenue Code

1 of 1954 (68A Stat. 3).

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

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

6 "Mobile Telecommunications Sourcing Act." The Mobile  
7 Telecommunications Sourcing Act (Public Law 106-252, 114 Stat.  
8 626).

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

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

12 PART II

13 STATE TAXATION

14 Subpart

15 A. Sales and Use Tax

16 B. Personal Income Tax

17 SUBPART A

18 SALES AND USE TAX

19 Chapter

20 11. Preliminary Provisions

21 13. Taxation Generally

22 15. Procedure and Administration

23 CHAPTER 11

24 PRELIMINARY PROVISIONS

25 Sec.

26 1101. Scope of subpart.

27 1102. Definitions.

28 § 1101. Scope of subpart.

29 This subpart relates to sales and use tax.

30 § 1102. Definitions.

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

4 "Adjustment services, collection services or credit reporting  
5 services." As follows:

6 (1) A service providing collection or adjustments of  
7 accounts receivable or mercantile or consumer credit  
8 reporting, including, but not limited to, services provided  
9 by an adjustment bureau or collection agency, a consumer or  
10 mercantile credit reporting bureau, a credit bureau or  
11 agency, a credit clearinghouse or a credit investigation  
12 service.

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

14 (i) Providing credit card service with collection by  
15 a central agency.

16 (ii) Providing debt counseling or adjustment  
17 services to individuals.

18 (iii) Billing or collection services provided by a  
19 local exchange telephone company.

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

24 "Building machinery and equipment." As follows:

25 (1) Generation equipment, storage equipment,  
26 conditioning equipment, distribution equipment and  
27 termination equipment, limited to the following:

28 (i) Air conditioning, limited to heating, cooling,  
29 purification, humidification, dehumidification and  
30 ventilation.

1           (ii) Electrical.

2           (iii) Plumbing.

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

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

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

8           (vii) A medical system, limited to diagnosis and  
9 treatment equipment, medical gas, nurse call and doctor  
10 paging.

11           (viii) A laboratory system.

12           (ix) A cathodic protection system.

13           (x) Furniture, cabinetry and kitchen equipment.

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

20           (i) Boilers.

21           (ii) Chillers.

22           (iii) Air cleaners.

23           (iv) Humidifiers.

24           (v) Fans.

25           (vi) Switchgear.

26           (vii) Pumps.

27           (viii) Telephones.

28           (ix) Speakers.

29           (x) Horns.

30           (xi) Motion detectors.

- 1           (xii) Dampers.
- 2           (xiii) Actuators.
- 3           (xiv) Grills.
- 4           (xv) Registers.
- 5           (xvi) Traffic signals.
- 6           (xvii) Sensors.
- 7           (xviii) Card access devices.
- 8           (xix) Guardrails.
- 9           (xx) Medial devices.
- 10          (xxi) Floor troughs.
- 11          (xxii) Grates.
- 12          (xxiii) Laundry equipment.

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

- 14          (i) Guardrail posts.
- 15          (ii) Pipes.
- 16          (iii) Fittings.
- 17          (iv) Pipe supports and hangers.
- 18          (v) Valves.
- 19          (vi) Underground tanks.
- 20          (vii) Wire.
- 21          (viii) Conduit.
- 22          (ix) Receptacle and junction boxes.
- 23          (x) Insulation.
- 24          (xi) Ductwork.
- 25          (xii) Coverings.

26          "Building maintenance or cleaning services." As follows:

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

- 29          (i) Janitorial, maid or housekeeping service.
- 30          (ii) Office or interior building cleaning or

1 maintenance.

2 (iii) Window cleaning.

3 (iv) Floor waxing.

4 (v) Lighting maintenance such as bulb replacement.

5 (vi) Cleaning.

6 (vii) Chimney cleaning.

7 (viii) Acoustical tile cleaning.

8 (ix) Venetian blind cleaning.

9 (x) Cleaning and maintenance of telephone booths.

10 (xi) Cleaning and degreasing of service stations.

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

12 (i) Repairs on buildings and other structures.

13 (ii) Maintenance or repair of boilers, furnaces and  
14 residential air conditioning equipment or parts of  
15 boilers, furnaces and residential air conditioning  
16 equipment.

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

19 (iv) Exterior painting of buildings.

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

22 (1) Aircraft charters.

23 (2) Aircraft leasing.

24 (3) Aircraft sales.

25 (4) Aircraft rental.

26 (5) Flight instruction.

27 (6) Air freight.

28 (7) Other flight activities for compensation.

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

30 (1) Thoroughbred and harness racing at which pari-mutuel

1 wagering is conducted under 3 Pa.C.S. Ch. 93 (relating to  
2 race horse industry reform).

3 (2) Fair racing sanctioned by the State Harness Racing  
4 Commission.

5 "Construction contract." As follows:

6 (1) A written or oral contract or agreement for the  
7 construction, reconstruction, remodeling, renovation or  
8 repair of real estate or a real estate structure.

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

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

13 (ii) Paragraph (1)(vi) or (viii) of the definition  
14 of the term "use."

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

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

18 (1) A service providing disinfecting, termite control,  
19 insect control, rodent control or other pest control  
20 services, including deodorant servicing of restrooms,  
21 washroom sanitation service, restroom cleaning service,  
22 extermination service or fumigating service.

23 (2) As used in this definition:

24 (i) The term "fumigating service" shall not include  
25 the fumigation of agricultural commodities or containers  
26 used for agricultural commodities.

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

30 "Employment agency services." As follows:

1           (1) Providing employment services to a prospective  
2 employer or employee other than employment services provided  
3 by theatrical employment agencies and motion picture casting  
4 bureaus.

5           (2) The term shall include, but not be limited to,  
6 services provided by employment agencies, executive placement  
7 services and labor contractor employment agencies other than  
8 farm labor.

9           "Gratuity." An amount paid or remitted for services  
10 performed in conjunction with a sale of food or beverages or  
11 hotel or motel accommodations when the amount is in excess of  
12 the charges and the tax for the food, beverages or  
13 accommodations, regardless of the method of billing or payment.

14           "Help supply services." As follows:

15           (1) Providing temporary or continuing help where the  
16 help supplied is on the payroll of the supplying person or  
17 entity, but is under the supervision of the individual or  
18 business to which help is furnished.

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

21           (i) Labor and manpower pools.

22           (ii) Employee leasing services.

23           (iii) Office help supply services.

24           (iv) Temporary help services.

25           (v) Usher services.

26           (vi) Modeling services.

27           (vii) Fashion show model supply services.

28           (3) The term shall not include services providing farm  
29 labor or human health-related services, including nursing,  
30 home health care and personal care. As used in this

1 paragraph, the term "personal care" shall include providing  
2 at least one of the following types of assistance to persons  
3 with limited ability for self-care:

4 (i) Dressing, bathing or feeding.

5 (ii) Supervising self-administered medication.

6 (iii) Transferring a person to or from a bed or  
7 wheelchair.

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

11 "Internet." The international nonproprietary computer  
12 network of both Federal and non-Federal interoperable packet  
13 switched data networks.

14 "Lawn care services." Providing services for lawn upkeep,  
15 including, but not limited to, fertilizing, lawn mowing,  
16 shrubbery trimming or other lawn treatment services.

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

20 "Maintaining a place of business in this Commonwealth." As  
21 follows:

22 (1) Any of the following:

23 (i) Having, maintaining or using within this  
24 Commonwealth, either directly or through a subsidiary,  
25 representative or agent, an office, distribution house,  
26 sales house, warehouse, service enterprise or other place  
27 of business. This subparagraph shall include an agent of  
28 general or restricted authority or other representative,  
29 regardless of whether the place of business,  
30 representative or agent is located in this Commonwealth

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

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

21 (iii) Regularly or substantially soliciting orders  
22 within this Commonwealth in connection with the lease,  
23 sale or delivery of tangible personal property or the  
24 performance of services or in connection with the sale or  
25 delivery of the services described under paragraph (1)  
26 (vi), (vii), (viii), (ix), (x), (xi) or (xii) of the  
27 definition of "sale at retail" for residents of this  
28 Commonwealth by means of catalogs or other advertising,  
29 whether the orders are accepted within or without this  
30 Commonwealth.

1 (iv) Entering this Commonwealth to provide assembly,  
2 service or repair of tangible personal property, either  
3 directly or through a subsidiary, representative or  
4 agent.

5 (v) Delivering tangible personal property to  
6 locations within this Commonwealth if the delivery shall  
7 include the unpacking, positioning, placing or assembling  
8 of the tangible personal property.

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

13 (vii) Providing a customer's mobile  
14 telecommunications service deemed to be provided by the  
15 customer's home service provider under the Mobile  
16 Telecommunications Sourcing Act. For purposes of this  
17 subparagraph, words and phrases used in this subparagraph  
18 shall have the meanings given to them in the Mobile  
19 Telecommunications Sourcing Act.

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

21 (i) Owning or leasing of tangible or intangible  
22 property by a person who has contracted with an  
23 unaffiliated commercial printer for printing if the  
24 property is for use by the commercial printer and located  
25 at the Pennsylvania premises of the commercial printer.

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

30 "Manufacture." As follows:

1           (1) The performance of manufacturing, fabricating,  
2 compounding, processing or other operations engaged in as a  
3 business, which place tangible personal property in a form,  
4 composition or character different from that in which it is  
5 acquired, whether for sale or use by the manufacturer.

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

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

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

18           (I) Environmental control systems.

19           (II) Antistatic vertical walls and  
20 manufacturing platforms and floors, which are  
21 independent of the real estate.

22           (III) Process piping systems.

23           (IV) Specialized lighting systems.

24           (V) Deionized water systems.

25           (VI) Process vacuum and compressed air  
26 systems.

27           (VII) Process and specialty gases.

28           (VIII) Alarm or warning devices specifically  
29 designed to warn of threats to the integrity of  
30 the product or people.

1           (B) For purposes of clause (A), the term "clean  
2           room" is a location with a self-contained, sealed  
3           environment with a controlled, closed air system  
4           independent from the facility's general environmental  
5           control system.

6           (ii) The publishing and printing of books,  
7           newspapers, magazines and other periodicals.

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

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

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

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

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

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

16 (A) "Aircraft." A fixed-wing aircraft,  
17 helicopter, powered aircraft, tilt-rotor or tilt-wing  
18 aircraft, unmanned aircraft or glider.

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

21 (C) "Other defense-related vehicles." A truck,  
22 truck-tractor, trailer, jeep or other utility  
23 vehicles, including an unmanned vehicle.

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

1 remanufacturer.

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

3 (i) Constructing, altering, servicing, repairing or  
4 improving real estate.

5 (ii) Repairing, servicing or installing tangible  
6 personal property.

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

8 (iv) The cooking, freezing or baking of fruits,  
9 vegetables, mushrooms, fish, seafood, meats, poultry or  
10 bakery products.

11 "Mobile telecommunications service." Mobile  
12 telecommunications service as defined in the Mobile  
13 Telecommunications Sourcing Act.

14 "Person." A natural person, association, fiduciary,  
15 partnership, corporation or other entity, including the  
16 Commonwealth of Pennsylvania, its political subdivisions and  
17 instrumentalities and public authorities. When used in  
18 prescribing and imposing a penalty, fine or imprisonment, or  
19 both, the term, as applied to an association, shall include the  
20 members of the association and, as applied to a corporation, the  
21 officers of the corporation.

22 "Prebuilt housing." Either of the following:

23 (1) Manufactured housing, including a mobile home, which  
24 bears a label as required by and referred to in the act of  
25 November 17, 1982 (P.L.676, No.192), known as the  
26 Manufactured Housing Construction and Safety Standards  
27 Authorization Act.

28 (2) Industrialized housing as defined in the act of May  
29 11, 1972 (P.L.286, No.70), known as the Industrialized  
30 Housing Act.

1 "Prebuilt housing builder." A person who makes a prebuilt  
2 housing sale to a prebuilt housing purchaser.

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

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

14 "Premium cable or premium video programming service." As  
15 follows:

16 (1) Includes the portion of cable television services,  
17 video programming services, community antenna television  
18 services or other distribution of television, video, audio or  
19 radio services which meets all of the following criteria:

20 (i) Is transmitted with or without the use of wires  
21 to purchasers.

22 (ii) Consists substantially of programming  
23 uninterrupted by paid commercial advertising which shall  
24 include, but not be limited to, programming primarily  
25 composed of uninterrupted full-length motion pictures or  
26 sporting events, pay-per-view, paid programming or audio  
27 or radio broadcasting.

28 (iii) Does not constitute a component of a basic  
29 service tier provided by a cable television system or a  
30 cable programming service tier provided by a cable

1 television system. The following apply:

2 (A) A basic service tier shall include any of  
3 the following:

4 (I) All signals of domestic television  
5 broadcast stations, any public, educational,  
6 governmental or religious programming and  
7 additional video programming signals or service  
8 added to the basic service tier by the cable  
9 operator.

10 (II) A single additional lower-priced  
11 package of broadcast channels and access  
12 information channels which is a subset of the  
13 basic service tier under subclause (I).

14 (B) A cable programming service tier shall  
15 include video programming other than any of the  
16 following:

17 (I) The basic service tier.

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

20 (III) A combination of multiple channels of  
21 pay-per-channel or pay-per-view programming  
22 offered as a package.

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

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

28 (ii) Upgrade to include additional premium cable or  
29 premium video programming service.

30 (iii) Downgrade to exclude all or some premium cable

1 or premium video programming service.

2 (iv) Additional premium cable outlets in excess of  
3 10.

4 (v) Other charges or fees related to premium cable  
5 or premium video programming services.

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

7 (i) Transmissions by public television, public radio  
8 services or official Federal, State or local government  
9 cable services.

10 (ii) Local origination programming which provides a  
11 variety of public service programs unique to the  
12 community, programming which provides coverage of public  
13 affairs issues which are presented without commentary or  
14 analysis, including United States Congressional  
15 proceedings, or programming which is substantially  
16 related to religious subjects.

17 (iii) Subscriber charges for access to a video dial  
18 tone system or charges by a common carrier to a video  
19 programmer for the transport of video programming.

20 "Prepaid mobile telecommunications service." As follows:

21 (1) Mobile telecommunications service which is paid for  
22 in advance and which enables the origination of calls using  
23 an access number, authorization code or both, whether  
24 manually or electronically dialed, if the remaining amount of  
25 units of the prepaid mobile telecommunications service is  
26 known by the service provider of the prepaid mobile  
27 telecommunications service on a continuous basis.

28 (2) The term shall not include the advance purchase of  
29 mobile telecommunications service if the purchase is pursuant  
30 to a service contract between the service provider and

1 customer and if the service contract requires the customer to  
2 make periodic payments to maintain the mobile  
3 telecommunications service.

4 "Prepaid telecommunications." A tangible item containing a  
5 prepaid authorization number that can be used solely to obtain  
6 telecommunications service, including a renewal or increase in  
7 the prepaid amount.

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

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

15 (2) The processing of fruits or vegetables by cleaning,  
16 cutting, coring, peeling or chopping and treating to  
17 preserve, sterilize or purify and substantially extend the  
18 useful shelf life of the fruits or vegetables, when the  
19 person engaged in the activity packages the property in  
20 sealed containers for wholesale distribution.

21 (3) The scouring, carbonizing, cording, combing,  
22 throwing, twisting or winding of natural or synthetic fibers,  
23 or the spinning, bleaching, dyeing, printing or finishing of  
24 yarns or fabrics, when the activities are performed prior to  
25 sale to the ultimate consumer.

26 (4) The electroplating, galvanizing, enameling,  
27 anodizing, coloring, finishing, impregnating or heat treating  
28 of metals or plastics for sale or in the process of  
29 manufacturing.

30 (5) The blanking, shearing, leveling, slitting or

1 burning of metals for sale to or use by a manufacturer or  
2 processor.

3 (6) The rolling, drawing or extruding of ferrous and  
4 nonferrous metals.

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

9 (8) The preparation of animal feed or poultry feed for  
10 sale.

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

13 (10) The operation of a saw mill or planing mill for the  
14 production of lumber or lumber products for sale. The  
15 operation of a saw mill or planing mill begins with the  
16 unloading by the operator of the saw mill or planing mill of  
17 logs, timber, pulpwood or other forms of wood material to be  
18 used in the saw mill or planing mill.

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

20 (12) The aging, stripping, conditioning, crushing and  
21 blending of tobacco leaves for use as cigar filler or as  
22 components of smokeless tobacco products for sale to  
23 manufacturers of tobacco products.

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

28 (14) The processing of used lubricating oils.

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

1       (16) The cooking or baking of bread, pastries, cakes,  
2 cookies, muffins and donuts when the person engaged in the  
3 activity sells the items at retail at locations that do not  
4 constitute an establishment from which ready-to-eat food and  
5 beverages are sold. For purposes of this paragraph, a bakery,  
6 pastry shop and donut shop are not to be considered an  
7 establishment from which ready-to-eat food and beverages are  
8 sold.

9       (17) The cleaning and roasting and the blending,  
10 grinding or packaging for sale of coffee from green coffee  
11 beans or the production of coffee extract.

12       (18) The preparation of dry or liquid fertilizer for  
13 sale.

14       (19) The production, processing and packaging of ice for  
15 wholesale distribution.

16       (20) The producing of mobile telecommunications  
17 services.

18       (21) The collection, washing, sorting, inspecting and  
19 packaging of eggs.

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

25       "Purchase at retail." As follows:

26       (1) Any of the following:

27       (i) The acquisition for a consideration of the  
28 ownership, custody or possession of tangible personal  
29 property other than for resale by the person acquiring  
30 the property when the acquisition is made for the purpose

1 of consumption or use, whether the acquisition is  
2 absolute or conditional, and by whatever means in which  
3 the acquisition is made.

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

8 (iii) The obtaining for a consideration of those  
9 services described under paragraph (1)(ii), (iii) or  
10 (iv) of the definition of the term "sale at retail" other  
11 than for resale.

12 (iv) A retention after March 7, 1956, of possession,  
13 custody or a license to use or consume under a rental  
14 contract or other lease arrangement, other than as  
15 security, other than for resale.

16 (v) The obtaining for a consideration of those  
17 services described under paragraph (1)(vi), (vii),  
18 (viii), (ix), (x), (xi) or (xii) of the definition of  
19 "sale at retail."

20 (2) The term shall include the purchase of liquor from a  
21 Pennsylvania liquor store by a person for any purpose, and  
22 the purchase of malt or brewed beverages from a manufacturer  
23 of malt or brewed beverages, distributor or importing  
24 distributor by a person for any purpose, except purchases  
25 from a manufacturer of malt or brewed beverages by a  
26 distributor or importing distributor or purchases from an  
27 importing distributor by a distributor within the meaning of  
28 the Liquor Code.

29 (3) The term shall not include a purchase of malt or  
30 brewed beverages from a retail dispenser or a purchase of

1 liquor or malt or brewed beverages from a person holding a  
2 retail liquor license under the Liquor Code, but shall  
3 include purchase or acquisition of liquor or malt or brewed  
4 beverages other than under the Liquor Code.

5 "Purchase price." As follows:

6 (1) The total value of anything paid or delivered, or  
7 promised to be paid or delivered, whether it be money or  
8 otherwise, in complete performance of a sale at retail or  
9 purchase at retail without any deduction on account of the  
10 cost or value of the property sold, cost or value of  
11 transportation, cost or value of labor or service, interest  
12 or discount paid or allowed after the sale is consummated,  
13 other taxes imposed by the Commonwealth or other expense,  
14 except that a gratuity and a separately stated deposit charge  
15 for returnable containers shall be excluded.

16 (2) There shall be deducted from the purchase price the  
17 value of any tangible personal property actually taken in  
18 trade or exchange in lieu of the whole or any part of the  
19 purchase price. For the purpose of this paragraph, the amount  
20 allowed by reason of tangible personal property actually  
21 taken in trade or exchange shall be considered the value of  
22 the property.

23 (3) In determining the purchase price on the sale or use  
24 of taxable tangible personal property or a service where,  
25 because of affiliation of interests between the vendor and  
26 purchaser or irrespective of the affiliation, if for any  
27 other reason the purchase price declared by the vendor or  
28 taxpayer on the taxable sale or use of the tangible personal  
29 property or service is determined by the department not to be  
30 indicative of the true value of the article or service or the

1 fair price of the article or service, the department shall,  
2 under uniform and equitable rules, determine the amount of  
3 constructive purchase price upon the basis of which the tax  
4 shall be computed and levied. The rules shall provide for a  
5 constructive amount of purchase price for each sale or use  
6 which would naturally and fairly be charged in an arm's-  
7 length transaction in which the element of common interest  
8 between the vendor or purchaser is absent or if no common  
9 interest exists, any other element causing a distortion of  
10 the price or value is likewise absent. For the purpose of  
11 this paragraph where a taxable sale or purchase at retail  
12 transaction occurs between a parent and a subsidiary,  
13 affiliate or controlled corporation of the parent  
14 corporation, there shall be a rebuttable presumption that  
15 because of the common interest, the transaction was not at  
16 arm's length.

17 (4) Where there is a transfer or retention of possession  
18 or custody, whether it be termed a rental, lease, service or  
19 otherwise, of tangible personal property including, but not  
20 limited to, linens, aprons, motor vehicles, trailers, tires,  
21 industrial office and construction equipment and business  
22 machines, the full consideration paid or delivered to the  
23 vendor or lessor shall be considered the purchase price, even  
24 though the consideration is separately stated and designated  
25 as payment for processing, laundering, service, maintenance,  
26 insurance, repairs, depreciation or otherwise. If the vendor  
27 or lessor supplies or provides an employee to operate the  
28 tangible personal property, the value of the labor supplied  
29 may be excluded and may not be considered as part of the  
30 purchase price if separately stated. There shall also be

1 included as part of the purchase price the value of anything  
2 paid or delivered, or promised to be paid or delivered, by a  
3 lessee, whether money or otherwise, to a person other than  
4 the vendor or lessor by reason of the maintenance, insurance  
5 or repair of the tangible personal property which a lessee  
6 has the possession or custody of under a rental contract or  
7 lease arrangement.

8 (5) With respect to the tax imposed by Subchapter A of  
9 Chapter 13 upon tangible personal property originally  
10 purchased by the user of the property six months or longer  
11 prior to the first taxable use of the property within this  
12 Commonwealth, the user may elect to pay tax on a substituted  
13 base determined by considering the purchase price of the  
14 property for tax purposes to be equal to the prevailing  
15 market price of similar tangible personal property at the  
16 time and place of the first use within this Commonwealth. The  
17 election must be made at the time of filing a tax return with  
18 the department and reporting the tax liability and paying the  
19 proper tax due plus all accrued penalties and interest, if  
20 any, within six months of the due date of the report and  
21 payment, as provided under section 1513(a) and (c) (relating  
22 to time for filing returns).

23 (6) The purchase price of employment agency services and  
24 help supply services shall be the service fee paid by the  
25 purchaser to the vendor or supplying entity. As used in this  
26 paragraph, the term "service fee" is the total charge or fee  
27 of the vendor or supplying entity minus the costs of the  
28 supplied employee, including wages, salaries, bonuses,  
29 commissions, employment benefits, expense reimbursements and  
30 payroll and withholding taxes, to the extent that these costs

1 are specifically itemized or that these costs in aggregate  
2 are stated in billings from the vendor or supplying entity.  
3 To the extent that these costs are not itemized or stated on  
4 the billings, then the service fee shall be the total charge  
5 or fee of the vendor or supplying entity.

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

10 (8) The purchase price of prebuilt housing shall be 60%  
11 of the manufacturer's selling price, but a manufacturer of  
12 prebuilt housing who precollects tax from a prebuilt housing  
13 builder at the time of the sale to the prebuilt housing  
14 builder shall have the option to collect tax on 60% of the  
15 selling price or on 100% of the actual cost of the supplies  
16 and materials used in the manufacture of the prebuilt  
17 housing.

18 "Purchaser." As follows:

19 (1) A person who acquires, for a consideration, the  
20 ownership, custody or possession by sale, lease or otherwise,  
21 of tangible personal property or who obtains services in  
22 exchange for a purchase price.

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

27 "Real estate structure." As follows:

28 (1) A structure or item purchased by a construction  
29 contractor under a construction contract with any of the  
30 following:

1           (i) A charitable organization, volunteer  
2           firefighters' organization, nonprofit educational  
3           institution or religious organization for religious  
4           purposes and which qualifies as an institution of purely  
5           public charity under the act of November 26, 1997  
6           (P.L.508, No.55), known as the Institutions of Purely  
7           Public Charity Act.

8           (ii) The United States.

9           (iii) The Commonwealth, its instrumentalities or  
10          political subdivisions.

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

12          (i) Building machinery and equipment.

13          (ii) Developed or undeveloped land.

14          (iii) Streets, roads and highways.

15          (iv) Parking lots.

16          (v) Stadiums and stadium seating.

17          (vi) Recreational courts.

18          (vii) Sidewalks.

19          (viii) Foundations, structural supports, walls,  
20          floors, ceilings, roofs and doors.

21          (ix) Canopies.

22          (x) Millwork.

23          (xi) Elevators.

24          (xii) Windows and external window coverings.

25          (xiii) Outdoor advertising boards or signs.

26          (xiv) Airport runways.

27          (xv) Bridges, dams and dikes.

28          (xvi) Traffic-control devices, including traffic  
29          signs.

30          (xvii) Satellite dishes and antennas.

1 (xviii) Guardrail posts.

2 (xix) Pipes, fittings, pipe supports and hangers.

3 (xx) Valves.

4 (xxi) Underground tanks.

5 (xxii) Wire, conduit, receptacle and junction boxes.

6 (xxiii) Insulation.

7 (xxiv) Ductwork and ductwork coverings.

8 (xxv) A structure or item similar to the items  
9 listed in subparagraphs (i) through (xxiv), whether the  
10 structure or item constitutes a fixture or is affixed to  
11 the real estate, or whether damage would be done to the  
12 structure or item or its surroundings upon removal.

13 "Resale." As follows:

14 (1) Any of the following:

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

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

1 has undertaken at the time of purchase to cause the  
2 property to be transported in interstate commerce to a  
3 destination outside this Commonwealth.

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

5 (i) Telecommunications services purchased by a cable  
6 operator or video programmer that are used to transport  
7 or deliver cable or video programming services which are  
8 sold in the regular course of business.

9 (ii) Tangible personal property purchased or having  
10 a situs within this Commonwealth solely for the purpose  
11 of being processed, fabricated or manufactured into,  
12 attached to or incorporated into tangible personal  
13 property and then transported outside this Commonwealth  
14 for use exclusively outside this Commonwealth.

15 (3) The term shall not include the sale of malt or  
16 brewed beverages by a retail dispenser or the sale of liquor  
17 or malt or brewed beverages by a person holding a retail  
18 liquor license within the meaning of the Liquor Code.

19 (4) The physical incorporation of tangible personal  
20 property as an ingredient or constituent in the construction  
21 of foundations for machinery or equipment the sale or use of  
22 which is excluded from tax under the provisions of paragraph  
23 (2) (ii) (A), (B), (C) or (D) of the definition of the term  
24 "sale at retail" or paragraph (2) (ii) (A), (B), (C) or (D) of  
25 the definition of the term "use," whether the foundations at  
26 the time of construction or transfer constitute tangible  
27 personal property or real estate.

28 "Resident." Any of the following:

29 (1) A natural person who:

30 (i) is domiciled in this Commonwealth; or

1           (ii) maintains a permanent place of residence within  
2 this Commonwealth and spends in the aggregate more than  
3 60 days of the year within this Commonwealth.

4 (2) A corporation which:

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

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

9           (iii) maintains a place of business within this  
10 Commonwealth.

11 (3) An association, fiduciary, partnership or other  
12 entity which:

13           (i) is domiciled in this Commonwealth;

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

16           (iii) maintains a place of business within this  
17 Commonwealth.

18 "Sale at retail." As follows:

19           (1) Any of the following:

20           (i) A transfer, for a consideration, of the  
21 ownership, custody or possession of tangible personal  
22 property, including the grant of a license to use or  
23 consume whether the transfer is absolute or conditional  
24 and by whatever means in which the transfer is made.

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

30           (iii) The rendition for a consideration of the

1 service of any of the following:

2 (A) Washing, cleaning, waxing, polishing or  
3 lubricating the motor vehicles of another, whether or  
4 not tangible personal property is transferred.

5 (B) Inspecting motor vehicles under the  
6 mandatory requirements of 75 Pa.C.S. (relating to  
7 vehicles).

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

23 (v) The retention of possession, custody or a  
24 license to use or consume tangible personal property or  
25 any further obtaining of services described under  
26 subparagraph (ii), (iii) or (iv) under a rental or  
27 service contract or other arrangement, other than as  
28 security.

29 (vi) The rendition for a consideration of lobbying  
30 services.

1           (vii) The rendition for a consideration of  
2 adjustment services, collection services or credit  
3 reporting services.

4           (viii) The rendition for a consideration of  
5 secretarial or editing services.

6           (ix) The rendition for a consideration of  
7 disinfecting or pest control services, building  
8 maintenance or cleaning services.

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

11           (xi) The rendition for a consideration of lawn care  
12 service.

13           (xii) The rendition for a consideration of self-  
14 storage service.

15           (xiii) The rendition for a consideration of a mobile  
16 telecommunications service.

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

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

20           (ii) Except as provided under paragraph (3), the  
21 rendition of services or the transfer of tangible  
22 personal property including, but not limited to,  
23 machinery and equipment and machinery and equipment parts  
24 and supplies to be used or consumed by the purchaser  
25 directly in the operations of any of the following:

26           (A) The manufacture of tangible personal  
27 property.

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

1           (I) The term "farming" shall include the  
2           propagation and raising of ranch raised fur-  
3           bearing animals and the propagation of game birds  
4           for commercial purposes by holders of propagation  
5           permits issued under 34 Pa.C.S. (relating to  
6           game) and the propagation and raising of horses  
7           to be used exclusively for commercial racing  
8           activities.

9           (II) The term "timbering" shall include any  
10           of the following, except the harvesting of trees  
11           for clearing land for access roads:

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

18                   (b) All operations prior to the  
19                   transport of the harvested product necessary  
20                   for the removal of timber or forest products  
21                   from the site, in-field processing of trees  
22                   into logs or chips, complying with  
23                   environmental protection and safety  
24                   requirements applicable to the harvesting of  
25                   forest products, loading of forest products  
26                   onto highway vehicles for transport to  
27                   storage or processing facilities and  
28                   postharvesting site reclamation, including  
29                   those activities necessary to improve timber  
30                   growth or ensure natural or direct

1 reforestation of the site.

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

8 (D) Processing.

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

11 (i) A vehicle required to be registered under 75  
12 Pa.C.S., except those vehicles used directly by a public  
13 utility engaged in business as a common carrier or to  
14 maintenance facilities or to materials, supplies or  
15 equipment to be used or consumed in the construction,  
16 reconstruction, remodeling, repair or maintenance of real  
17 estate, other than directly used machinery, equipment,  
18 parts or foundations that may be affixed to the real  
19 estate.

20 (ii) Tangible personal property or services to be  
21 used or consumed in managerial sales or other  
22 nonoperational activities or to the purchase or use of  
23 tangible personal property or services by a person other  
24 than the person directly using the property or services  
25 in the operations described under paragraph (2) (ii) (A),  
26 (B), (C) and (D).

27 (iii) The services described under any of the  
28 following:

29 (A) Paragraph (1) (vi), (vii), (viii), (ix), (x),  
30 (xi) and (xii).

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

2 (I) "Adjustment services, collection  
3 services or credit reporting services."

4 (II) "Building maintenance or cleaning  
5 services."

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

11 (IV) "Employment agency services."

12 (V) "Help supply services."

13 (VI) "Lawn care services."

14 (VII) "Lobbying services."

15 (VIII) "Secretarial or editing services."

16 (IX) "Self-storage service."

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

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

24 (ii) Construction materials, supplies or equipment  
25 used to construct, reconstruct, remodel, repair or  
26 maintain a building, road or similar structure.

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

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

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

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

21       (ii) The term shall not include a sale of malt or  
22 brewed beverages by a retail dispenser or a sale of  
23 liquor or malt or brewed beverages by a person holding a  
24 retail liquor license under the Liquor Code, but shall  
25 include a sale of liquor or malt or brewed beverages  
26 other than under the Liquor Code.

27 "Secretarial or editing services." As follows:

28       (1) Providing services which include, but are not  
29 limited to, editing, letter writing, proofreading, resume  
30 writing, typing or word processing.

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

3           "Self-storage service." As follows:

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

8           (2) The term shall not include providing any of the  
9           following:

10           (i) Safe deposit boxes by financial institutions.

11           (ii) Storage in refrigerator or freezer units.

12           (iii) Storage in commercial warehouses.

13           (iv) Facilities for goods distribution.

14           (v) Lockers in airports, bus stations, museums and  
15           other public places.

16           "Show." An event, the primary purpose of which involves the  
17           display or exhibition of tangible personal property or services  
18           for sale, including, but not limited to, a flea market, antique  
19           show, coin show, stamp show, comic book show, hobby show,  
20           automobile show, fair or similar show, whether held regularly or  
21           of a temporary nature, at which more than one vendor displays  
22           for sale or sells tangible personal property or services subject  
23           to tax under Subchapter A of Chapter 13.

24           "Soft drinks." As follows:

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

27           (i) Soda water.

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

30           (iii) Fruit juice when plain or when carbonated

1 water, flavoring or syrup is added.

2 (iv) Carbonated water.

3 (v) Orangeade and lemonade.

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

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

8 (i) Natural fruit or vegetable juices or their  
9 concentrates.

10 (ii) Noncarbonated fruit juice drinks containing not  
11 less than 25% by volume of natural fruit juices or of  
12 fruit juice which has been reconstituted to its original  
13 state, or natural concentrated fruit or vegetable juices  
14 reconstituted to their original state, whether any of the  
15 natural juices are frozen or unfrozen, sweetened or  
16 unsweetened, seasoned with salt or spice or unseasoned.

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

18 (iv) Natural fluid milk or noncarbonated drinks made  
19 from milk derivatives.

20 "Storage." As follows:

21 (1) The keeping or retention of tangible personal  
22 property within this Commonwealth for any purpose, including  
23 the interim keeping, retaining or exercising a right or power  
24 over the tangible personal property.

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

27 "Tangible personal property." As follows:

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

30 (i) Goods, wares and merchandise.

1           (ii) Steam and natural, manufactured and bottled gas  
2 for nonresidential use.

3           (iii) Electricity for nonresidential use.

4           (iv) Prepaid telecommunications.

5           (v) Premium cable or premium video programming  
6 service.

7           (vi) Spirituous or vinous liquor, malt or brewed  
8 beverages and soft drinks.

9           (vii) Interstate telecommunications service  
10 originating or terminating in this Commonwealth and  
11 charged to a service address in this Commonwealth.

12          (viii) Intrastate telecommunications service with  
13 the exception of:

14           (A) Subscriber line charges and basic local  
15 telephone service for residential use.

16           (B) Charges for telephone calls paid for by  
17 inserting money into a telephone accepting direct  
18 deposits of money to operate if the service address  
19 of an intrastate telecommunications service is deemed  
20 to be within this Commonwealth or within a political  
21 subdivision, regardless of how or where billed or  
22 paid. In the case of an interstate or intrastate  
23 telecommunications service, a charge paid through a  
24 credit or payment mechanism which does not relate to  
25 a service address, such as a bank, travel, credit or  
26 debit card, but not including prepaid  
27 telecommunications, is deemed attributable to the  
28 address of origination of the telecommunications  
29 service.

30          (2) The term shall include the following, whether

1 electronically or digitally delivered, streamed or accessed  
2 and whether purchased singly, by subscription or in any other  
3 manner, including maintenance and updates:

4 (i) Video.

5 (ii) Photographs.

6 (iii) Books.

7 (iv) Other taxable printed matter.

8 (v) Applications, commonly known as apps.

9 (vi) Games.

10 (vii) Music.

11 (viii) Other audio, including satellite radio  
12 service.

13 (ix) Canned software, notwithstanding the function  
14 performed, including support, except separately invoiced  
15 help desk or call center support.

16 (x) Other taxable tangible personal property  
17 electronically or digitally delivered, streamed or  
18 accessed.

19 "Taxpayer." A person required to pay or collect the tax  
20 imposed by this subpart.

21 "Telecommunications service." As follows:

22 (1) A one-way transmission or a two-way, interactive  
23 transmission of sounds, signals or other intelligence  
24 converted to like form which effects or is intended to effect  
25 meaningful communications by electronic or electromagnetic  
26 means via wire, cable, satellite, light waves, microwaves,  
27 radio waves or other transmission media.

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

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

- 1           (ii) Private line service.  
2           (iii) Telegraph service.  
3           (iv) Radio repeater service.  
4           (v) Wireless communication service.  
5           (vi) Personal communications system service.  
6           (vii) Cellular telecommunication service.  
7           (viii) Specialized mobile radio service.  
8           (ix) Stationary two-way radio service.  
9           (x) Paging service.

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

11           (i) Subscriber charges for access to a video dial  
12       tone system.

13           (ii) Charges to video programmers for the transport  
14       of video programming.

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

17           (A) The transport over the Internet or a  
18       proprietary network using the Internet protocol of  
19       telephone calls, facsimile transmissions or other  
20       telecommunications traffic to or from end users on  
21       the public switched telephone network if the signal  
22       sent from or received by an end user is not in an  
23       Internet protocol.

24           (B) Telecommunications service purchased by an  
25       Internet service provider to deliver access to the  
26       Internet to its customers.

27           (iv) Mobile telecommunications service.

28       "Transient vendor." As follows:

29           (1) A person who satisfies all of the following  
30       conditions:

1           (i) Brings into this Commonwealth, by automobile,  
2 truck or other means of transportation, or purchases in  
3 this Commonwealth, tangible personal property the sale or  
4 use of which is subject to the tax imposed by this part  
5 or comes into the Commonwealth to perform services the  
6 sale or use of which is subject to the tax imposed by  
7 this part.

8           (ii) Offers or intends to offer tangible personal  
9 property or services for sale at retail within this  
10 Commonwealth.

11           (iii) Does not maintain an established office,  
12 distribution house, saleshouse, warehouse, service  
13 enterprise, residence from which business is conducted or  
14 other place of business within this Commonwealth.

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

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

19           (ii) handcrafts items for sale at special events,  
20 including, but not limited to, fairs, carnivals, art and  
21 craft shows and other festivals and celebrations within  
22 this Commonwealth.

23 "Use." As follows:

24           (1) Any of the following:

25           (i) The exercise of a right or power incidental to  
26 the ownership, custody or possession of tangible personal  
27 property, including, but not limited to, transportation,  
28 storage or consumption.

29           (ii) The obtaining by a purchaser of the service of  
30 any of the following:

1           (A) Printing or imprinting of tangible personal  
2 property when the purchaser furnishes, either  
3 directly or indirectly, the articles used in the  
4 printing or imprinting.

5           (B) Washing, cleaning, waxing, polishing or  
6 lubricating of motor vehicles, whether a tangible  
7 personal property is transferred to the purchaser in  
8 conjunction with the services.

9           (C) Inspecting motor vehicles under the  
10 mandatory requirements of 75 Pa.C.S.

11           (D) Repairing, altering, mending, pressing,  
12 fitting, dyeing, laundering, drycleaning or cleaning  
13 tangible personal property other than wearing apparel  
14 or shoes or applying or installing tangible personal  
15 property as a repair or replacement part of other  
16 tangible personal property other than wearing apparel  
17 or shoes, whether the services are performed directly  
18 or by any means other than by means of coin-operated  
19 self-service laundry equipment for wearing apparel or  
20 household goods, and whether tangible personal  
21 property is transferred to the purchaser in  
22 conjunction with the services, except the services as  
23 are obtained in the construction, reconstruction,  
24 remodeling, repair or maintenance of real estate.  
25 This clause shall not be deemed to impose tax upon  
26 diaper service.

27           (iii) The obtaining by the purchaser of lobbying  
28 services.

29           (iv) The obtaining by the purchaser of adjustment  
30 services, collection services or credit reporting

1 services.

2 (v) The obtaining by the purchaser of secretarial or  
3 editing services.

4 (vi) The obtaining by the purchaser of disinfecting  
5 or pest control services, building maintenance or  
6 cleaning services.

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

9 (viii) The obtaining by the purchaser of lawn care  
10 services.

11 (ix) The obtaining by the purchaser of self-storage  
12 service.

13 (x) The obtaining by a construction contractor of  
14 tangible personal property or services provided to  
15 tangible personal property which will be used under a  
16 construction contract whether or not the tangible  
17 personal property or services are transferred.

18 (xi) The obtaining of mobile telecommunications  
19 service by a customer.

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

21 (i) Tangible personal property acquired and kept,  
22 retained or over which power is exercised within this  
23 Commonwealth on which the taxing of the storage, use or  
24 other consumption is expressly prohibited by the  
25 Constitution of the United States or which is excluded  
26 from tax under other provisions of this subpart.

27 (ii) Except as provided under paragraph (3), the use  
28 or consumption of tangible personal property, including,  
29 but not limited to, machinery and equipment and machinery  
30 and equipment parts and supplies or the obtaining of the

1 services described under paragraph (1) (ii) (A), (B), (C)  
2 or (D) directly in the operations of any of the  
3 following:

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

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

9 (I) The term "farming" shall include the  
10 propagation and raising of ranch-raised  
11 furbearing animals and the propagation of game  
12 birds for commercial purposes by holders of  
13 propagation permits issued under 34 Pa.C.S. and  
14 the propagation and raising of horses to be used  
15 exclusively for commercial racing activities.

16 (II) The term "timbering" shall include any  
17 of the following, except the harvesting of trees  
18 for clearing land for access roads:

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

25 (b) All operations prior to the  
26 transport of the harvested product necessary  
27 for the removal of timber or forest products  
28 from the site, in-field processing of trees  
29 into logs or chips, complying with  
30 environmental protection and safety

1 requirements applicable to the harvesting of  
2 forest products, loading of forest products  
3 onto highway vehicles for transport to  
4 storage or processing facilities and  
5 postharvesting site reclamation, including  
6 those activities necessary to improve timber  
7 growth or ensure natural or direct  
8 reforestation of the site. The term shall not  
9 include the harvesting of trees for clearing  
10 land for access roads.

11 (C) Except as provided under paragraph (4), the  
12 producing, delivering or rendering of a public  
13 utility service or in constructing, reconstructing,  
14 remodeling, repairing or maintaining the facilities  
15 which are directly used in producing, delivering or  
16 rendering the service.

17 (D) Processing.

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

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

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

26 (ii) Maintenance facilities.

27 (iii) Materials, supplies or equipment to be used or  
28 consumed in the construction, reconstruction, remodeling,  
29 repair or maintenance of real estate other than directly  
30 used machinery, equipment, parts or foundations for the

1 maintenance of real estate that may be affixed to the  
2 real estate.

3 (iv) Tangible personal property or services to be  
4 used or consumed in managerial sales or other  
5 nonoperational activities or to the purchase or use of  
6 tangible personal property or services by a person other  
7 than the person directly using the same in the operations  
8 described under paragraph (2) (ii).

9 (v) The services described under any of the  
10 following:

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

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

14 (I) "Adjustment services, collection  
15 services or credit reporting services."

16 (II) "Building maintenance or cleaning  
17 services."

18 (III) "Disinfecting or pest control  
19 services," except that the exclusion provided  
20 under this definition for farming, dairying and  
21 agriculture shall apply to disinfecting or pest  
22 control services.

23 (IV) "Employment agency services."

24 (V) "Help supply services."

25 (VI) "Lawn care services."

26 (VII) "Lobbying services."

27 (VIII) "Secretarial or editing services."

28 (IX) "Self-storage service."

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

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

6 (ii) Tools and equipment used but not installed in  
7 the maintenance of facilities used directly in the  
8 production, delivering or rendition of a public utility  
9 service.

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

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

20 (i) The term shall include the purchase of liquor  
21 from a Pennsylvania liquor store by a person for any  
22 purpose and the purchase of malt or brewed beverages from  
23 a manufacturer of malt or brewed beverages, distributor  
24 or importing distributor by a person for any purpose,  
25 except purchases from a manufacturer of malt or brewed  
26 beverages by a distributor or importing distributor, or  
27 purchases from an importing distributor by a distributor  
28 within the meaning of the Liquor Code.

29 (ii) The term shall not include a purchase of malt  
30 or brewed beverages from a retail dispenser or a purchase

1 of liquor or malt or brewed beverages from a person  
2 holding a retail liquor license under the Liquor Code,  
3 but shall include the exercise of a right or power  
4 incidental to the ownership, custody or possession of  
5 liquor or malt or brewed beverages obtained by the person  
6 exercising the right or power in any manner other than  
7 under the Liquor Code.

8 (7) The use of tangible personal property purchased at  
9 retail upon which the services described under paragraph (1)  
10 (ii) have been performed shall be deemed to be a use of the  
11 services by the person using the property.

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

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

20 CHAPTER 13

21 TAXATION GENERALLY

22 Subchapter

23 A. Imposition of Tax

24 B. Computation of Tax

25 C. Exclusions from Tax

26 D. Licenses

27 E. Hotel Occupancy Tax

28 F. Remote Sellers

29 SUBCHAPTER A

30 IMPOSITION OF TAX

1 Sec.

2 1301. Sale of tangible personal property or services.

3 1302. Use of tangible personal property or services.

4 1303. Telecommunications service.

5 1304. Coin-operated vending machines.

6 1305. Prepaid telecommunications.

7 1306. Prepaid mobile communications service.

8 1307. Prebuilt housing.

9 1308. Mobile telecommunications services.

10 § 1301. Sale of tangible personal property or services.

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

14 (b) Collection.--The tax under this section shall be  
15 collected by the vendor or other person required by this part  
16 from the purchaser and shall be paid to the Commonwealth as  
17 provided in this subpart.

18 § 1302. Use of tangible personal property or services.

19 (a) Imposition.--There is imposed upon the use, on or after  
20 the effective date of this section, within this Commonwealth of  
21 tangible personal property purchased at retail on or after the  
22 effective date of this section and on those services described  
23 in this chapter and purchased at retail on or after the  
24 effective date of this section a tax of 6% of the purchase  
25 price.

26 (b) Collection.--The tax under this section shall be paid to  
27 the Commonwealth by the person who makes the use as provided  
28 under subsection (a), except that the tax shall not be paid to  
29 the Commonwealth by the person if the person has paid the tax  
30 imposed by section 1301 (relating to sale of tangible personal

1 property or services) or has paid the tax imposed by this  
2 section to the vendor with respect to the use. The tax at the  
3 rate of 6% imposed by this section shall not be deemed  
4 applicable if the tax has been incurred under the former act of  
5 March 6, 1956 (1955 P.L.1228, No.381), known as the Tax Act of  
6 1963 for Education.  
7 § 1303. Telecommunications service.

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

15 (b) Exception.--Charges for telephone calls paid for by  
16 inserting money into a telephone accepting direct deposits of  
17 money to operate shall not be subject to the tax under this  
18 section.

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

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

1 § 1304. Coin-operated vending machines.

2 Notwithstanding any other provision of this subpart, the sale  
3 or use of food and beverages dispensed by means of a coin-  
4 operated vending machine shall be taxed at the rate of 6% of the  
5 receipts collected from the machine which dispenses food and  
6 beverages taxable under this subpart.

7 § 1305. Prepaid telecommunications.

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

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

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

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

29 § 1306. Prepaid mobile communications service.

30 (a) Imposition.--Notwithstanding any other provision of this

1 subpart, the sale or use of prepaid mobile telecommunications  
2 service evidenced by the transfer of tangible personal property  
3 shall be subject to the tax imposed by sections 1301 (relating  
4 to sale of tangible personal property or services) and 1302  
5 (relating to use of tangible personal property or services).

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

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

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

23 § 1307. Prebuilt housing.

24 Notwithstanding any other provision of this subpart, tax with  
25 respect to sales of prebuilt housing shall be imposed on the  
26 prebuilt housing builder at the time of the prebuilt housing  
27 sale within this Commonwealth and shall be paid and reported by  
28 the prebuilt housing builder to the department in the time and  
29 manner provided in this subpart, but a manufacturer of prebuilt  
30 housing may, at its option, precollect the tax from the prebuilt

1 housing builder at the time of sale to the prebuilt housing  
2 builder. In any case where prebuilt housing is purchased and the  
3 tax is not paid by the prebuilt housing builder or precollected  
4 by the manufacturer, the prebuilt housing purchaser shall remit  
5 tax directly to the department if the prebuilt housing is used  
6 in this Commonwealth without regard to whether the prebuilt  
7 housing becomes a real estate structure.

8 § 1308. Mobile telecommunications services.

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

23 SUBCHAPTER B

24 COMPUTATION OF TAX

25 Sec.

26 1311. Computation.

27 § 1311. Computation.

28 The amount of tax imposed by Subchapter A (relating to  
29 imposition of tax) shall be computed as follows:

30 (1) If the purchase price is 10¢ or less, no tax shall

1 be collected.

2 (2) If the purchase price is 11¢ or more but less than  
3 18¢, 1¢ shall be collected.

4 (3) If the purchase price is 18¢ or more but less than  
5 35¢, 2¢ shall be collected.

6 (4) If the purchase price is 35¢ or more but less than  
7 51¢, 3¢ shall be collected.

8 (5) If the purchase price is 51¢ or more but less than  
9 68¢, 4¢ shall be collected.

10 (6) If the purchase price is 68¢ or more but less than  
11 85¢, 5¢ shall be collected.

12 (7) If the purchase price is 85¢ or more but less than  
13 \$1.01, 6¢ shall be collected.

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

19 SUBCHAPTER C

20 EXCLUSIONS FROM TAX

21 Sec.

22 1321. Exclusions.

23 1322. Alternate imposition of tax and credits.

24 1323. Credit against tax.

25 § 1321. Exclusions.

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

28 (1) The sale at retail or use of tangible personal  
29 property, other than a motor vehicle, trailer, semitrailer,  
30 motor boat, aircraft or other similar tangible personal

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

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

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

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

2           (i) Disposable diapers.

3           (ii) Premoistened wipes.

4           (iii) Incontinence products.

5           (iv) Colostomy deodorants.

6           (v) Toilet paper.

7           (vi) Sanitary napkins, tampons or similar items used  
8           for feminine hygiene.

9           (vii) Toothpaste, toothbrushes or dental floss.

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

11          (i) Steam.

12          (ii) Natural, manufactured and bottled gas.

13          (iii) Fuel oil.

14          (iv) Electricity.

15          (v) Intrastate subscriber line charges, basic local  
16          telephone service or telegraph service when purchased  
17          directly by the user solely for the user's own  
18          residential use.

19          (vi) Charges for a telephone call paid for by  
20          inserting money into a telephone accepting direct  
21          deposits of money to operate.

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

25                (i) The exclusion under this paragraph applies to  
26                any of the following:

27                    (A) A charitable organization.

28                    (B) A volunteer firefighters' organization.

29                    (C) A volunteer firefighters' relief association  
30                    as defined in 35 Pa.C.S. § 7412 (relating to

1 definitions).

2 (D) A nonprofit educational institution.

3 (E) A religious organization for religious  
4 purposes.

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

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

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

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

27 (iv) If the department ascertains that an  
28 organization or association no longer qualifies as an  
29 institution of purely public charity, the department may  
30 revoke the sales tax-exempt status of the organization or

1       association.

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

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

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

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

27       (11) The sale at retail of tangible personal property or  
28 services used or consumed in building, rebuilding, repairing,  
29 making an addition to or making a replacement in and upon a  
30 vessel designed for commercial use of registered tonnage of

1 50 tons or more upon special order of the purchaser or if the  
2 vessel is rebuilt, repaired or enlarged or when a replacement  
3 is made to the vessel upon order of or for the account of the  
4 owner.

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

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

12 (i) Prescription or nonprescription medicines, drugs  
13 or medical supplies.

14 (ii) Crutches and wheelchairs for the use of  
15 individuals with disabilities.

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

19 (iv) False teeth and materials used by a dentist in  
20 dental treatment.

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

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

26 (vii) Any other therapeutic, prosthetic or  
27 artificial device designed for the use of a particular  
28 individual to correct or alleviate a physical incapacity,  
29 including, but not limited to, a hospital bed, iron lung  
30 or kidney machine.

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

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

5           (i) sold to a nonresident of this Commonwealth to be  
6 used outside this Commonwealth; and

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

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

10          (17) (Reserved).

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

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

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

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

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

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

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

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

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

19           (27) (Reserved).

20           (28) The sale at retail of a horse if, at the time of  
21 purchase, the seller is directed to ship or deliver the horse  
22 to an out-of-State location, whether or not the charges for  
23 shipment are paid for by the seller or the purchaser. The  
24 following apply:

25           (i) The seller shall obtain a bill of lading, either  
26 from the carrier or from the purchaser, who, in turn, has  
27 obtained the bill of lading from the carrier reflecting  
28 delivery to the out-of-State address to which the horse  
29 has been shipped. The seller shall execute a Certificate  
30 of Delivery to Destination Outside of the Commonwealth

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

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

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

19 (30) The sale at retail of supplies and materials to  
20 tourist promotion agencies that receive grants from the  
21 Commonwealth for distribution to the public as promotional  
22 material or the use of the supplies and materials by a  
23 tourist promotion agency.

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

29 (31.1) The sale at retail of supplies and materials to  
30 tourist promotion agencies that receive grants from the

1 Commonwealth for distribution to the public as promotional  
2 material or the use of the supplies and materials by a  
3 tourist promotion agency.

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

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

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

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

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

28 (37) The sale at retail or use of food and beverages by  
29 nonprofit associations which support sports programs. As used  
30 in this paragraph:

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

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

1           (iii) "Support" means that the funds raised from  
2           sales are used to pay the expenses of a sports program or  
3           that the nonprofit association sells food and beverages  
4           at a location where a sports program is being conducted  
5           under this subpart.

6           (38) The sale at retail or use of a subscription for a  
7           magazine, including printed advertising materials circulated  
8           with the periodical or publication, regardless of where or by  
9           whom the printed advertising material was produced. As used  
10           in this paragraph, the term "magazine" means a periodical  
11           published at regular intervals not exceeding three months,  
12           which is circulated among the general public, containing  
13           matters of general interest and reports of current events  
14           published for the purpose of disseminating information of a  
15           public character or devoted to literature, the sciences, art  
16           or some special industry.

17           (39) The sale at retail or use of an interior office  
18           building cleaning service, but only as it relates to the  
19           costs of the supplied employee, including wages, salaries,  
20           bonuses and commissions, employment benefits, expense  
21           reimbursements and payroll and withholding taxes, to the  
22           extent that these costs are specifically itemized or that  
23           these costs in aggregate are stated in billings from the  
24           seller or supplying entity.

25           (40) (Reserved).

26           (41) The sale at retail or use of a horse to be used  
27           exclusively for commercial racing activities and the sale at  
28           retail and use of feed, bedding, grooming supplies, riding  
29           tack, farrier services, portable stalls and sulkies for a  
30           horse used exclusively for commercial racing activities.

1       (42) The sale at retail or use of tangible personal  
2 property or services used, transferred or consumed in  
3 installing or repairing equipment or a device designed to  
4 assist a person in ascending or descending a stairway when  
5 all of the following conditions are met:

6       (i) The equipment or device is used by a person who,  
7 by virtue of a physical disability, is unable to ascend  
8 or descend stairs without the aid of the equipment or  
9 device.

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

12       (iii) A physician has certified the physical  
13 disability of the person in whose residence the equipment  
14 or device is installed or used.

15       (43) The sale at retail to or use by a construction  
16 contractor of building machinery and equipment and services  
17 that are transferred:

18       (i) under a construction contract for a charitable  
19 organization, volunteer firefighters' organization,  
20 volunteer firefighters' relief association, nonprofit  
21 educational institution or religious organization for  
22 religious purposes, if the building machinery and  
23 equipment and services are not used in any unrelated  
24 trade or business; or

25       (ii) to the United States or the Commonwealth or its  
26 instrumentalities or political subdivisions.

27       (44) (Reserved).

28       (45) The sale at retail or use of a mold and related  
29 mold equipment used directly and predominantly in the  
30 manufacture of a product, notwithstanding whether the person

1 that holds title to the equipment manufactures a product.

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

3 (47) The sale at retail to or use of food and  
4 nonalcoholic beverages by an airline which will transfer the  
5 food or nonalcoholic beverages to passengers in connection  
6 with the rendering of the airline service.

7 (48) The sale at retail or use of tangible personal  
8 property or services which are directly used in farming,  
9 dairying or agriculture when engaged in as a business  
10 enterprise, whether or not the sale is made to the person  
11 directly engaged in the business enterprise or to a person  
12 contracting with the person directly engaged in the business  
13 enterprise for the production of food.

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

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

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

26 (ii) takes place during the period when there is a  
27 declaration of disaster emergency under 35 Pa.C.S. §  
28 7301(c) (relating to general authority of Governor).

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

1           (i) "Investment metal bullion" means an elementary  
2 precious metal which has been put through a process of  
3 smelting or refining, including gold, silver, platinum  
4 and palladium, and which is in a state or condition that  
5 its value depends upon its content and not its form. The  
6 term shall not include a precious metal which has been  
7 assembled, fabricated, manufactured or processed in one  
8 or more specific and customary industrial, professional,  
9 aesthetic or artistic uses.

10           (ii) "Investment coins" means numismatic coins or  
11 other forms of money and legal tender manufactured of  
12 gold, silver, platinum, palladium or other metal and of  
13 the United States or any foreign nation with a fair  
14 market value greater than any nominal value of such  
15 coins. The term shall not include commemorative  
16 medallions or jewelry or works of art made of coins.

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

20           (i) The term "court" shall include any of the  
21 following:

22                   (A) An appellate court as defined in 42 Pa.C.S.  
23 § 102 (relating to definitions).

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

26                   (C) The minor judiciary as defined in 42 Pa.C.S.  
27 § 102.

28           (ii) The term "government agency" shall mean an  
29 agency as defined in section 102 of the act of February  
30 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

1           (iii) The term "official document" shall mean a  
2           record as defined in section 102 of the Right-to-Know  
3           Law. The term shall include notes of court testimony, a  
4           deposition transcript, driving record, accident report,  
5           birth and death certificate, deed, divorce decree and  
6           other similar documents.

7           (53) The sale at retail or use of repair or replacement  
8           parts, including the installation of those parts, exclusively  
9           for use in a helicopter and similar rotorcraft or in the  
10           overhauling or rebuilding of a helicopter and similar  
11           rotorcraft or helicopter and similar rotorcraft components.

12           (54) The sale at retail or use of a helicopter or  
13           similar rotorcraft.

14           (55) The sale at retail or use of aircraft parts,  
15           services to aircraft and aircraft components. For purposes of  
16           this paragraph, the term "aircraft" shall include a fixed-  
17           wing aircraft, powered aircraft, tilt-rotor or tilt-wing  
18           aircraft, glider or unmanned aircraft.

19           (56) The sale at retail or use of services related to  
20           the set up, tear down or maintenance of tangible personal  
21           property rented by an authority to exhibitors at a convention  
22           center or a public auditorium, established under any of the  
23           following:

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

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

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

30   § 1322. Alternate imposition of tax and credits.

1 (a) Motor vehicle, trailer or semitrailer.--If a person  
2 actively and principally engaged in the business of selling new  
3 or used motor vehicles, trailers or semitrailers, and registered  
4 with the department in the "dealer's class," acquires a motor  
5 vehicle, trailer or semitrailer for the purpose of resale, and  
6 prior to the resale, uses the motor vehicle, trailer or  
7 semitrailer for a taxable use under this subpart, the person may  
8 elect to pay a tax equal to 6% of the fair rental value of the  
9 motor vehicle, trailer or semitrailer during the use. This  
10 subsection shall not apply to the use of a vehicle as a wrecker,  
11 parts truck, delivery truck or courtesy car.

12 (b) Aircraft.--A commercial aircraft operator who acquires  
13 an aircraft for the purpose of resale, or lease, or is entitled  
14 to claim another valid exemption at the time of purchase, and  
15 subsequent to the purchase, periodically uses the aircraft for a  
16 taxable use under this subpart, may elect to pay a tax equal to  
17 6% of the fair rental value of the aircraft during the use.  
18 § 1323. Credit against tax.

19 A credit against the tax imposed by Subchapter A (relating to  
20 imposition of tax) shall be granted with respect to tangible  
21 personal property or services purchased for use outside this  
22 Commonwealth equal to the tax paid to another state by reason of  
23 the imposition by the other state of a tax similar to the tax  
24 imposed by this subpart, except that no credit shall be granted  
25 unless the other state grants substantially similar tax relief  
26 by reason of the payment of tax under this subpart or under the  
27 former act of March 6, 1956 (P.L.1228, No.381), known as the Tax  
28 Act of 1963 for Education.

29 SUBCHAPTER D

30 LICENSES

1 Sec.

2 1331. Definitions.

3 1332. Application.

4 1333. Issuance and conditions.

5 1334. Administrative action.

6 1335. Penalties.

7 1336. Liability.

8 § 1331. Definitions.

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

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

14 Being an operator as defined in section 1341 (relating to  
15 definitions).

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

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

19 "Tangible personal property." Occupancy as defined in  
20 section 1341.

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

22 § 1332. Application.

23 A person maintaining a place of business in this Commonwealth  
24 selling or leasing services or tangible personal property, the  
25 sale or use of which is subject to tax, and who has not yet  
26 obtained a license from the department, shall, prior to the  
27 beginning of business, make application to the department, on a  
28 form prescribed by the department, for a license. If the person  
29 maintains more than one place of business in this Commonwealth,  
30 the license shall be issued for the principal place of business

1 in this Commonwealth.

2 § 1333. Issuance and conditions.

3 (a) Issuance.--After the receipt of an application, the  
4 department shall issue the license applied for under section  
5 1332 (relating to application) if the applicant has filed all  
6 required State tax reports and paid any State taxes not subject  
7 to a timely perfected administrative or judicial appeal or  
8 subject to a duly authorized deferred payment plan.

9 (b) Nonassignability.--A license under this subchapter shall  
10 be nonassignable.

11 (c) Renewal.--All licensees as of August 4, 1991, shall be  
12 required to file for renewal of the license on or before January  
13 31, 1992. Licenses issued through April 30, 1992, shall be based  
14 on a staggered renewal system established by the department. Any  
15 license issued after April 30, 1992, shall be valid for a period  
16 of five years.

17 § 1334. Administrative action.

18 (a) Authorization.--If an applicant for a license or a  
19 person holding a license has not filed all required State tax  
20 reports and paid any State taxes not subject to a timely  
21 perfected administrative or judicial appeal or subject to a duly  
22 authorized deferred payment plan, the department may refuse to  
23 issue, may suspend or may revoke the license.

24 (b) Notification.--

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

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

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

30 (c) Appeal.--

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

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

9           (3) Notwithstanding sections 1596 (relating to  
10 unauthorized disclosure) and 2817(f) (relating to crimes) and  
11 sections 408(b), 603, 702, 802, 904 and 1102 of the Tax  
12 Reform Code of 1971 or any other provision of law to the  
13 contrary, if no appeal is taken or if an appeal is taken and  
14 denied at the conclusion of the appeal process, the  
15 department may disclose, by publication or otherwise, the  
16 identity of a person and the fact that the person's license  
17 has been refused, suspended or revoked under this section.  
18 Disclosure may include the basis for refusal, suspension or  
19 revocation.

20 § 1335. Penalties.

21           (a) Fine and imprisonment.--A person that maintains a place  
22 of business in this Commonwealth for the purpose of selling or  
23 leasing services or tangible personal property, the sale or use  
24 of which is subject to tax, without having a valid license at  
25 the time of the sale or lease, shall be guilty of a summary  
26 offense and, upon conviction, be sentenced to pay a fine of not  
27 less than \$300 nor more than \$1,500 and, in default thereof, to  
28 undergo imprisonment of not less than five days nor more than 30  
29 days.

30           (b) Nature of penalties.--The penalties imposed by this

1 section shall be in addition to any other penalties imposed by  
2 this subpart.

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

7 (d) Enforcement.--The secretary may designate employees of  
8 the department to enforce the provisions of this section. The  
9 employees shall exhibit proof of and be within the scope of the  
10 designation when instituting proceedings as provided by the  
11 Pennsylvania Rules of Criminal Procedure.

12 § 1336. Liability.

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

15 SUBCHAPTER E

16 HOTEL OCCUPANCY TAX

17 Sec.

18 1341. Definitions.

19 1342. Imposition of tax.

20 1343. Collection of tax.

21 1344. Seasonal tax returns.

22 1345. Tourism Promotion Fund.

23 § 1341. Definitions.

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

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

29 "Booking agent." A person or entity which facilitates or  
30 collects payment for hotel accommodations on behalf of or for an

1 operator. The term "booking agent" shall not include a person  
2 who merely publishes advertisements for accommodations.

3 "Discount room charge." The amount charged by an operator to  
4 a booking agent in connection with the sale of an accommodation  
5 by the booking agent.

6 "Hotel." As follows:

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

9 (2) The term shall not include a charitable, educational  
10 or religious institution summer camp for children, hospital  
11 or nursing home.

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

18 "Occupant." As follows:

19 (1) A person who, for a consideration, uses or possesses  
20 or has a right to use or possess a room or rooms in a hotel  
21 under a lease, concession, permit, right of access, license  
22 or agreement.

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

24 "Operator." A person operating a hotel or acting as a  
25 booking agency.

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

29 "Rent." As follows:

30 (1) Any of the following:

1           (i) The consideration received for occupancy valued  
2           in money, whether received in money or otherwise,  
3           including all receipts, cash, credits and property or  
4           services of any kind or nature.

5           (ii) Accommodation fees.

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

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

10 § 1342. Imposition of tax.

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

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

17           (1) The tax imposed under this section.

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

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

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

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

27           (iv) Articles XVII and XXIII of the act of August 9,  
28           1955 (P.L.323, No.130), known as The County Code.

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

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

3 (1) The collected and remitted tax imposed under  
4 subsection (a)(1) shall be deposited into the Tourism  
5 Promotion Fund established under section 1345 (relating to  
6 Tourism Promotion Fund).

7 (2) The collected and remitted tax imposed under  
8 paragraph (a)(2) shall be deposited in accordance with a  
9 county ordinance.

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

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

16 § 1343. Collection of tax.

17 The tax under this subchapter shall be collected by the  
18 operator from the occupant and paid over to the Commonwealth as  
19 provided in this subpart.

20 § 1344. Seasonal tax returns.

21 Notwithstanding any other provisions in this subpart, the  
22 department may, by regulation, waive the requirement for the  
23 filing of quarterly returns in the case of an operator whose  
24 hotel is operated only during certain seasons of the year, and  
25 may provide for the filing of returns by persons at times other  
26 than those provided by Subchapter C of Chapter 15 (relating to  
27 payment of tax).

28 § 1345. Tourism Promotion Fund.

29 (a) Establishment.--A restricted revenue account is  
30 established within the Treasury Department to be known as the

1 Tourism Promotion Fund.

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

7 (c) Department duties.--The Department of Community and  
8 Economic Development shall promulgate guidelines, rules and  
9 regulations as necessary to achieve the purpose of promoting  
10 tourism in this Commonwealth.

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

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

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

21 (2) Funding for the promotion or marketing operations of  
22 a tourism entity, special events or grants shall require a  
23 50% cash or in-kind match.

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

29 (f) Restrictions.--Funds available for disbursement under  
30 subsection (b) may not be used for capital projects or for the

1 design, construction, rehabilitation, repair, installation or  
2 purchase of any building, structure or sign in this  
3 Commonwealth.

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

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

9 (1) Advertising, publicizing or otherwise distributing  
10 information for the purpose of attracting and welcoming  
11 tourists.

12 (2) Developing strategies to expand tourism.

13 (3) Funding the promotion or marketing operations of a  
14 tourism entity.

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

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

21 SUBCHAPTER F

22 REMOTE SELLERS

23 Sec.

24 1351. Definitions.

25 1352. Election.

26 1353. Notice requirements.

27 1354. Reports to purchasers and marketplace sellers.

28 1355. Reports to department.

29 1356. Liability and penalties.

30 1357. Application.

1 § 1351. Definitions.

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

5 "Affiliated person." A person that, with respect to another  
6 person:

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

9 (2) is related to the other person because a third  
10 person, or group of third persons who are affiliated with  
11 each other as provided in this definition, holds a direct or  
12 indirect ownership interest of more than 5% in the related  
13 person.

14 "Forum." A place where sales at retail occur, whether  
15 physical or electronic. The term includes a store, booth,  
16 publicly accessible Internet website, catalog or similar place.

17 "Marketplace facilitator." As follows:

18 (1) A person that facilitates a sale at retail of  
19 tangible personal property. For purposes of this definition,  
20 a person facilitates a sale at retail if the person or an  
21 affiliated person:

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

24 (ii) directly or indirectly through agreements or  
25 arrangements with third parties collects the payment from  
26 the purchaser and transmits the payment to the person  
27 selling the property.

28 (2) The term shall include a person that may also be a  
29 vendor.

30 "Marketplace seller." A person that has an agreement with a

1 marketplace facilitator pursuant to which the marketplace  
2 facilitator facilitates sales for the person.

3 "Notice and reporting requirements." The notice requirements  
4 under section 1353 (relating to notice requirements) and the  
5 reporting requirements under sections 1354 (relating to reports  
6 to purchasers and marketplace sellers) and 1355 (relating to  
7 reports to department).

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

11 "Referrer." As follows:

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

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

19 (ii) Receives consideration from the marketplace  
20 seller or remote seller from the sale offered in the  
21 listing or advertisement.

22 (iii) Transfers by telecommunications, Internet link  
23 or other means, a purchaser to a marketplace seller,  
24 remote seller or affiliated person to complete a sale.

25 (iv) Does not collect a receipt from the purchaser  
26 for the sale.

27 (2) The term shall include a person that may also be a  
28 vendor.

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

30 (i) provides Internet advertising services; and

1 (ii) does not provide the marketplace seller's or  
2 remote seller's shipping terms or advertise whether a  
3 marketplace seller or remote seller collects a sales or  
4 use tax.

5 "Remote seller." A person, other than a marketplace  
6 facilitator, marketplace seller or referrer, that does not  
7 maintain a place of business in this Commonwealth that, through  
8 a forum, sells tangible personal property at retail, the sale or  
9 use of which is subject to the tax imposed by this chapter. The  
10 term does not include an employee who in the ordinary scope of  
11 employment renders services to the employee's employer in  
12 exchange for wages and salaries.

13 § 1352. Election.

14 (a) Duty.--Subject to subsections (c) and (d), on or before  
15 March 1, 2018, and on or before June 1 of each calendar year  
16 thereafter, beginning June 1, 2019, a remote seller, marketplace  
17 facilitator or referrer that had aggregate sales at retail of  
18 tangible personal property subject to tax under this subpart  
19 within this Commonwealth or delivered to locations within this  
20 Commonwealth worth at least \$10,000 during the immediately  
21 preceding 12-calendar-month period shall file an election with  
22 the department to collect and remit the tax imposed under this  
23 subchapter or to comply with the notice and reporting  
24 requirements. The election shall be made on a form and in a  
25 manner prescribed by the department and, except as provided  
26 under subsection (e), shall apply to the next succeeding fiscal  
27 year.

28 (b) License.--A remote seller, marketplace facilitator or  
29 referrer that makes an election under subsection (a) to collect  
30 and remit the tax imposed under this subchapter shall obtain a

1 license under Subchapter D (relating to licenses).

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

5 (1) Sales at retail through the marketplace  
6 facilitator's forum made by or on behalf of a marketplace  
7 seller that does not maintain a place of business in this  
8 Commonwealth.

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

12 (d) Applicability for referrer.--

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

15 (i) directly resulting from a referral of a  
16 purchaser to a marketplace seller that does not maintain  
17 a place of business in this Commonwealth;

18 (ii) directly resulting from a referral of a  
19 purchaser to a remote seller; and

20 (iii) of the referrer's own products if the referrer  
21 does not maintain a place of business in this  
22 Commonwealth.

23 (2) A referrer may make an election under subsection (a)  
24 for the sales described under paragraph (1)(i) and (ii) that  
25 is different from the election made for the sales described  
26 under paragraph (1)(iii).

27 (e) Effective period and change of election.--An election  
28 made on or before March 1, 2018, shall be in effect for the  
29 balance of the 2017-2018 fiscal year and for the 2018-2019  
30 fiscal year. A remote seller, marketplace facilitator or

1 referrer may change an election to comply with the notice and  
2 reporting requirements to an election to collect and remit the  
3 tax imposed under this subchapter at any time during a fiscal  
4 year by filing a new election with the department and obtaining  
5 a license under Subchapter D. The new election shall be  
6 effective 30 days after the filing and shall be effective for  
7 the balance of the fiscal year in which the new election was  
8 filed and for the next succeeding fiscal year.

9 (f) Deemed compliance.--A remote seller, marketplace  
10 facilitator or referrer who does not submit an election under  
11 subsection (a) or a new election under subsection (e) shall be  
12 deemed to have elected to comply with the notice and reporting  
13 requirements.

14 (g) Additional requirements.--In addition to records that  
15 may be required to be maintained under other applicable  
16 provisions of this subpart by a remote seller, a marketplace  
17 facilitator or referrer, remote seller, marketplace facilitator  
18 or referrer subject to this subpart shall also be subject to  
19 sections 1592 (relating to keeping of records) and 1594  
20 (relating to examinations).

21 § 1353. Notice requirements.

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

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

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

30 (i) Post a conspicuous notice on its forum that

1 informs purchasers intending to purchase tangible  
2 personal property for delivery to a location within this  
3 Commonwealth that includes all of the following:

4 (A) Sales or use tax may be due in connection  
5 with the purchase and delivery of the tangible  
6 personal property.

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

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

11 (ii) Provide a written notice to each purchaser at  
12 the time of each sale at retail that includes all of the  
13 following:

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

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

18 (C) Instructions for obtaining additional  
19 information from the department regarding whether and  
20 how to remit use tax to the department.

21 (2) The notice required by paragraph (1)(ii) must be  
22 prominently displayed on all invoices and order forms and on  
23 each sales receipt or similar document, whether in paper or  
24 electronic form, provided to the purchaser. No statement that  
25 sales or use tax is not imposed on a transaction may be made  
26 by a remote seller or marketplace facilitator unless the  
27 transaction is exempt from sales and use tax under this  
28 subpart or other applicable Commonwealth law.

29 (c) Notice by referrer.--

30 (1) A referrer subject to the requirements of this

1 section shall post a conspicuous notice on its platform that  
2 informs purchasers intending to purchase tangible personal  
3 property for delivery to a location within this Commonwealth  
4 that includes all of the following:

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

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

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

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

14 (v) Instructions for obtaining additional  
15 information from the department regarding whether and how  
16 to remit sales or use tax to the department.

17 (vi) If the person to whom the purchaser is being  
18 referred does not collect sales tax on a subsequent  
19 purchase by the purchaser, the person may be required to  
20 provide information to the purchaser and the department  
21 about the purchaser's potential sales or use tax  
22 liability.

23 (2) The notice required under paragraph (1) must be  
24 prominently displayed and may include pop-up boxes or  
25 notification by other means that appears when the referrer  
26 transfers a purchaser to another person to complete the sale.

27 § 1354. Reports to purchasers and marketplace sellers.

28 (a) Contents.--A remote seller or marketplace facilitator  
29 required to make an election under section 1352(a) (relating to  
30 election) that does not elect to collect and remit the tax

1 imposed by this subchapter shall, no later than January 31 of  
2 each year, provide a written report to each purchaser required  
3 to receive the notice under section 1353(b)(1)(ii) (relating to  
4 notice requirements) during the immediately preceding calendar  
5 year that includes all of the following:

6 (1) A statement that the remote seller or marketplace  
7 facilitator did not collect sales tax in connection with the  
8 purchaser's transactions with the remote seller or  
9 marketplace facilitator and that the purchaser may be  
10 required to remit use tax to the department.

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

15 (3) Instructions for obtaining additional information  
16 from the department regarding whether and how to remit use  
17 tax to the department.

18 (4) A statement that the remote seller or marketplace  
19 facilitator is required to submit a report to the department  
20 under section 1355 (relating to reports to department) that  
21 includes the name of the purchaser and the aggregate dollar  
22 amount of the purchaser's purchases from the remote seller or  
23 marketplace facilitator.

24 (5) Additional information as the department may  
25 reasonably require.

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

29 (c) Transmittal.--The report required under subsection (a)  
30 shall be mailed by first class mail in an envelope prominently

1 marked with words indicating that important tax information is  
2 enclosed to the purchaser's billing address, if known, or, if  
3 unknown, to the purchaser's shipping address. If the purchaser's  
4 billing and shipping addresses are unknown, the report shall be  
5 sent electronically to the purchaser's last known e-mail address  
6 with a subject heading indicating that important tax information  
7 is being provided.

8 (d) Notice.--A referrer required to make an election under  
9 section 1352(a) 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, provide a written notice to each remote seller to  
12 whom the referrer transferred a potential purchaser located in  
13 this Commonwealth during the immediately preceding calendar year  
14 that includes all of the following:

15 (1) A statement that a sales or use tax may be imposed  
16 by the Commonwealth on the transaction.

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

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

21 § 1355. Reports to department.

22 (a) Contents.--A remote seller or marketplace facilitator  
23 required to make an election under section 1352(a) (relating to  
24 election) 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, submit a report to the department. The report shall  
27 include, with respect to each purchaser required to receive the  
28 notice under section 1353(b)(1)(ii) (relating to notice  
29 requirements) during the immediately preceding calendar year,  
30 the following:

1       (1) The purchaser's name.

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

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

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

8       (5) The name and address of the remote seller,  
9 marketplace facilitator or marketplace seller that made the  
10 sales to the purchaser.

11       (b) Report and contents.--A referrer required to make an  
12 election under section 1352(a) that does not elect to collect  
13 and remit the tax imposed by this subchapter shall, no later  
14 than January 31 of each year, submit a report to the department.  
15 The report shall include a list of persons who received the  
16 notice required under section 1354(d) (relating to reports to  
17 purchasers and marketplace sellers).

18       (c) Forms and availability.--The department shall prescribe  
19 the forms of the reports required under this section and shall  
20 make them available on its publicly accessible Internet website.  
21 The reports shall be submitted electronically in a manner as the  
22 department shall require.

23       (d) Submission and statement.--A report required under this  
24 section shall be submitted by an officer of the remote seller,  
25 marketplace facilitator or referrer and shall include a  
26 statement, made under penalty of perjury, by the officer that  
27 the remote seller, marketplace facilitator or referrer made  
28 reasonable efforts to comply with the notice and reporting  
29 requirements of this subpart.

30 § 1356. Liability and penalties.

1 (a) Assessment.--The department shall assess a penalty in  
2 the amount of \$20,000 or 20% of total sales in Pennsylvania  
3 during the previous 12 months, whichever is less, against a  
4 remote seller, marketplace facilitator or referrer that makes an  
5 election under section 1352(a) (relating to election) to comply  
6 with the notice and reporting requirements, or is deemed to have  
7 made such election under section 1352(f), and fails to comply  
8 with the requirements under section 1354 (relating to reports to  
9 purchasers and marketplace sellers) or 1355 (relating to reports  
10 to department). The penalty shall be assessed separately for  
11 each violation but may only be assessed once in a calendar year.

12 (b) Subject to penalties.--A remote seller, marketplace  
13 facilitator or referrer that makes an election under section  
14 1352(a) to collect and remit the tax imposed under this  
15 subchapter shall be subject to all of the provisions of this  
16 part with respect to the collection and remittance of the tax  
17 and shall be subject to all of the penalties, interest and  
18 additions for failing to comply with the provisions of this  
19 subpart except as provided in this section.

20 (c) Abatement.--The department may abate or reduce any  
21 penalties or addition imposed under subsection (b) due to  
22 hardship or for good cause shown for a period which ends as  
23 follows:

24 (1) Except as otherwise provided under paragraph (2),  
25 February 1, 2023.

26 (2) For tangible personal property described under  
27 paragraph (2) of the definition of the term "tangible  
28 personal property" under section 1102 (relating to  
29 definitions), February 1, 2024.

30 (d) Relief from liability.--A marketplace facilitator or

1 referrer is relieved of liability under subsection (b) if the  
2 marketplace facilitator or referrer can show to the satisfaction  
3 of the department that the failure to collect the correct amount  
4 of tax was due to incorrect information given to the marketplace  
5 facilitator or referrer by a marketplace seller or remote  
6 seller.

7 (e) Class action.--A class action may not be brought against  
8 a marketplace facilitator or referrer on behalf of purchasers  
9 arising from or in any way related to an overpayment of sales or  
10 use tax collected by the marketplace facilitator or referrer,  
11 regardless of whether the action is characterized as a tax  
12 refund claim. Nothing in this subsection shall affect a  
13 purchaser's right to seek a refund from the department under  
14 other provisions of this subpart.

15 § 1357. Application.

16 Nothing in this section shall affect the obligations of a  
17 vendor to register with the department and to collect and remit  
18 sales tax or use tax.

## 19 CHAPTER 15

### 20 PROCEDURE AND ADMINISTRATION

#### 21 Subchapter

22 A. Preliminary Provisions

23 B. Returns

24 C. Payment of Tax

25 D. Assessment and Collection of Tax

26 E. Refunds and Credits

27 F. Limitations

28 G. Interest, Additions, Penalties and Crimes

29 H. Enforcement and Examinations

30 I. Miscellaneous Provisions



1 § 1511. Persons required to make returns.

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

5 § 1512. Form of returns.

6 The returns required by section 1511 (relating to persons  
7 required to make returns) shall be on forms prescribed by the  
8 department and shall show the information with respect to the  
9 taxes imposed by this subpart as the department may reasonably  
10 require.

11 § 1513. Time for filing returns.

12 (a) Quarterly and monthly returns.--

13 (1) For the calendar year 1971, and in each year  
14 thereafter, a return shall be filed quarterly by every  
15 licensee on or before the 20th day of April, July, October  
16 and January for the three months ending the last day of  
17 March, June, September and December.

18 (2) For the calendar year 1971, and in each year  
19 thereafter, a return shall be filed monthly with respect to  
20 each month by every licensee whose actual tax liability for  
21 the third calendar quarter of the preceding year equals or  
22 exceeds \$600 and is less than \$25,000. The return shall be  
23 filed on or before the 20th day of the next succeeding month  
24 with respect to which the return is made. A licensee required  
25 to file monthly returns under this section shall be relieved  
26 from filing quarterly returns.

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

1 a single return consisting of all of the following:

2 (i) Either of the following:

3 (A) An amount equal to 50% of the licensee's  
4 actual tax liability for the same month in the  
5 preceding calendar year if the licensee was a monthly  
6 filer or, if the licensee was a quarterly or semi-  
7 annual filer, 50% of the licensee's average actual  
8 tax liability for that tax period in the preceding  
9 calendar year. The following shall apply:

10 (I) The average actual tax liability shall  
11 be the actual tax liability for the tax period  
12 divided by the number of months in that tax  
13 period.

14 (II) For licensees that were not in business  
15 during the same month in the preceding calendar  
16 year or were in business for only a portion of  
17 that month, the amount shall be 50% of the  
18 average actual tax liability for each tax period  
19 the licensee has been in business.

20 (III) If the licensee is filing a tax  
21 liability for the first time with no preceding  
22 tax periods, the amount shall be zero.

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

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

29 (4) With respect to each month by every licensee whose  
30 actual tax liability for the third calendar quarter of the

1 preceding year equals or exceeds \$100,000, the licensee  
2 shall, on or before the 20th day of each month, file a single  
3 return consisting of the amounts under paragraph (3)(i)(A)  
4 and (ii).

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

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

11 (7) The department may require the filing of the returns  
12 and the payments for these types of filers by electronic  
13 means approved by the department.

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

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

24 (b) Annual returns.--

25 (1) For the calendar year 1971, and for each year  
26 thereafter, no annual return shall be filed, except as may be  
27 required by rules and regulations of the department  
28 promulgated and published at least 60 days prior to the end  
29 of the year with respect to which the returns are made.

30 (2) If annual returns are required, licensees shall not

1 be required to file returns prior to the 20th day of the year  
2 succeeding the year with respect to which the returns are  
3 made.

4 (c) Other returns.--A person, other than a licensee, liable  
5 to pay to the department a tax under this subpart shall file a  
6 return on or before the 20th day of the month succeeding the  
7 month in which the person becomes liable for the tax.

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

13 § 1514. Extension of time for filing returns.

14 (a) General rule.--Except as provided under subsection (b),  
15 the department may, on written application and for good cause  
16 shown, grant a reasonable extension of time for filing a return  
17 required under this subpart.

18 (b) Exception.--The time for making a return shall not be  
19 extended for more than three months.

20 § 1515. Place for filing returns.

21 Returns shall be filed with the department at its main office  
22 or at a branch office which the department may designate for  
23 filing returns.

24 § 1516. Timely mailing treated as timely filing and payment.

25 (a) Postmark.--Notwithstanding the provisions of any State  
26 tax law to the contrary, whenever a report or payment of all or  
27 any portion of a State tax is required by law to be received by  
28 the department or other agency of the Commonwealth on or before  
29 a day certain, the taxpayer shall be deemed to have complied  
30 with the law if the letter transmitting the report or payment of

1 the tax which has been received by the department is postmarked  
2 by the United States Postal Service on or prior to the final day  
3 on which the payment is to be received.

4 (b) Evidence.--For the purposes of this subpart,  
5 presentation of a receipt indicating that the report or payment  
6 was mailed by registered or certified mail on or before the due  
7 date shall be evidence of timely filing and payment.

8 SUBCHAPTER C

9 PAYMENT OF TAX

10 Sec.

11 1521. Payment.

12 1522. Time of payment.

13 1523. Other times for payment.

14 1524. Place for payment.

15 1525. Tax held in trust for Commonwealth.

16 1526. Discount.

17 § 1521. Payment.

18 When a return of tax is required under this subpart, the  
19 person required to make the return shall pay the tax to the  
20 department.

21 § 1522. Time of payment.

22 (a) Monthly and quarterly payments.--The tax imposed by this  
23 subpart and incurred or collected by a licensee shall be due and  
24 payable by the licensee on the day the return is required to be  
25 filed under the provisions of section 1513 (relating to time for  
26 filing returns) and payment must accompany the return.

27 (b) Annual payments.--If the amount of tax due for the  
28 preceding year as shown by the annual return of a taxpayer is  
29 greater than the amount already paid by the taxpayer in  
30 connection with the taxpayer's monthly or quarterly returns, the

1 taxpayer shall send with the annual return a remittance for the  
2 unpaid amount of tax for the year.

3 (c) Other payments.--A person other than a licensee liable  
4 to pay tax under this subpart shall remit the tax at the time of  
5 filing the return required by this subpart.

6 § 1523. Other times for payment.

7 If the department authorizes a taxpayer to file a return at  
8 other times than those specified under section 1513 (relating to  
9 time for filing returns), the tax due shall be paid at the time  
10 the return is filed.

11 § 1524. Place for payment.

12 The tax imposed by this subpart shall be paid to the  
13 department at the place fixed for filing the return.

14 § 1525. Tax held in trust for Commonwealth.

15 (a) Establishment, enforceability and good faith.--All taxes  
16 collected by a person from purchasers in accordance with this  
17 subpart and all taxes collected by a person from purchasers  
18 under color of this subpart which have not been properly  
19 refunded by the person to the purchaser shall constitute a trust  
20 fund for the Commonwealth, and the trust shall be enforceable  
21 against the person, the person's representatives and any person,  
22 other than a purchaser to whom a refund has been made properly,  
23 receiving any part of the fund without consideration or knowing  
24 that the taxpayer is committing a breach of trust, provided that  
25 a person receiving payment of a lawful obligation of the  
26 taxpayer from the fund shall be presumed to have received the  
27 payment in good faith and without any knowledge of the breach of  
28 trust.

29 (b) Petition and appeal.--A person, other than a taxpayer,  
30 against whom the department makes a claim under this section

1 shall have the same right to petition and appeal as is given  
2 taxpayers by any provisions of this chapter.

3 § 1526. Discount.

4 If a return is filed by a licensee and the tax shown to be  
5 due on the return less any discount is paid all within the time  
6 prescribed, the licensee shall be entitled, as compensation for  
7 the expense of collecting and remitting the tax and as a  
8 consideration of the prompt payment of the tax, to credit and  
9 shall apply against the tax payable by the licensee a discount  
10 of the lesser of:

11 (1) 1% of the amount of the tax collected; or

12 (2) as follows:

13 (i) \$25 per return for a monthly filer;

14 (ii) \$75 per return for a quarterly filer; or

15 (iii) \$150 per return for a semiannual filer.

16 SUBCHAPTER D

17 ASSESSMENT AND COLLECTION OF TAX

18 Sec.

19 1531. Assessment.

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15 § 1531. Assessment.

16 (a) Authorization.--The department is authorized and  
17 required to make the inquiries, determinations and assessments  
18 of the tax imposed by this subpart. This subsection includes  
19 interest, additions and penalties.

20 (b) Notice of assessment.--A notice of assessment and demand  
21 for payment shall be mailed to the taxpayer. The notice shall  
22 specify the basis of the assessment.

23 § 1532. Mode and time of assessment.

24 (a) Underpayment of tax.--Within a reasonable time after a  
25 return is filed, the department shall examine the return. If the  
26 return shows a greater tax due or collected than the amount of  
27 tax remitted with the return, the department shall issue an  
28 assessment for the difference and 3% of the difference. The  
29 assessment shall be paid to the department within 10 days after  
30 a notice of the assessment has been mailed to the taxpayer. If

1 the assessment is not paid within 10 days, an additional 3% of  
2 the difference for each month during which the assessment  
3 remains unpaid shall be added to the assessment total, but the  
4 total of all additions shall not exceed 18% of the difference  
5 shown on the assessment.

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

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

22 (d) Authority to establish effective rates by business  
23 classification.--The department may:

24 (1) make the studies necessary to compute effective  
25 rates by business classification, based upon the ratio  
26 between:

27 (i) the tax required to be collected; and

28 (ii) taxable sales; and

29 (2) use the rates in computing the tax liability of a  
30 taxpayer.

1 (e) Tax rate.--

2 (1) Except as set forth in paragraph (2), an assessment  
3 based upon the rates shall be prima facie correct.

4 (2) If a taxpayer establishes that the rate is based on  
5 a sample inapplicable to the taxpayer, the rate shall not be  
6 considered.

7 § 1533. Reassessment.

8 A taxpayer against whom an assessment is made may petition  
9 the department for a reassessment under Article XXVII of the Tax  
10 Reform Code of 1971.

11 § 1534. Assessment to recover erroneous refunds.

12 The department may file an assessment to recover an erroneous  
13 refund. The assessment must be filed within the later of:

14 (1) two years of granting a refund or credit; or

15 (2) the period in which an assessment could have been  
16 filed by the department with respect to the transaction  
17 pertaining to which the refund was granted.

18 § 1535. Burden of proof.

19 In a petition for reassessment, review or appeal, the burden  
20 of proof shall be upon the petitioner or appellant.

21 § 1536. Collection of tax.

22 (a) Collection by department.--The department shall collect  
23 the tax in the manner provided by law.

24 (b) Remitters.--

25 (1) This subsection applies to all of the following:

26 (i) A person that:

27 (A) maintains a place of business in this  
28 Commonwealth; and

29 (B) sells or leases tangible personal property  
30 or services, the sale or use of which is subject to

1 tax.

2 (ii) A person not otherwise required to collect tax  
3 that:

4 (A) delivers tangible personal property to a  
5 location within this Commonwealth; and

6 (B) unpacks, positions, places or assembles the  
7 tangible personal property.

8 (2) Except as set forth in section 1537(a) (relating to  
9 collection of tax on motor vehicles, trailers and  
10 semitrailers), a person subject to paragraph (1)(i) shall:

11 (i) collect the tax from the purchaser or lessee at  
12 the time of making the sale or lease; and

13 (ii) remit the tax to the department.

14 (3) All of the following apply to a person subject to  
15 paragraph (1)(ii):

16 (i) The person shall collect the tax from the  
17 purchaser at the time of delivery. The person is deemed  
18 to be selling or leasing tangible personal property or  
19 services, the sale or use of which is subject to the tax  
20 imposed under this subpart.

21 (ii) The person shall remit the tax to the  
22 department if:

23 (A) the person delivering the tangible personal  
24 property is responsible for collecting any portion of  
25 the purchase price of the tangible personal property  
26 delivered; and

27 (B) the purchaser has not provided the person  
28 with proof that:

29 (I) the tax imposed by this chapter has been  
30 or will be collected by the seller; or

1                   (II) the purchaser provided the seller with  
2                   a valid exemption certificate.

3           (4) Each person that is required under this chapter to  
4           collect tax from another person and that fails to collect the  
5           proper amount of tax shall be liable for the full amount of  
6           the tax which should have been collected.

7           (c) Exemption certificates.--

8           (1) Except as provided under paragraph (2), if the tax  
9           does not apply to the sale or lease of tangible personal  
10           property or services, the purchaser or lessee shall furnish  
11           to the vendor a certificate indicating that the sale is not  
12           legally subject to the tax. The certificate shall be in the  
13           form prescribed by the department.

14           (2) An exemption certificate under paragraph (1) need  
15           not be furnished if:

16                   (i) the tangible personal property or service is of  
17                   a type which is never subject to the tax imposed; or

18                   (ii) the sale or lease is in interstate commerce.

19           (3) If a series of transactions are not subject to tax,  
20           a purchaser or user may furnish the vendor with a single  
21           exemption certificate in the form, and valid for the period  
22           of time, prescribed by the department.

23           (4) The department shall provide each school district  
24           and intermediate unit with a permanent tax exemption number.

25           (5) An exemption certificate shall relieve the vendor  
26           from liability under this section if the exemption  
27           certificate:

28                   (i) is complete and regular;

29                   (ii) on its face discloses a valid basis of  
30           exemption; and

1 (iii) is taken in good faith.

2 (6) An exemption certificate shall be presumed to be  
3 taken in good faith and the burden of proving otherwise shall  
4 be on the department if all of the following conditions are  
5 met:

6 (i) The exemption certificate is accepted by a  
7 vendor in the ordinary course of the vendor's business.

8 (ii) The exemption certificate is from any of the  
9 following:

10 (A) An individual domiciled within this  
11 Commonwealth.

12 (B) An association, fiduciary, partnership,  
13 corporation or other entity which:

14 (I) is authorized to do business within this  
15 Commonwealth; or

16 (II) has an established place of business  
17 within this Commonwealth.

18 (iii) The exemption certificate:

19 (A) on its face discloses a valid basis of  
20 exemption consistent with the activity of the  
21 purchaser and character of the property or service  
22 being purchased; or

23 (B) is provided to the vendor by a charitable,  
24 religious or educational association or by a  
25 volunteer firefighters' relief association or  
26 volunteer firemen's organization and contains the  
27 charitable exemption number of the association or  
28 organization.

29 (iv) If the purchase price is at least \$200, the  
30 exemption certificate is accompanied by a sworn

1 declaration, on a form provided by the department, of an  
2 intended usage of the property or service which would  
3 render the usage or service nontaxable.

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 an assessment of tax is not paid within 10 days  
12 or 30 days, as the case may be, after notice to the taxpayer,  
13 if no petition for reassessment has been filed.

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

16 (3) Unless an appeal is made, within 30 days from:

17 (i) the date of the decision of the Board of Finance  
18 and Revenue upon a petition for review, if no appeal has  
19 been made; or

20 (ii) expiration of the board's time for acting upon  
21 the petition, if no appeal has been made.

22 (4) In all cases of judicial sales, receiverships,  
23 assignments or bankruptcies.

24 (b) Raising defenses.--

25 (1) Except as set forth in paragraph (2), in a  
26 proceeding for the collection of tax, a taxpayer may not  
27 raise a defense which could have been determined by the  
28 department, the board or a court of competent jurisdiction.

29 (2) In a motion to stay a proceeding for the collection  
30 of tax, a taxpayer may raise any of the following defenses:

1           (i) The department's failure to mail notice of  
2           assessment or reassessment.

3           (ii) Payment of assessment or reassessment.

4 § 1541. Lien for taxes.

5           (a) Lien imposed.--

6           (1) If a person liable to pay a tax neglects or refuses  
7           to pay the tax, the amount, including interest, addition or  
8           penalty, together with any other costs, shall be a lien in  
9           favor of the Commonwealth upon the property, both real and  
10           personal, of the person, but only after the property has been  
11           entered and docketed of record by the prothonotary of the  
12           county where the property is situated.

13           (2) The department may, at any time, transmit to the  
14           prothonotaries of the respective counties certified copies of  
15           all liens for taxes imposed by this subpart and penalties and  
16           interest.

17           (3) It shall be the duty of each prothonotary receiving  
18           the lien to enter and docket the lien of record in the  
19           prothonotary's office, which shall be indexed as judgments  
20           are now indexed.

21           (4) A prothonotary may not require, as a condition  
22           precedent to the entry of the liens, the payment of the costs  
23           of entering the liens into record.

24           (b) Priority of lien and effect on judicial sale and no  
25           discharge by sale on junior lien.--

26           (1) The lien imposed under this section shall:

27           (i) have priority from the date of its recording;

28           (ii) be fully paid and satisfied out of the proceeds  
29           of a judicial sale of property subject to the lien before  
30           any other obligation, judgment, claim, lien or estate to

1 which the property may subsequently become subject,  
2 except costs of the sale and of the writ upon which the  
3 sale was made and real estate taxes and municipal claims  
4 against the property; and

5 (iii) be subordinate to mortgages and other liens  
6 existing and duly recorded or entered of record prior to  
7 the recording of the tax lien.

8 (2) For a judicial sale of property, subject to a lien  
9 imposed under this section on a lien or claim over which the  
10 lien imposed under this section has priority, the sale shall  
11 discharge the lien imposed under this section only to the  
12 extent that the proceeds are applied to its payment, and the  
13 lien shall continue in full force and effect as to the  
14 balance remaining unpaid.

15 (3) An inquisition or condemnation may not be made on a  
16 judicial sale of real estate made by the Commonwealth under  
17 this section. The following shall apply:

18 (i) The lien of the taxes, interest and penalties  
19 shall continue for five years from the date of entry and  
20 may be revived and continued in the manner provided for  
21 renewal of judgments, on or after March 4, 1971, or as  
22 may be provided in the Fiscal Code.

23 (ii) A writ of execution may directly issue on the  
24 lien without the issuance and prosecution to judgment of  
25 a writ of scire facias, if not less than 10 days before  
26 issuance of an execution on the lien, notice of the  
27 filing and the effect of the lien shall be sent by  
28 registered mail to the taxpayer at the taxpayer's last  
29 known post office address.

30 (iii) The lien shall have no effect on a stock of

1 goods, wares or merchandise regularly sold or leased in  
2 the ordinary course of business by the person against  
3 whom the lien has been entered, until a writ of execution  
4 has been issued and a levy made upon the stock of goods,  
5 wares and merchandise.

6 (c) Duty of prothonotary.--A prothonotary who willfully  
7 fails to carry out a duty imposed under this section commits a  
8 misdemeanor and shall, upon conviction, be sentenced to pay a  
9 fine of \$1,000 or to imprisonment for not more than one year, or  
10 both.

11 (d) Priority of tax.--Except as provided in this chapter,  
12 each tax imposed by this part which is due and unpaid and is not  
13 collectible under section 1525 (relating to tax held in trust  
14 for Commonwealth) shall be paid from the first money available  
15 for distribution in priority to each other claim and lien,  
16 except as the laws of the United States may give a prior claim  
17 to the Federal Government. A person charged with the  
18 administration or distribution of a property or estate who  
19 violates this section shall be personally liable for taxes  
20 imposed by this part, which are accrued and unpaid and are  
21 chargeable against the person whose property or estate is being  
22 administered or distributed.

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

29 § 1542. Suit for taxes.

30 (a) Commencement.--The department may, within three years

1 after a tax is finally due and payable, commence an action in  
2 the courts of the United States, this Commonwealth or any state  
3 in the name of the Commonwealth to collect tax due together with  
4 additions, interest, penalties and costs as provided at law or  
5 in equity for the collection of ordinary debts.

6 (b) Procedure.--The Attorney General shall prosecute the  
7 action and, except as provided in this subpart, the Rules of  
8 Civil Procedure and the laws of this Commonwealth relating to  
9 civil procedures and remedies shall be available in the  
10 proceedings.

11 (c) Other remedies.--The provisions of this section are in  
12 addition to any process, remedy or procedure for the collection  
13 of taxes provided by this subpart or by the laws of this  
14 Commonwealth. This section shall not be limited by nor is  
15 intended to limit any process, remedy or procedure.

16 § 1543. Tax suit comity.

17 The courts of this Commonwealth shall recognize and enforce a  
18 liability for sales and use tax lawfully imposed by another  
19 state, if the other state extends a like comity to this  
20 Commonwealth.

21 § 1544. Service.

22 A person maintaining a place of business within this  
23 Commonwealth shall appoint the Secretary of the Commonwealth as  
24 the person's agent for the acceptance of service of process or  
25 notice in proceedings for the enforcement of the civil  
26 provisions of this part. The following shall apply:

27 (1) Service made upon the Secretary of the Commonwealth  
28 as the agent shall have the same legal force and validity as  
29 if the service had been personally made upon the person.

30 (2) If service cannot be made upon the person in the

1 manner provided by other laws of this Commonwealth relating  
2 to service of process, service may be made upon the Secretary  
3 of the Commonwealth, and a copy of the process or notice  
4 shall also be personally served upon an agent or  
5 representative of the person who may be found within this  
6 Commonwealth.

7 (3) If no agent or representative may be found, a copy  
8 of the process or notice shall be sent by registered mail to  
9 the person at the last known address of the person's  
10 principal place of business, home office or residence.

11 § 1545. Collection and payment of tax on credit sales.

12 If a sale subject to tax under this subpart is wholly or  
13 partly on credit, the vendor shall require the purchaser to pay  
14 in cash at the time the sale is made, or within 30 days  
15 thereafter, the total amount of tax due upon the entire purchase  
16 price. The vendor shall remit the tax to the department,  
17 notwithstanding whether payment was made by the purchaser to the  
18 vendor, and the next return must be filed under section 1513  
19 (relating to time for filing returns).

20 § 1546. Prepayment of tax.

21 If a vendor is forbidden by law to charge and collect the  
22 purchase price in advance of or at the time of delivery, the  
23 vendor shall prepay the tax as required by section 1522  
24 (relating to time of payment). If the purchaser fails to pay to  
25 the vendor the total amount of the purchase price and the tax,  
26 and the amount is written off as uncollectible by the vendor,  
27 the vendor shall not be liable for the tax and shall be entitled  
28 to a credit or refund of the tax paid. The following shall  
29 apply:

30 (1) If the purchase price is later collected, in whole

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

5 (2) For tax prepaid prior to March 4, 1971, credit may  
6 be claimed on returns filed for the periods prior to March 4,  
7 1971.

8 (3) Tax prepaid after March 4, 1971, shall be subject to  
9 refund upon petition to the department under section 1561  
10 (relating to refunds), filed within 105 days of the close of  
11 the fiscal year in which the accounts are written off.

12 § 1547. Refund of sales tax attributed to bad debt.

13 (a) Conditions.--A vendor may file a petition for refund of  
14 sales tax paid to the department that is attributed to a bad  
15 debt if all of the following apply:

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

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

20 (3) The debt has been deducted for Federal income tax  
21 purposes under section 166 of the Internal Revenue Code of  
22 1986.

23 (b) Petition.--A petition for refund under this section must  
24 be filed with the department within the time limitations  
25 prescribed by section 3003.1(a) of the Tax Reform Code of 1971.

26 (c) Private-label credit card accounts.--In the case of  
27 private-label credit card accounts not qualifying under  
28 subsection (a), a vendor or lender that makes an election under  
29 subsection (d) may file a petition for refund of sales tax that  
30 the vendor has previously reported and paid to the department if

1 all of the following conditions are met:

2 (1) No refund was previously allowed with respect to the  
3 portion of the account written off as a bad debt.

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

7 (3) The account has been deducted for Federal income tax  
8 purposes under section 166 of the Internal Revenue Code of  
9 1986 by the lender or an affiliate of the lender.

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

17 (e) Payment of refund.--The refund authorized by this  
18 section is limited to the sales tax paid to the department that  
19 is attributed to the bad debt, less any discount under section  
20 1526 (relating to discount). The following apply:

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

24 (2) Payments made on a transaction which includes both  
25 taxable and nontaxable components shall be allocated  
26 proportionally between the taxable and nontaxable components.

27 (f) Assignment of right to petition.--A vendor or a lender  
28 may assign the vendor's or lender's right to petition and  
29 receive a refund of sales tax attributed to a bad debt to an  
30 affiliate.

1 (g) Exceptions.--No refund shall be granted under this  
2 section for any of the following:

3 (1) Interest.

4 (2) Finance charges.

5 (3) Expenses incurred in attempting to collect an  
6 account receivable.

7 (h) Documentation.--Documentation requirements are as  
8 follows:

9 (1) A person claiming a refund under this section shall,  
10 on request, make available documentation supporting the  
11 claimed refund, including:

12 (i) The date of the original sale and the name and  
13 Pennsylvania sales tax license number of the retailer.

14 (ii) The name and address of the purchaser.

15 (iii) The amount that the purchaser paid or agreed  
16 to pay.

17 (iv) Taxable and nontaxable charges.

18 (v) The amount on which the retailer reported and  
19 paid sales tax.

20 (vi) All payments or other credits applied to the  
21 account of the purchaser.

22 (vii) Evidence that the uncollected amount was:

23 (A) designated as a bad debt in the books and  
24 records of the vendor or lender, as appropriate; and

25 (B) claimed as a bad debt deduction for Federal  
26 income tax purposes.

27 (viii) The county in which local sales tax was  
28 incurred.

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

30 (x) A certification, under penalty of perjury, that

1 no person collected money on the bad debt for which the  
2 refund is claimed.

3 (xi) Any other information required by the  
4 department.

5 (2) A person claiming a refund under this section may  
6 provide alternative forms of documentation to the department  
7 if appropriate in light of the volume and character of  
8 uncollectible accounts. The following apply:

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

14 (ii) The apportionment method must use the vendor's  
15 Pennsylvania and non-Pennsylvania sales, the vendor's  
16 taxable and nontaxable sales and the amount of tax the  
17 vendor remitted to Pennsylvania.

18 (i) Collection of tax of prior bad debt.--

19 (1) If the purchase price which is attributed to a prior  
20 bad debt refund is collected in whole or in part by the  
21 vendor or lender or an affiliate of the vendor or lender, the  
22 entity claiming the refund shall remit the proportional tax  
23 to the department with the first return filed after the  
24 collection. If the entity is not required to file periodic  
25 returns, the entity shall remit the proportional tax to the  
26 department with another return under section 1513 (relating  
27 to time for filing returns).

28 (2) Consideration received for the assignment, sale or  
29 other transfer of a bad debt with respect to which a refund  
30 has been granted shall be deemed to be a collection of a

1 prior bad debt. This paragraph does not apply to a transfer  
2 to an entity that is part of the same affiliated group, as  
3 defined by section 1504 of the Internal Revenue Code of 1986.

4 (3) A person that collects, in whole or in part, the  
5 purchase price attributed to a prior bad debt refund is  
6 required to maintain adequate documentation to allow the  
7 department to determine whether the purchase price attributed  
8 to a prior bad debt refund has been collected. Information  
9 under this paragraph includes the pertinent facts required by  
10 subsection (h).

11 (4) If the department determines that a prior bad debt  
12 has been collected, in whole or in part, and that the  
13 proportional tax has not been properly reported and paid to  
14 the department, the person that claimed the refund on the  
15 transaction shall report and pay the proportional tax to the  
16 department plus applicable interest and penalty under this  
17 chapter.

18 (j) Interest.--Notwithstanding section 806.1 of the Fiscal  
19 Code, no interest shall be paid by the Commonwealth on refunds  
20 of sales tax attributed to bad debt under this section.

21 (k) Procedure.--

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

25 (2) No deduction or credit for bad debt may be taken on  
26 a return filed with the department.

27 (3) This section provides the exclusive procedure for  
28 claiming a refund or credit of sales tax attributed to  
29 uncollected purchase price or bad debt.

30 (l) Bad debts.--A private-label credit card does not

1 authorize a refund with respect to a bad debt attributable to a  
2 sale by a person not related to the private-label credit card.

3 (m) Definitions.--As used in this section, the following  
4 words and phrases shall have the meanings given to them in this  
5 subsection:

6 "Affiliate." A person that is:

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

9 (2) a person described under paragraph (1) or (2) of the  
10 definition of "lender" that would be an affiliated entity of  
11 a vendor under section 1504 of the Internal Revenue Code of  
12 1986, but for the fact the person is not a corporation, an  
13 assignee or another transferee of a person described under  
14 paragraph (1) or (2) of the definition of "lender."

15 "Lender." Any of the following:

16 (1) A person that owns or has owned a private-label  
17 credit card account purchased directly from a vendor that  
18 reported the tax under this subpart.

19 (2) A person that owns or has owned a private-label  
20 credit card account under a contract directly with a vendor  
21 that reported the tax under this subpart.

22 (3) A person that is:

23 (i) an affiliate of a person described under  
24 paragraph (1) or (2); or

25 (ii) an assignee or other transferee of a person  
26 described under paragraph (1) or (2).

27 "Private-label credit card." As follows:

28 (1) A charge card, credit card or other instrument  
29 -serving a similar purpose which:

30 (i) carries, refers to or is branded with the name

1 or logo of a vendor; and

2 (ii) can be used for purchases from the vendor.

3 (2) The term does not include a card or instrument which  
4 may also be used to make purchases from a person other than  
5 the vendor whose name or logo appears on the card or  
6 instrument or that vendor's affiliates.

7 § 1548. Registration of transient vendors.

8 (a) Registration required.--Prior to conducting business or  
9 commencing operations within this Commonwealth, a transient  
10 vendor shall register with the department. The application for  
11 registration must be in the form and contain information the  
12 department prescribes and shall set forth truthfully and  
13 accurately the information required by the department. The  
14 registration must be renewed and updated annually.

15 (b) Certificate.--Upon registration and the posting of the  
16 bond required by section 1549 (relating to bond), the department  
17 shall issue to a transient vendor a certificate valid for one  
18 year. Upon renewal of registration, the department shall issue a  
19 new certificate, valid for one year, if the department is  
20 satisfied that the transient vendor has complied with this  
21 chapter.

22 (c) Possession of certificate.--The transient vendor must  
23 possess the certificate at all times when conducting business  
24 within this Commonwealth and shall exhibit the certificate upon  
25 demand by authorized employees of the department or a law  
26 enforcement officer.

27 (d) Information on certificate.--The certificate issued by  
28 the department shall state that the transient vendor named on  
29 the certificate has registered with the department and shall  
30 provide notice to the transient vendor of all of the following:

1       (1) The requirements of section 1550(a) (relating to  
2 notification to department and inspection of records).

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

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

10 § 1549. Bond.

11       (a) Posting.--Upon registration with the department, a  
12 transient vendor must post a bond with the department in the  
13 amount of \$500 as surety for compliance with the provisions of  
14 this subpart.

15       (b) Reduction or elimination.--After a period of  
16 demonstrated compliance with the provisions of this subpart, or  
17 if the transient vendor provides the license number of a  
18 promoter that has notified the department of a show under  
19 section 1554(a) (relating to promoters), the department may  
20 reduce the amount of bond required of a transient vendor or may  
21 eliminate the bond entirely.

22       (c) Voluntary suspension of certificate.--A transient vendor  
23 may file a request for voluntary suspension of certificate with  
24 the department. If the provisions of this subpart have been  
25 complied with and the department has possession of the transient  
26 vendor's certificate, the department shall return the bond  
27 posted to the transient vendor.

28 § 1550. Notification to department and inspection of records.

29       (a) Notification.--Prior to entering this Commonwealth to  
30 conduct business, a transient vendor shall notify the department

1 in writing of each location where the transient vendor intends  
2 to conduct business and each date on which the transient vendor  
3 intends to conduct business.

4 (b) Inspection of sales records.--When conducting business  
5 in this Commonwealth, a transient vendor shall permit authorized  
6 employees of the department to inspect the transient vendor's  
7 sales records, including sales receipts and inventory or price  
8 lists, and tangible personal property offered for sale at  
9 retail.

10 (c) Suspension or revocation of certificate.--The department  
11 may suspend or revoke a certificate issued to a transient vendor  
12 if the transient vendor:

13 (1) fails to notify the department under subsection (a);

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

16 (3) fails to collect sales tax on all tangible personal  
17 property or services sold which are subject to the sales tax;  
18 or

19 (4) fails to file with the department a tax return as  
20 required by section 1513 (relating to time for filing  
21 returns).

22 (d) Regulations.--The department shall promulgate  
23 regulations necessary to implement this section.

24 § 1551. Seizure of property.

25 (a) Seizure for noncompliance.--If a transient vendor  
26 conducting business in this Commonwealth fails to exhibit a  
27 valid certificate upon demand by an authorized employee of the  
28 department, the authorized employee may seize, without warrant,  
29 the tangible personal property and the means of transportation  
30 used to transport or carry the property. Except as set forth in

1 subsection (b), property seized shall be deemed contraband and  
2 shall be subject to immediate forfeiture proceedings instituted  
3 by the department under procedures promulgated by regulation.

4 (b) Release of seized property.--Property seized under  
5 subsection (a) shall be released upon any of the following:

6 (1) Presentation of a valid certificate to an authorized  
7 employee of the department.

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

12 § 1552. Fines.

13 A transient vendor conducting business within this  
14 Commonwealth when the transient vendor's certificate is  
15 suspended or revoked under sections 1549(b) (relating to bond)  
16 and 1550(c) (relating to notification to department and  
17 inspection of records), commits a misdemeanor of the third  
18 degree for each offense.

19 § 1553. Transient vendors subject to subpart.

20 A transient vendor shall be subject to the provisions of this  
21 subpart in the same manner as a vendor who maintains a place of  
22 business within this Commonwealth.

23 § 1554. Promoters.

24 (a) Application for license.--A promoter of a show in this  
25 Commonwealth may file with the department an application for a  
26 promoter's license stating the location and dates of each show.  
27 The application must be filed at least 30 days prior to the  
28 opening of the first show and be in the form as the department  
29 may prescribe.

30 (b) Issuance.--Except as otherwise provided, within 15 days

1 after receipt of an application for a license, the department  
2 shall issue to the promoter, without charge, a license to  
3 operate a show. If application for a license under this section  
4 has been timely filed and if the license has not been received  
5 by the promoter prior to the opening of the show, the  
6 authorization contained in this section with respect to the  
7 obtaining of a promoter's license shall be deemed to have been  
8 complied with, unless the promoter receives notice from the  
9 department denying the application for a promoter's license.

10 (c) Compliance.--A promoter who is a vendor under section  
11 1102 (relating to definitions) shall comply with all the  
12 provisions of this subpart applicable to vendors and with the  
13 provisions of this section applicable to promoters.

14 (d) License required.--A licensed promoter may not permit a  
15 person to display for sale or sell tangible personal property or  
16 services subject to tax under Subchapter A of Chapter 13  
17 (relating to imposition of tax) at a show unless the person is  
18 licensed under Subchapter D of Chapter 13 (relating to licenses)  
19 and provides to the promoter the information required under  
20 section 1593 (relating to reports and records of promoters).

21 (e) Penalties.--

22 (1) A licensed promoter is subject to denial of a  
23 license or revocation of an existing license issued under  
24 this section for any of the following:

25 (i) Permitting a person to display for sale or to  
26 sell tangible personal property or service without first  
27 having been licensed under Subchapter D of Chapter 13.

28 (ii) Failing to maintain records of a show under  
29 section 1593.

30 (iii) Knowingly maintaining false records.

1           (iv) Failing to comply with this section or a  
2           regulation promulgated by the department pertaining to  
3           shows.

4           (2) In addition to the penalties under paragraph (1),  
5           the department may deny a promoter a license certificate to  
6           operate a show for a period of not more than six months from  
7           the date of the denial. The penalty shall be in addition to  
8           any other penalty imposed by this subpart.

9           (3) Within 20 days of notice of denial or revocation of  
10           a license by the department, the promoter may petition the  
11           department for a hearing under 2 Pa.C.S. (relating to  
12           administrative law and procedure).

13                                   SUBCHAPTER E

14                                   REFUNDS AND CREDITS

15   Sec.

16   1561. Refunds.

17   1562. Refund petition.

18   1563. Extended time for filing special petition for refund.

19   § 1561. Refunds.

20   The following apply:

21           (1) The department shall, under Article XXVII of the Tax  
22           Reform Code of 1971, refund all taxes, interest and penalties  
23           paid to the Commonwealth under this subchapter to which the  
24           Commonwealth is not rightfully entitled.

25           (2) Refunds shall be made to the person or the person's  
26           heir, successor, assign or other personal representative who  
27           paid the tax.

28           (3) A refund shall not be made under this section with  
29           respect to a payment made by reason of an assessment with  
30           respect to which a taxpayer has filed a petition for

1 reassessment under section 2702 of the Tax Reform Code of  
2 1971 to the extent that the petition has been determined  
3 adversely to the taxpayer by a decision which is no longer  
4 subject to further review or appeal.

5 (4) Nothing in this section shall prohibit a taxpayer  
6 who has filed a timely petition for reassessment from  
7 amending the petition to a petition for refund if the  
8 petitioner has paid the tax assessed.

9 § 1562. Refund petition.

10 (a) General rule.--Except as provided for in section 1563  
11 (relating to extended time for filing special petition for  
12 refund) and subsection (b), the refund or credit of tax,  
13 interest or penalty provided for in section 1561 (relating to  
14 refunds) shall be made only if the person who has paid the tax  
15 files a petition for refund with the department under Article  
16 XXVII of the Tax Reform Code of 1971 within the time limits of  
17 section 3003.1 of the Tax Reform Code of 1971.

18 (b) Payment.--A refund or credit of tax, interest or penalty  
19 paid as a result of an assessment made by the department under  
20 section 1532 (relating to mode and time of assessment) shall be  
21 made only if the person who has paid the tax files a petition  
22 for a refund with the department under Article XXVII of the Tax  
23 Reform Code of 1971 within the time limits of section 3003.1 of  
24 the Tax Reform Code of 1971. The filing of a petition for refund  
25 under this subsection shall not affect the abatement of  
26 interest, additions or penalties to which the person may be  
27 entitled by reason of payment of the assessment.

28 § 1563. Extended time for filing special petition for refund.

29 (a) Filing.--A party to a transaction who has paid tax by  
30 reason of a transaction with respect to which the department is

1 assessing tax against another person may, within six months  
2 after the filing by the department of the assessment against the  
3 other person, file a special petition for refund,  
4 notwithstanding the person's failure to timely file a petition  
5 under section 3003.1 of the Tax Reform Code of 1971.

6 (b) Applicability.--Article XXVII of the Tax Reform Code of  
7 1971 shall apply to a special petition for refund, except that  
8 the department may not act on the petition until there is a  
9 final determination as to the propriety of the assessment filed  
10 against the other party to the transaction.

11 (c) Overpayments.--If a petition is filed under this section  
12 to take advantage of the extended period of limitations,  
13 overpayments by the petitioner shall be refunded to the extent  
14 of the actual tax, without consideration of interest and  
15 penalties, paid by the other party to the transaction.

16 (d) Construction.--The purpose of this section is to avoid  
17 duplicate payment of tax if a determination is made by the  
18 department that one party to a transaction is subject to tax,  
19 and another party to the transaction has previously paid tax  
20 with respect to the transaction. This section shall be construed  
21 as extending a right beyond that provided for by section 1562  
22 (relating to refund petition) and not to limit section 1562.

23 SUBCHAPTER F

24 LIMITATIONS

25 Sec.

26 1571. Limitation on assessment and collection.

27 1572. Failure to file return.

28 1573. False or fraudulent return.

29 1574. Extension of limitation period.

30 § 1571. Limitation on assessment and collection.

1 The amount of the tax imposed by this subpart shall be  
2 assessed within three years after the date when the return under  
3 section 1513(a) or (c) (relating to time for filing returns) is  
4 filed or the end of the year in which the tax liability arises,  
5 whichever occurs later. An assessment may be made at any time  
6 during the period, notwithstanding that the department may have  
7 made one or more previous assessments against the taxpayer for  
8 the year in question, or for any part of the year. Credit may  
9 not be given for a penalty previously assessed or paid.

10 § 1572. Failure to file return.

11 If no return is filed, the amount of the tax due may be  
12 assessed and collected at any time as to taxable transactions  
13 not reported.

14 § 1573. False or fraudulent return.

15 If a taxpayer willfully files a false or fraudulent return  
16 with intent to evade the tax imposed by this subpart, the amount  
17 of tax due may be assessed and collected at any time.

18 § 1574. Extension of limitation period.

19 Notwithstanding any other provision of this subpart, if,  
20 before the expiration of the period in section 1571 (relating to  
21 limitation on assessment and collection) for the assessment of a  
22 tax, a taxpayer has consented in writing that the period be  
23 extended, the amount of tax due may be assessed at any time  
24 within the extended period. The extended period may be extended  
25 further by subsequent consents in writing made before the  
26 expiration of the extended period.

27 SUBCHAPTER G

28 INTEREST, ADDITIONS, PENALTIES AND CRIMES

29 Sec.

30 1581. Interest.

1 1582. Additions to tax.

2 1583. Penalties.

3 1584. Crimes.

4 1585. Abatement of additions or penalties.

5 § 1581. Interest.

6 If an amount of tax imposed by this subpart is not paid to  
7 the department on or before the last date prescribed for  
8 payment, interest on the amount at the rate of .75% per month  
9 for each month, or fraction of a month, shall be paid for the  
10 period from the last date to the date paid. The last date  
11 prescribed for payment shall be determined under section 1522(a)  
12 or (c) (relating to time of payment) without regard to any  
13 extension of time for payment. For an amount assessed as a  
14 deficiency or as an estimated assessment, the date prescribed  
15 for payment shall be 30 days after notice of the assessment.

16 § 1582. Additions to tax.

17 (a) Failure to file return.--For a failure to file a return  
18 required by section 1511 (relating to persons required to make  
19 returns) on the date prescribed for filing the return, including  
20 any extensions, and for a return filed which understates the  
21 true amount due by more than 50%, 5% of the amount of the tax  
22 shall be added to the amount of tax due if the failure to file a  
23 proper return is for not more than one month and an additional  
24 5% for each additional month, or fraction of a month, during  
25 which the failure continues, not to exceed 25% in the aggregate.  
26 At least \$2 shall be added to each failure to file a proper  
27 return under this subsection.

28 (b) Addition for understatement.--There shall be added to  
29 every assessment under section 1532(b) (relating to mode and  
30 time of assessment) 5% of the amount of the understatement and

1 no addition to the tax shall be paid under section 1532(a).

2 (c) Interest.--If the department assesses a tax under  
3 section 1532(a), (b) or (c), there shall be added to the amount  
4 of the deficiency interest at the rate of .75% per month for  
5 each month, or fraction of a month, from the date prescribed by  
6 section 1522(a) or (c) (relating to time of payment) for the  
7 payment of the tax to the date of notice of the assessment.

8 § 1583. Penalties.

9 (a) Penalty assessed as tax.--The penalties, additions,  
10 interest and liabilities provided by this subpart shall be paid  
11 upon notice and demand by the department and shall be assessed  
12 and collected in the same manner as taxes. Except as otherwise  
13 provided, any reference in this chapter to tax imposed by this  
14 subpart shall also be deemed to refer to the penalties,  
15 additions, interest and liabilities provided by this chapter.

16 (b) Attempt to evade or defeat tax.--

17 (1) A person who willfully attempts to evade or defeat  
18 the tax or the payment of the tax imposed by this subpart or  
19 to assist another person to evade or defeat the tax or the  
20 payment of the tax imposed by this subpart, or to receive a  
21 refund improperly, shall, in addition to other penalties  
22 provided by law, be liable for a penalty equal to one-half of  
23 the total amount of the tax evaded.

24 (2) In a direct proceeding arising out of a petition for  
25 reassessment or refund as provided in this chapter in which  
26 an issue of fact is raised with respect to whether a return  
27 is fraudulent or with respect to the propriety of the  
28 imposition by the department of the penalty prescribed in  
29 this subsection, the burden of proof shall be on the  
30 department.

1 § 1584. Crimes.

2 (a) Fraudulent return.--A person who, with intent to defraud  
3 the Commonwealth, willfully makes or causes to be made a return  
4 required by this subpart which is false commits a misdemeanor  
5 and shall, upon conviction, be sentenced to pay a fine not  
6 exceeding \$2,000 or to imprisonment for not more than three  
7 years, or both.

8 (b) Other crimes.--

9 (1) A person commits a misdemeanor and shall, upon  
10 conviction, be sentenced to pay a fine not exceeding \$1,000  
11 and costs of prosecution or to imprisonment for not more than  
12 one year, or both, for any of the following:

13 (i) Except as otherwise provided under subsection  
14 (a), advertising, holding out or stating to the public or  
15 to a purchaser or user, directly or indirectly, that the  
16 tax or any part of the tax imposed by this subpart will  
17 be absorbed by the person, or that it will not be added  
18 to the purchase price of the tangible personal property  
19 or services described under paragraph (1)(ii), (iii),  
20 (iv), (vi), (vii), (viii), (ix), (x), (xi) and (xii) of  
21 the definition of the term "sale at retail" sold or, if  
22 added, that the tax or any part of the tax will be  
23 refunded, other than when the person refunds the purchase  
24 price because of the property being returned to the  
25 vendor.

26 (ii) For a person selling or leasing tangible  
27 personal property or services subject to tax under this  
28 subpart, willfully failing to collect the tax from the  
29 purchaser and timely remitting the tax to the department  
30 or willfully failing or neglecting to timely file a

1 return or report required by this subpart.

2 (iii) Refusing to timely pay a tax, penalty or  
3 interest imposed or provided for under this subpart.

4 (iv) Willfully failing to preserve books, papers and  
5 records as directed by the department or refusing to  
6 permit the department or the department's authorized  
7 agents to examine books, records or papers.

8 (v) Knowingly making an incomplete, false or  
9 fraudulent return or report.

10 (vi) Preventing the full disclosure of the amount or  
11 character of taxable sales purchases or use made.

12 (vii) Providing a person with a false statement as  
13 to the payment of tax with respect to particular tangible  
14 personal property or services.

15 (viii) Creating or issuing a false or fraudulent  
16 exemption certificate.

17 (2) Notwithstanding paragraph (1), a person maintaining  
18 a place of business outside this Commonwealth may absorb the  
19 tax with respect to taxable sales made in the normal course  
20 of business to customers present at the place of business  
21 without being subject to the penalty and fines imposed under  
22 paragraph (1).

23 (3) Notwithstanding paragraph (1), advertising tax-  
24 included prices shall be permissible if the prepaid services  
25 are sold by the service provider for prepaid  
26 telecommunications services not evidenced by the transfer of  
27 tangible personal property or for prepaid mobile  
28 telecommunications services.

29 (c) Sales suppression devices and phantomware.--

30 (1) Subject to paragraph (2), notwithstanding any other

1 provision of this subpart, a person who purchases, installs  
2 or uses in this Commonwealth an automated sales suppression  
3 device or zapper or phantomware with the intent to defeat or  
4 evade the determination of an amount due under this part  
5 commits a misdemeanor. The following apply:

6 (i) A person who, for commercial gain, sells,  
7 purchases, installs, transfers or possesses in this  
8 Commonwealth an automated sales suppression device or  
9 zapper or phantomware with the knowledge that the sole  
10 purpose of the device is to defeat or evade the  
11 determination of an amount due under this part commits a  
12 misdemeanor and shall, upon conviction, be sentenced to  
13 pay a fine specified under subparagraph (ii) or to  
14 imprisonment for not more than one year, or both. A  
15 person who uses an automated sales suppression device or  
16 zapper or phantomware shall be liable for all taxes,  
17 interest and penalties due as a result of the use of the  
18 device.

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

24 (iii) If a person commits an offense under this  
25 paragraph and the person sold, installed, transferred or  
26 possessed more than three automated sales suppression  
27 devices or zappers or phantomware, the person commits an  
28 offense punishable by a fine of not more than \$10,000.

29 (2) This subsection shall not apply to a corporation  
30 that possesses an automated sales suppression device or

1 zapper or phantomware for the sole purpose of developing  
2 hardware or software to combat the evasion of taxes by use of  
3 automated sales suppression devices or zappers or  
4 phantomware.

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

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

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

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

29 "Transaction data." Includes information regarding items  
30 purchased by a customer, the price for each item, a

1 taxability determination for each item, a segregated tax  
2 amount for each of the taxed items, the amount of cash or  
3 credit tendered, the net amount returned to the customer in  
4 change, the date and time of the purchase, the name, address  
5 and identification number of the vendor and the receipt or  
6 invoice number of the transaction.

7 (d) Prosecution.--This section shall not preclude  
8 prosecution under any other law.

9 (e) Penalties.--The penalties imposed by this section shall  
10 be in addition to any other penalties imposed by this  
11 subchapter.

12 § 1585. Abatement of additions or penalties.

13 Upon the filing of a petition for reassessment or a petition  
14 for refund as provided under this subpart by a taxpayer,  
15 additions or penalties imposed upon the taxpayer by this part  
16 may be waived or abated, in whole or in part, if the petitioner  
17 has established that the petitioner has acted in good faith,  
18 without negligence and with no intent to defraud.

#### 19 SUBCHAPTER H

#### 20 ENFORCEMENT AND EXAMINATIONS

21 Sec.

22 1591. Rules and regulations.

23 1592. Keeping of records.

24 1593. Reports and records of promoters.

25 1594. Examinations.

26 1595. Records and examinations of delivery agents.

27 1596. Unauthorized disclosure.

28 1597. Cooperation with other governments.

29 1598. Interstate compacts.

30 1599. Bonds.

1 1599.1. Remote sales reports.

2 § 1591. Rules and regulations.

3 (a) General rule.--The department is charged with the  
4 enforcement of this chapter and may prescribe, adopt, promulgate  
5 and enforce rules and regulations consistent with this chapter  
6 relating to any matter or thing pertaining to the administration  
7 and enforcement of this chapter and the collection of taxes,  
8 penalties and interest imposed by this chapter. The department  
9 may prescribe the extent, if any, to which the rules and  
10 regulations shall be applied without retroactive effect.

11 (b) Sales between affiliated interests.--The following  
12 apply:

13 (1) In determining the purchase price of taxable sales  
14 where, because of affiliation of interests between the vendor  
15 and the purchaser or irrespective of an affiliation, or for  
16 any other reason, the purchase price of the sale is not  
17 indicative of the true value or fair price of the article,  
18 the department shall determine the amount of constructive  
19 purchase price upon which the tax shall be computed and  
20 levied.

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

28 (3) For the purpose of this chapter, if a taxable sale  
29 occurs between a parent corporation and a subsidiary  
30 affiliate or controlled corporation of the parent, there

1 shall be a rebuttable presumption that because of the common  
2 interest the transaction was not at arm's length.

3 § 1592. Keeping of records.

4 (a) General rule.--Every person liable for a tax imposed by  
5 this chapter or for the collection of a tax shall keep records,  
6 render statements, make returns and comply with rules and  
7 regulations as the department may prescribe. The department as  
8 it deems necessary may require a person, by notice served upon  
9 the person or by regulations, to make returns, render statements  
10 or keep records as the department deems sufficient to show  
11 whether or not the person is liable to pay or collect tax under  
12 this chapter.

13 (b) Persons collecting tax from others.--A person liable to  
14 collect tax from another person under this chapter shall file  
15 reports, keep records, make payments and be subject to interest  
16 and penalties provided for under this chapter in the same manner  
17 as if the person was directly subject to the tax.

18 (c) Records of nonresidents.--

19 (1) A nonresident who does business in this Commonwealth  
20 as a retail dealer shall keep adequate records of each  
21 business and of the tax due, which shall be retained within  
22 this Commonwealth unless retention outside this Commonwealth  
23 is authorized by the department.

24 (2) Taxes collected from purchasers may not be sent  
25 outside this Commonwealth without the written consent of, and  
26 in accordance with conditions prescribed by, the department.

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

30 (d) Keeping of separate records.--A person doing business as

1 a retail dealer who at the same time is engaged in another  
2 business which does not involve the making of sales taxable  
3 under this chapter shall keep separate books and records of each  
4 business to show the sales taxable under this chapter separately  
5 from the sales not taxable under this chapter. If a person fails  
6 to keep separate books and records, the person shall be liable  
7 for tax at the rate designated under Subchapter A of Chapter 13  
8 (relating to imposition of tax) on the entire purchase price of  
9 sales from each business.

10 (e) Other methods.--If a vendor gives no sales memoranda or  
11 uses registers showing only total sales, the vendor shall adopt  
12 some method of segregating tax from sales receipts and keep  
13 records showing the segregation, in accordance with proper  
14 accounting and business practices.

15 (f) Collection and recording procedure.--The following shall  
16 apply:

17 (1) A vendor may apply to the department for permission  
18 to use a collection and recording procedure which will show  
19 the information required by law with reasonable accuracy and  
20 simplicity.

21 (2) The application shall contain a detailed description  
22 of the procedure to be adopted.

23 (3) Permission to use the proposed procedure is not to  
24 be construed as relieving the vendor from remitting the full  
25 amount of tax collected.

26 (4) The department may revoke the permission upon 30  
27 days' notice to the vendor.

28 (5) Refusal of the department to grant permission in  
29 advance to use the procedure shall not be construed to  
30 invalidate a procedure which, upon examination, shows the

1 information required by law.

2 § 1593. Reports and records of promoters.

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

16 § 1594. Examinations.

17 The following apply:

18 (1) The department or an authorized agent may examine  
19 the books, papers and records of a taxpayer in order to  
20 verify the accuracy and completeness of a return made or, if  
21 no return was made, to ascertain and assess the tax imposed  
22 by this chapter.

23 (2) The department may require the preservation of each  
24 book, paper and record for a period deemed proper by the  
25 department but not to exceed three years from the end of the  
26 calendar year to which the records relate.

27 (3) Every taxpayer shall give to the department, or its  
28 agent, the means, facilities and opportunity for examination  
29 and investigation. The department may examine any person,  
30 under oath, concerning taxable sales or use by a taxpayer or

1 concerning any other matter relating to the enforcement or  
2 administration of this chapter and for this purpose may  
3 compel the production of books, papers and records and the  
4 attendance of all persons, whether as parties or witnesses,  
5 whom the department believes to have knowledge of the  
6 matters.

7 (4) The procedure for hearings or examinations shall be  
8 the same as that provided by the Fiscal Code relating to  
9 inquisitorial powers of fiscal officers.

10 § 1595. Records and examinations of delivery agents.

11 Every agent, for the purpose of delivery of goods shipped  
12 into this Commonwealth by a nonresident, including, but not  
13 limited to, common carriers, shall maintain adequate records of  
14 the deliveries under rules and regulations adopted by the  
15 department and shall make the records available to the  
16 department upon request.

17 § 1596. Unauthorized disclosure.

18 (a) Confidentiality and exceptions.--Information gained by  
19 the department as a result of a return, examination,  
20 investigation, hearing or verification required or authorized by  
21 this chapter shall be confidential, except:

22 (1) for official purposes; or

23 (2) in accordance with proper judicial order or as  
24 otherwise provided by law.

25 (b) Penalty.--A person unlawfully divulging information  
26 commits a misdemeanor and shall, upon conviction, be sentenced  
27 to pay a fine of not more than \$1,000 along with the costs of  
28 prosecution, or to imprisonment for not more than one year, or  
29 both.

30 § 1597. Cooperation with other governments.

1 (a) General rule.--Subject to subsection (b),  
2 notwithstanding section 1596 (relating to unauthorized  
3 disclosure), the department may:

4 (1) permit the Commissioner of Internal Revenue of the  
5 United States, the proper officer of any state or the  
6 authorized representative of either officer to inspect the  
7 tax returns of a taxpayer; or

8 (2) furnish to the officer or to an authorized  
9 representative under paragraph (1) an abstract of the return  
10 of a taxpayer or information concerning an item contained in  
11 a return or disclosed by the report of an examination or  
12 investigation of the return of a taxpayer.

13 (b) Condition.--Permission under subsection (a) shall be  
14 granted only if Federal law or the statutes of another state  
15 grant substantially similar privileges to the proper officer of  
16 the Commonwealth charged with the administration of this  
17 chapter.

18 § 1598. Interstate compacts.

19 (a) General authority.--The Governor, or an authorized  
20 representative, may confer with the Governor or authorized  
21 representatives of other states regarding reciprocal use tax  
22 collection between the Commonwealth and other states.

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

1 § 1599. Bonds.

2 (a) Taxpayer to file bond.--The following apply:

3 (1) If the department deems it necessary to protect the  
4 revenues to be obtained under this chapter, the department  
5 may require a nonresident individual or a foreign  
6 corporation, association, fiduciary, partnership or other  
7 entity not authorized to do business in this Commonwealth or  
8 not having an established place of business in this  
9 Commonwealth and subject to the tax imposed by Subchapter A  
10 of Chapter 13 (relating to imposition of tax) to file a bond  
11 issued by a surety company authorized to do business in this  
12 Commonwealth and approved by the Insurance Commissioner as to  
13 solvency and responsibility, in an amount fixed by the  
14 department, to secure the payment of tax or penalties due or  
15 which may become due, from the individual or entity.

16 (2) To protect the revenues to be obtained under this  
17 subchapter, the department shall require a nonresident  
18 individual or foreign corporation, association, fiduciary,  
19 partnership or other entity that is a building contractor or  
20 supplier delivering building materials for work in this  
21 Commonwealth and is not authorized to do business within this  
22 Commonwealth or does not have an established place of  
23 business in this Commonwealth and is subject to the tax  
24 imposed by Subchapter A of Chapter 13, to file a bond issued  
25 by a surety company authorized to do business in this  
26 Commonwealth and approved by the Insurance Commissioner as to  
27 solvency and responsibility, in an amount fixed by the  
28 department to secure the payments of tax or penalties due or  
29 which may become due, from the individual or entity.

30 (3) In addition to a bond under paragraph (1) or (2),

1 the department may require a bond of a person petitioning the  
2 department for reassessment in the case of an assessment of  
3 more than \$500 or where the ultimate collection is in  
4 jeopardy.

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

10 (i) If the department determines that a taxpayer is  
11 to file a bond, the department shall give notice to the  
12 taxpayer and specify the amount of the bond required.

13 (ii) The taxpayer shall file the bond within five  
14 days after notice is given by the department unless,  
15 within those five days, the taxpayer requests in writing  
16 a hearing before the secretary or a representative.

17 (iii) The necessity, propriety and amount of the  
18 bond shall be determined by the secretary or a  
19 representative at the hearing.

20 (iv) The determination shall be final and shall be  
21 complied with within 15 days after notice is mailed to  
22 the taxpayer.

23 (b) Securities in lieu of bond.--

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

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

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

3 (c) Failure to file bond.--The department may file a lien  
4 under section 1541 (relating to lien for taxes) against a  
5 taxpayer who fails to file a bond when required to do so under  
6 this section. All funds received upon execution of the judgment  
7 on the lien shall be refunded to the taxpayer with 3% interest  
8 if a final determination is made that the taxpayer does not owe  
9 any payment to the department.

10 § 1599.1. Remote sales reports.

11 (a) Report.--

12 (1) Within 90 days of the publication of the notice  
13 under subsection (b), the Independent Fiscal Office, in  
14 conjunction with the department, shall submit a detailed  
15 report outlining the plans concerning the implementation of  
16 the legislation referenced in subsection (b) or other  
17 substantially similar Federal legislation which would grant  
18 the Commonwealth the authority to impose and collect the tax  
19 under this chapter due on sales from remote sellers.

20 (2) The report under paragraph (1) shall be submitted to  
21 the following:

22 (i) The chairperson and minority chairperson of the  
23 Appropriations Committee of the Senate.

24 (ii) The chairperson and minority chairperson of the  
25 Finance Committee of the Senate.

26 (iii) The chairperson and minority chairperson of  
27 the Appropriations Committee of the House of  
28 Representatives.

29 (iv) The chairperson and minority chairperson of the  
30 Finance Committee of the House of Representatives.

1       (3) The report under paragraph (1) shall include all of  
2 the following:

3       (i) The amount of State money necessary to implement  
4 the legislation described under subsection (b) or other  
5 substantially similar legislation. The amount shall be  
6 itemized, and all costs, including personnel, office  
7 expenses and other related costs, shall be included.

8       (ii) The amount of State tax revenue expected to  
9 result from the implementation of the legislation  
10 described under subsection (b) or other substantially  
11 similar legislation for the fiscal year and for the five  
12 subsequent fiscal years.

13       (iii) The source of money that will be utilized to  
14 pay for the legislation described under subsection (b) or  
15 other substantially similar legislation implementation  
16 program.

17       (iv) The legal and practical issues concerning the  
18 propriety of collecting and enforcing the tax imposed  
19 under this chapter from remote sellers.

20       (v) The number of other states which have a similar  
21 law in effect and the success or deficiency of the law.

22       (vi) Proposed draft legislation concerning the  
23 implementation of the legislation described under  
24 subsection (b) or other substantially similar  
25 legislation.

26       (vii) A detailed timetable on when separate tasks  
27 must be completed for full implementation on an estimated  
28 start date.

29       (b) Notice.--The secretary shall transmit notice to the  
30 Legislative Reference Bureau for publication in the Pennsylvania

1 Bulletin that Federal legislation relating to remote sellers has  
2 been enacted.

3 (c) Definition.--As used in this section, the term "remote  
4 seller" shall have the same meaning as defined in section 1351  
5 (relating to definitions).

6 SUBCHAPTER I

7 MISCELLANEOUS PROVISIONS

8 Sec.

9 1599.11. Appropriation for special purposes.

10 1599.12. Transfers to Public Transportation Assistance Fund.

11 § 1599.11. Appropriation for special purposes.

12 The proceeds of the tax imposed under this subchapter  
13 necessary for the payment of refunds, enforcement or  
14 administration are appropriated for those purposes.

15 § 1599.12. Transfers to Public Transportation Assistance Fund.

16 (a) Transfer.--Revenues received on or after July 1, 1992,  
17 from the imposition of the tax on periodicals shall be  
18 transferred to the Public Transportation Assistance Fund  
19 according to the formula described under subsection (b).

20 (b) Formula.--Within 30 days of the close of any calendar  
21 month, .44% of the taxes received in the previous month under  
22 this subchapter, less amounts collected in the previous calendar  
23 month under former 74 Pa.C.S. § 1314(d) (relating to Public  
24 Assistance Transportation Fund), shall be transferred to the  
25 Public Transportation Assistance Fund.

26 (c) Transfer to Public Assistance Transportation Fund.--In  
27 fiscal year 1991-1992, the secretary shall deposit \$10,000,000  
28 into the Public Assistance Transportation Fund from the  
29 combination of money received under former 74 Pa.C.S. § 1314(d)  
30 and transfers of periodical taxes received under this section.

1 (d) Further transfer.--Within 30 days of the close of any  
2 calendar month, .09% of the taxes received in the previous month  
3 under this chapter shall be transferred to the Public  
4 Transportation Assistance Fund.

5 (e) Other transfer.--Within 30 days of the close of any  
6 calendar month, .417% of the taxes received in the previous  
7 month under this chapter shall be transferred to the Public  
8 Transportation Assistance Fund.

9 SUBPART B

10 PERSONAL INCOME TAX

11 Chapter

12 21. Preliminary Provisions

13 22. Taxation Generally

14 23. Credits Against Tax

15 24. Contributions of Refunds by Checkoff

16 25. Withholding of Tax

17 26. Estimated Tax

18 27. Returns and Payment of Tax

19 28. Procedure and Administration

20 29. Miscellaneous Provisions

21 CHAPTER 21

22 PRELIMINARY PROVISIONS

23 Sec.

24 2101. Scope of subpart.

25 2102. Definitions.

26 § 2101. Scope of subpart.

27 This subpart relates to personal income tax.

28 § 2102. Definitions.

29 The following words and phrases when used in this subpart  
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Accepted accounting principles and practices." Unless  
3 otherwise provided for in this subpart, the accounting  
4 principles, systems or practices, including the installment  
5 sales method of reporting, which are acceptable by standards of  
6 the accounting profession and which are consistent with the  
7 regulations of the department providing the principles and  
8 practices.

9 "Association." As follows:

10 (1) A form of unincorporated enterprise which:

11 (i) is subject to the tax imposed under Subpart C  
12 (relating to corporate net income tax); or

13 (ii) is required to make a return under section 6042  
14 of the Internal Revenue Code of 1986.

15 (2) The term shall not include a partnership or  
16 investment company.

17 "Business." An enterprise, activity, profession, vocation,  
18 trade, joint venture, commerce or other undertaking of any  
19 nature when engaged in as commercial enterprise and conducted  
20 for profit, whether by an individual, partnership, Pennsylvania  
21 S corporation, association or other unincorporated entity.

22 "Charitable trust." A trust operated exclusively for  
23 religious, charitable, scientific, literary or educational  
24 purposes.

25 "Claimant." A person who:

26 (1) Is subject to the tax imposed under this subpart.

27 (2) Is not a dependent of another taxpayer for purposes  
28 of section 151 of the Internal Revenue Code of 1986.

29 (3) Is entitled to claim against the tax the poverty tax  
30 provisions as provided under this subpart.

1 "Compensation." As follows:

2 (1) Salaries, wages, commissions, bonuses and incentive  
3 payments, whether based on profits or otherwise, fees, tips  
4 and similar remuneration received for services rendered,  
5 whether directly or through an agent, and whether in cash or  
6 in property.

7 (2) The term shall include:

8 (i) Any part of a distribution under a plan  
9 described in section 409A(d) (1) of the Internal Revenue  
10 Code of 1986 attributable to an elective deferral of  
11 income or the income on an elective deferral of income,  
12 whether paid or payable during employment or to a retired  
13 individual upon or after retirement from service.

14 (ii) Payments commonly recognized as old age or  
15 retirement benefits paid to persons retired from service  
16 after reaching a specific age or after a stated period of  
17 employment, except that the term with respect to these  
18 benefits shall not mean or include benefits paid under  
19 the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et  
20 seq.) or a pension that is provided in lieu of old age  
21 and survivor benefit payments under the Social Security  
22 Act to a person whose employment was not covered under  
23 the Social Security Act.

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

25 (i) Periodic payments for sickness and disability  
26 other than regular wages received during a period of  
27 sickness or disability.

28 (ii) Disability, retirement or other payments  
29 arising under worker's compensation acts, occupational  
30 disease acts and similar legislation by a government.

1           (iii) (Reserved).

2           (iv) Payments commonly known as public assistance or  
3 unemployment compensation payments by a governmental  
4 agency.

5           (v) Payments to reimburse actual expenses.

6           (vi) Payments made by employers or labor unions,  
7 including payments made under a cafeteria plan qualifying  
8 under section 125 of the Internal Revenue Code of 1986,  
9 for employee benefit programs covering hospitalization,  
10 sickness, disability or death, supplemental unemployment  
11 benefits or strike benefits if the program does not  
12 discriminate in favor of highly compensated individuals  
13 as to eligibility to participate, payments or program  
14 benefits.

15           (vii) Compensation received by a member of the armed  
16 forces of the United States serving in a combat zone.

17           (viii) Payments received by a foster parent for in-  
18 home care of foster children from an agency or political  
19 subdivision of the Commonwealth or an organization exempt  
20 from Federal tax under section 501(c)(3) of the Internal  
21 Revenue Code of 1986 which is licensed by the  
22 Commonwealth or a political subdivision as a placement  
23 agency.

24           (ix) Payments made by employers or labor unions for  
25 employee benefit programs covering Social Security or  
26 retirement.

27           (x) Personal use of an employer's owned or leased  
28 property or employer-provided services.

29           "Corporate item." An item, including income, gain or loss,  
30 deduction or credit, determined at the Pennsylvania S

1 corporation level, which is required to be taken into account  
2 for a Pennsylvania S corporation's taxable year.

3 "Corporation." For purposes of applying the provisions of  
4 section 2203(a) (relating to classes of income) with respect to  
5 a "reorganization" as defined in that section, the term shall  
6 include any of the following:

7 (1) A business trust to which 15 Pa.C.S. Ch. 95  
8 (relating to business trusts) applies.

9 (2) A common law business trust.

10 (3) A limited liability company that, for Federal income  
11 tax purposes, is taxable as a corporation or an investment  
12 company.

13 "Dependent." A child who is the dependent of a claimant for  
14 purposes of section 151 of the Internal Revenue Code of 1986.

15 "Dividends." As follows:

16 (1) A distribution in cash or property made by a  
17 corporation, association, business trust or investment  
18 company with respect to the corporation's, association's,  
19 business trust's or investment company's stock out of  
20 accumulated earnings and profits or out of earnings and  
21 profits of the year in which the dividend is paid.

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

23 (i) A distribution of the stock of a corporation  
24 made by the corporation originally issuing the stock to  
25 its stockholders if the distribution is not treated as  
26 personal income for Federal individual income tax  
27 purposes.

28 (ii) For taxable years beginning on or after January  
29 1, 1993, a distribution made by an investment company out  
30 of earnings and profits derived from interest that is

1 statutorily free from State and local taxation under  
2 Article XXIX of the Tax Reform Code of 1971 or the laws  
3 of the United States.

4 "Employee." An individual from whose wages an employer is  
5 required under the Internal Revenue Code of 1986 to withhold  
6 Federal income tax.

7 "Employer." An individual, partnership, association,  
8 corporation, governmental body or agency or other entity that is  
9 required under the Internal Revenue Code of 1986 to withhold  
10 Federal income tax from wages paid to an employee.

11 "Fiduciary." A guardian, trustee, executor, administrator,  
12 receiver, conservator or person acting in a trust or similar  
13 capacity, whether domiciliary or ancillary.

14 "Health savings account." As defined in section 223(d) of  
15 the Internal Revenue Code of 1986.

16 "Income." For a resident individual, estate or trust, the  
17 term shall mean the same as compensation, net profits, gains,  
18 dividends, interest or income under section 2203.

19 "Income from sources within this Commonwealth." As follows:

20 (1) For a nonresident individual, estate or trust, the  
21 term shall mean the same as compensation, net profits, gains,  
22 dividends, interest or income under section 2203 to the  
23 extent that the income is earned, received or acquired from  
24 sources within this Commonwealth:

25 (i) By reason of ownership or disposition of an  
26 interest in real or tangible personal property in this  
27 Commonwealth.

28 (ii) In connection with a trade, profession,  
29 occupation carried on in this Commonwealth or for the  
30 rendition of personal services performed in this

1 Commonwealth.

2 (iii) As a distributive share of the income of an  
3 unincorporated business, Pennsylvania S corporation,  
4 profession, enterprise, undertaking or other activity as  
5 the result of work done, services rendered or other  
6 business activities conducted in this Commonwealth,  
7 except as allocated to another state under regulations  
8 promulgated by the department under this subpart.

9 (iv) From intangible personal property employed in a  
10 trade, profession, occupation or business carried on in  
11 this Commonwealth.

12 (v) As gambling and lottery winnings by reason of a  
13 wager placed in this Commonwealth, the conduct of a game  
14 of chance or other gambling activity located in this  
15 Commonwealth or the redemption of a lottery prize from a  
16 lottery conducted in this Commonwealth, other than  
17 noncash prizes of the Pennsylvania State Lottery.

18 (2) For a nonresident individual, estate or trust, the  
19 term shall not include items of income specified in paragraph  
20 (1) received or acquired from an investment company  
21 registered with the Federal Securities and Exchange  
22 Commission under the Investment Company Act of 1940 (54 Stat.  
23 789, 15 U.S.C. § 80a-1 et seq.).

24 "Individual." Includes a member of a partnership or  
25 association and a shareholder of a Pennsylvania S corporation.

26 "Installment sales method of reporting." As follows:

27 (1) The method by which a taxpayer reports the gain upon  
28 the sale of tangible personal property or real property when  
29 at least one payment is to be received in a taxable year  
30 following the taxable year of sale, whether the property is

1 sold or otherwise disposed of in an isolated transaction or  
2 from the inventory of a dealer or broker.

3 (2) Taxpayers may elect to allocate the gain upon the  
4 transactions in equal proportion to each payment to be  
5 received. Taxpayers who do not elect to allocate the gain  
6 upon the transactions in equal proportion to each payment  
7 received shall report all gains upon the sale in the taxable  
8 year in which the transaction occurred.

9 (3) For the purposes of this definition:

10 (i) The gain upon the transaction shall be the  
11 difference between the sales price and the seller's basis  
12 in the property.

13 (ii) The sales price shall be the face amount of the  
14 evidence of indebtedness given in exchange for the  
15 property sold or otherwise disposed of together with the  
16 value of other consideration received by the seller. If  
17 the evidence of indebtedness fails to state a price, the  
18 evidence of indebtedness shall be valued at the fair  
19 market value of the property sold, less the value of  
20 other property or cash received in the same transaction.

21 (iii) The installment sales method of reporting  
22 shall not be used for transactions made to lend money or  
23 render services.

24 "Internal Revenue Code of 1986." The Internal Revenue Code  
25 of 1986, as amended to January 1, 1997, unless the reference  
26 contains the phrase "as amended" and refers to no other date, in  
27 which case the reference shall be to the Internal Revenue Code  
28 of 1986 as it exists as of the time of application of this  
29 subpart.

30 "Investment company." An incorporated or unincorporated

1 enterprise registered with the Federal Securities and Exchange  
2 Commission under the Investment Company Act of 1940.

3 "Nonresident estate or trust." An estate or trust which is  
4 not a resident estate or trust. The term shall not include a  
5 charitable trust or pension or profit sharing trust.

6 "Nonresident individual." An individual who is not a  
7 resident of this Commonwealth.

8 "Partnership." A domestic or foreign general partnership,  
9 joint venture, limited partnership, limited liability company,  
10 business trust or other unincorporated entity that for Federal  
11 income tax purposes is classified as a partnership.

12 "Partnership item." An item, including income, gain or loss,  
13 deduction or credit determined at the partnership level, which  
14 is required to be taken into account for a partnership's taxable  
15 year.

16 "Pennsylvania S corporation." As follows:

17 (1) A small corporation that does not have a valid  
18 election under section 2231 (relating to election by small  
19 corporation) in effect.

20 (2) A qualified Subchapter S subsidiary owned by a  
21 Pennsylvania S corporation shall be treated as a Pennsylvania  
22 S corporation without regard to whether an election under  
23 section 2231 has been made with respect to the subsidiary.

24 "Person." An individual, employer, association, fiduciary,  
25 partnership, corporation or other entity, estate or trust,  
26 resident or nonresident. For the purpose of determining  
27 eligibility for special tax provisions, the term shall mean an  
28 individual.

29 "Poverty." An economic condition where the total amount of  
30 poverty income is insufficient to adequately provide a claimant,

1 the claimant's spouse and dependent children with the  
2 necessities of life.

3 "Poverty income." For the purpose of determining eligibility  
4 for special tax provisions, all money or property, including  
5 interest, gains or income derived from obligations which are  
6 statutorily free from State or local taxation under the laws of  
7 the United States or this Commonwealth, received of any nature  
8 and from any source, but not including any of the following:

9 (1) Periodic payments for sickness and disability other  
10 than regular wages received during a period of sickness or  
11 disability.

12 (2) Disability, retirement or other payments arising  
13 under workers' compensation acts, occupational disease acts  
14 and similar legislation by a government.

15 (3) Payments commonly recognized as old age or  
16 retirement benefits paid to persons retired from service  
17 after reaching a specific age or after a stated period of  
18 employment.

19 (4) Payments commonly known as public assistance, or  
20 unemployment compensation payments by a governmental agency.

21 (5) Payments to reimburse actual expenses.

22 (6) Payments made by employers or labor unions for  
23 programs covering hospitalization, sickness, disability or  
24 death, supplemental unemployment benefits, strike benefits,  
25 Social Security and retirement.

26 (7) Compensation received by a member of the armed  
27 forces of the United States serving in a combat zone.

28 "Publicly traded partnership." An entity defined under  
29 section 7704 of the Internal Revenue Code of 1986 with equity  
30 securities registered with the Securities and Exchange

1 Commission under section 12 of the Securities Exchange Act of  
2 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.).

3 "Qualified Subchapter S subsidiary." A domestic or foreign  
4 corporation which, for Federal income tax purposes, is treated  
5 as a qualified Subchapter S subsidiary as defined in section  
6 1361(b)(3)(B) of the Internal Revenue Code of 1986.

7 "Received." For the purpose of computation of income subject  
8 to tax under this subpart, the term shall mean "received, earned  
9 or acquired," and the phrase "received, earned or acquired"  
10 shall be construed according to the method of accounting  
11 required by the department under this subpart for computing and  
12 reporting income subject to the tax.

13 "Resident estate." The estate of a decedent who, at the time  
14 of the decedent's death, was a resident individual.

15 "Resident individual." As follows:

16 (1) An individual who is domiciled in this Commonwealth,  
17 unless the individual maintains no permanent place of abode  
18 in this Commonwealth, maintains a permanent place of abode  
19 elsewhere and spends in the aggregate not more than 30 days  
20 of the taxable year in this Commonwealth.

21 (2) An individual who is not domiciled in this  
22 Commonwealth but maintains a permanent place of abode in this  
23 Commonwealth and spends in the aggregate more than 183 days  
24 of the taxable year in this Commonwealth.

25 "Resident trust." As follows:

26 (1) A trust created by the will of a decedent who, at  
27 the time of the decedent's death, was a resident individual.

28 (2) A trust created by, or consisting in whole or in  
29 part of property transferred to a trust by a person who at  
30 the time of the creation or transfer was a resident.

1           (3) The term shall not include a charitable trust or  
2           pension or profit-sharing trust.

3           "Small corporation." A corporation that has a valid election  
4           in effect under Subchapter S of Chapter 1 of the Internal  
5           Revenue Code of 1986.

6           "Special tax provisions." A refund or forgiveness of all or  
7           part of a claimant's liability under the provisions of this  
8           subpart.

9           "State." Except as provided under section 2303(a) (relating  
10           to income taxes imposed by other states), a state or  
11           commonwealth of the United States, the District of Columbia, the  
12           Commonwealth of Puerto Rico, a territory or possession of the  
13           United States or a foreign country.

14           "Tax." The tax required to be withheld by an employer on  
15           compensation paid, including interest, penalties and additions  
16           to the tax.

17           "Taxable year." As follows:

18           (1) The taxable period on the basis of which a taxpayer  
19           or claimant is required to file a Federal income tax return  
20           under the Internal Revenue Code of 1986.

21           (2) If a taxpayer or claimant is not required to or does  
22           not file a Federal income tax return, the calendar year.

23           (3) As follows:

24           (i) For the initial period during which the tax is  
25           first imposed, the term shall mean the period beginning  
26           June 1, 1971, and ending with the taxable period on the  
27           basis of which a taxpayer or claimant is required to file  
28           the taxpayer's Federal income tax return under the  
29           Internal Revenue Code of 1986.

30           (ii) If the taxpayer or claimant is not required to

1 or does not file a Federal income tax return, December  
2 31, 1971.

3 "Taxpayer." As follows:

4 (1) An individual, estate or trust subject to the tax  
5 imposed by this subpart.

6 (2) A partnership having a partner who is a taxpayer  
7 under this title.

8 (3) A Pennsylvania S corporation having a shareholder  
9 who is a taxpayer under this subpart and a person required to  
10 withhold tax under this subpart.

11 CHAPTER 22

12 TAXATION GENERALLY

13 Subchapter

14 A. Imposition of Tax

15 B. Estates and Trusts

16 C. Partnerships

17 D. Pennsylvania S Corporations

18 E. Other Entities

19 F. Nonresident Individuals

20 SUBCHAPTER A

21 IMPOSITION OF TAX

22 Sec.

23 2201. Imposition of tax.

24 2202. Rate changes occurring during taxable year.

25 2203. Classes of income.

26 2204. Special tax provisions for poverty.

27 2205. Alternative special tax provision for poverty study.

28 2206. Pennsylvania ABLE Savings Program tax exemption.

29 § 2201. Imposition of tax.

30 (a) Resident taxation.--Each resident individual, estate or

1 trust shall be subject to, and shall pay for the privilege of  
2 receiving each of the classes of income enumerated in section  
3 2203 (relating to classes of income), a tax upon each dollar of  
4 income received by the resident during the resident's taxable  
5 year at the rate of 3.07%.

6 (b) Nonresident taxation.--Each nonresident individual,  
7 estate or trust shall be subject to, and shall pay for the  
8 privilege of receiving each of the classes of income enumerated  
9 in section 2203 from sources within this Commonwealth, a tax  
10 upon each dollar of income received by the nonresident during  
11 the nonresident's taxable year at the rate of 3.07%.

12 § 2202. Rate changes occurring during taxable year.

13 Notwithstanding the provisions of section 2201 (relating to  
14 imposition of tax), the tax rate used for the computation of tax  
15 for a taxable year where the rate changes during the taxable  
16 year shall be the monthly weighted average of the rates  
17 applicable during the taxable year, regardless of when during  
18 the taxable year the income is received.

19 § 2203. Classes of income.

20 (a) Classes of income specified.--The classes of income are  
21 as follows:

22 (1) Compensation, which shall be defined as salaries,  
23 wages, commissions, bonuses and incentive payments, whether  
24 based on profits or otherwise, fees, tips and similar  
25 remuneration received for services rendered, whether directly  
26 or through an agent and whether in cash or in property,  
27 except income derived from the United States Government for  
28 active duty outside this Commonwealth as a member of the  
29 armed forces of the United States and income from the United  
30 States Government or the Commonwealth for active State duty

1 for emergency within or outside this Commonwealth, including  
2 duty ordered under 35 Pa.C.S. Ch. 76 (relating to Emergency  
3 Management Assistance Compact). The following shall apply:

4 (i) Compensation of a cash-basis taxpayer shall be  
5 considered received if the compensation is actually or  
6 constructively received for Federal income tax purposes  
7 consistent with United States Treasury regulations and  
8 rulings under the Internal Revenue Code of 1986, except  
9 that, for purposes of computing tax under this subpart:

10 (A) Amounts lawfully deducted, not deferred and  
11 withheld from the compensation of employees shall be  
12 considered received by the employee as compensation  
13 at the time the deduction is made.

14 (B) Contributions to an employees' trust, pooled  
15 fund or other arrangement which is not subject to the  
16 claims of creditors of the employer made by an  
17 employer on behalf of an employee or self-employed  
18 individual at the election of the employee or self-  
19 employed individual under a cash or deferred  
20 arrangement or salary reduction agreement shall be  
21 deemed received by the employee or individual as  
22 compensation at the time the contribution is made,  
23 regardless of when the election is made or a payment  
24 is received.

25 (C) A contribution to a plan by, on behalf of or  
26 attributable to a self-employed person shall be  
27 deemed received at the time the contribution is made.

28 (D) Employer contributions to a Roth IRA  
29 custodial account or employee annuity shall be deemed  
30 received, earned or acquired only when distributed,

1 when the plan fails to meet the requirements of  
2 section 408A of the Internal Revenue Code of 1986 or  
3 when the plan is not operated in accordance with the  
4 requirements of section 408A of the Internal Revenue  
5 Code of 1986.

6 (E) Employee contributions to an employees'  
7 trust, pooled fund, custodial account or contract or  
8 employee annuity may not be deducted or excluded from  
9 compensation.

10 (ii) For purposes of determining when deferred  
11 compensation of employees other than employees of exempt  
12 organizations and State and local governments is required  
13 to be included in income, the rules of sections 83, 451  
14 and 409A of the Internal Revenue Code of 1986 shall  
15 apply.

16 (iii) For purposes of determining when deferred  
17 compensation of employees of exempt organizations and  
18 State and local governments is required to be included in  
19 income, the rules of sections 83, 451, 457 and 409A of  
20 the Internal Revenue Code of 1986 shall apply.

21 (2) Net profits, which shall be defined as the net  
22 income from the operation of a business, profession or other  
23 activity, after provision for all costs and expenses incurred  
24 in the conduct of the business, profession or other activity,  
25 determined either on a cash or accrual basis in accordance  
26 with accepted accounting principles and practices but without  
27 deduction of taxes based on income. For purposes of  
28 calculating net income under this paragraph, to the extent a  
29 taxpayer properly deducts an amount under section 195(b)(1)  
30 (A) of the Internal Revenue Code of 1986, and the regulations

1 promulgated under section 195(b)(1)(A) of the Internal  
2 Revenue Code of 1986, the taxpayer shall be permitted a  
3 deduction in equal amount in the same taxable year.

4 (3) Net gains or income from disposition of property as  
5 follows:

6 (i) The term shall be defined as net gains or net  
7 income, less net losses, derived from the sale, exchange  
8 or other disposition of property, including real  
9 property, tangible personal property, intangible personal  
10 property or obligations issued on or after the effective  
11 date of this paragraph by any of the following:

12 (A) The Commonwealth.

13 (B) A public authority, commission, board or  
14 other agency created by the Commonwealth.

15 (C) A political subdivision of the Commonwealth  
16 or a public authority created by a political  
17 subdivision.

18 (D) The Federal Government as determined in  
19 accordance with accepted accounting principles and  
20 practices.

21 (ii) For the purpose of this subpart:

22 (A) For the determination of the basis of any  
23 property, real and personal, if acquired prior to  
24 June 1, 1971, the date of acquisition shall be  
25 adjusted to June 1, 1971, as if the property had been  
26 acquired on that date. If the property was acquired  
27 after June 1, 1971, the actual date of acquisition  
28 shall be used in determination of the basis.

29 (B) The terms "net gains or income" and "net  
30 losses" shall not include gains or income or loss

1 derived from obligations which are statutorily free  
2 from State or local taxation under Article XXIX of  
3 the Tax Reform Code of 1971 or the laws of the United  
4 States.

5 (iii) For the purpose of this subpart, the term  
6 "sale, exchange or other disposition" shall not include  
7 the exchange of stock or securities in a corporation that  
8 is a party to a reorganization in pursuance of a plan of  
9 reorganization, or solely for stock or securities in the  
10 corporation or in another corporation that is a party to  
11 the reorganization and the transfer of property to a  
12 corporation by one or more persons solely in exchange for  
13 stock or securities in the corporation if, immediately  
14 after the exchange, the person or persons are in control  
15 of the corporation. The following shall apply:

16 (A) For purposes of this subparagraph, stock or  
17 securities issued for services shall not be  
18 considered as issued in return for property.

19 (B) For purposes of this subparagraph, the term  
20 "reorganization" shall mean any of the following:

21 (I) A statutory merger or consolidation.

22 (II) The acquisition by one corporation in  
23 exchange solely for all or a part of its voting  
24 stock, or in exchange solely for all or a part of  
25 the voting stock of a corporation which is in  
26 control of the acquiring corporation, of stock of  
27 another corporation if, immediately after the  
28 acquisition, the acquiring corporation has  
29 control of the other corporation, whether or not  
30 the acquiring corporation had control immediately

1           before the acquisition.

2           (III) The acquisition by one corporation, in  
3           exchange solely for all or a part of its voting  
4           stock, or in exchange solely for all or a part of  
5           the voting stock of a corporation which is in  
6           control of the acquiring corporation, of  
7           substantially all of the properties of another  
8           corporation. In determining whether the exchange  
9           is solely for stock, the assumption by the  
10          acquiring corporation of a liability of the other  
11          or the fact that property acquired is subject to  
12          a liability shall be disregarded.

13          (IV) A transfer by a corporation of all or a  
14          part of its assets to another corporation if,  
15          immediately after the transfer, the transferor,  
16          or one or more of the transferor's shareholders,  
17          including persons who were shareholders  
18          immediately before the transfer, or any  
19          combination thereof, is in control of the  
20          corporation to which the assets are transferred.

21          (V) A recapitalization.

22          (VI) A mere change in identity, form or  
23          place of organization.

24          (C) The acquisition by one corporation, in  
25          exchange for stock of a corporation which is in  
26          control of the acquiring corporation, of  
27          substantially all of the properties of another  
28          corporation which in the transaction is merged into  
29          the acquiring corporation shall not disqualify a  
30          transaction under clause (B)(I) if the transaction

1 would have qualified under clause (B)(I) if the  
2 merger had been into the controlling corporation and  
3 no stock of the acquiring corporation is used in the  
4 transaction.

5 (D) A transaction otherwise qualifying under  
6 clause (B)(I) shall not be disqualified by reason of  
7 the fact that stock of a corporation which, before  
8 the merger, was in control of the merged corporation  
9 is used in the transaction if, after the transaction,  
10 the corporation surviving the merger holds  
11 substantially all of its properties and of the  
12 properties of the merged corporation, other than  
13 stock of the controlling corporation distributed in  
14 the transaction, and, in the transaction, former  
15 shareholders of the surviving corporation exchanged,  
16 for an amount of voting stock of the controlling  
17 corporation, an amount of stock in the surviving  
18 corporation which constitutes control of the  
19 corporation.

20 (E) For purposes of this subparagraph:

21 (I) The term "control" shall mean the  
22 ownership of stock possessing at least 80% of the  
23 total combined voting power of all classes of  
24 stock entitled to vote and at least 80% of the  
25 total number of shares of all other classes of  
26 stock of the corporation.

27 (II) The term "a party to a reorganization"  
28 shall include a corporation resulting from a  
29 reorganization, and both corporations, in the  
30 case of a reorganization resulting from the

1 acquisition by one corporation of stock or  
2 properties of another. In the case of a  
3 reorganization qualifying under clause (B) (I) by  
4 reason of clause (C), the term "a party to a  
5 reorganization" shall include the controlling  
6 corporation referred to in clause (C).

7 (F) Notwithstanding any other provisions of this  
8 subparagraph, upon every exchange or conversion, the  
9 taxpayer's base for the stock or securities received  
10 shall be the same as the taxpayer's actual or  
11 attributed base for the stock, securities or property  
12 surrendered in exchange for the stock or securities  
13 received.

14 (iv) For the purpose of this subpart, the term  
15 "sale, exchange or other disposition" shall not include  
16 any of the following:

17 (A) A transfer by a common trust fund described  
18 in section 584 of the Internal Revenue Code of 1986  
19 of all or substantially all of its assets to one or  
20 more companies described in section 851 of the  
21 Internal Revenue Code of 1986 in exchange for stock  
22 or units of beneficial interest in the company or  
23 companies to which the assets are transferred and the  
24 distribution of the stock or units by the fund to its  
25 participants in exchange for the participants'  
26 interest in the fund, if no gain or loss is  
27 recognized on the transfer or distribution for  
28 Federal income tax purposes. Upon each exchange, the  
29 taxpayer's base for the assets, stock or units  
30 received shall be the same as the taxpayer's actual

1 or attributed base for the assets, stock, units or  
2 interest surrendered in exchange for the assets,  
3 stock or units.

4 (B) A transfer of an interest in an enterprise  
5 treated as a partnership for purposes of this subpart  
6 in exchange for an interest in another enterprise  
7 treated as a partnership for purposes of this  
8 subpart, a liquidation made in connection with a  
9 transfer or an exchange made under a statutory  
10 merger, consolidation or division of enterprises so  
11 treated unless taxable income or gain is recognized  
12 for Federal income tax purposes. Upon each exchange,  
13 the taxpayer's base for the interest received shall  
14 be the same as the taxpayer's actual or attributed  
15 base for the interest surrendered in exchange.

16 (v) For the purpose of this subpart, the term "net  
17 gains or net income, less net losses," shall not include  
18 a gain or loss from the sale, exchange or other  
19 disposition of the taxpayer's principal residence. The  
20 following shall apply:

21 (A) For purposes of this subparagraph, the term  
22 "principal residence" shall mean the property that  
23 has been owned and used by the taxpayer as the  
24 taxpayer's principal residence for periods  
25 aggregating two years or more during the five-year  
26 period ending on the date of the sale, exchange or  
27 disposition. The following apply:

28 (I) In the case of property only a portion  
29 of which, during the five-year period ending on  
30 the date of the sale, exchange or disposition,

1 has been owned or used by the taxpayer as the  
2 taxpayer's principal residence for periods  
3 aggregating two years or more, this subparagraph  
4 shall apply with respect to the portion of the  
5 gain from the sale, exchange or disposition of  
6 the property as determined by the department to  
7 be attributable to that portion.

8 (II) In the case of a principal residence a  
9 portion of which has never been subject to the  
10 allowance for depreciation, this subparagraph  
11 shall apply with respect to the portion of the  
12 gain from the sale, exchange or disposition of  
13 the property as is determined by the department  
14 to be attributable to that portion.

15 (B) The provisions of this subparagraph shall  
16 not apply to a sale, exchange or disposition if,  
17 during the two-year period ending upon the date of  
18 the sale, exchange or disposition, there was a prior  
19 sale, exchange or disposition by the taxpayer of a  
20 principal residence unless the sale, exchange or  
21 disposition is by reason of a change in employment,  
22 health or, to the extent provided in regulations,  
23 unforeseen circumstances.

24 (C) This subparagraph shall not apply to any  
25 sale, exchange or disposition made prior to January  
26 1, 1998.

27 (4) Net gains or income derived from or in the form of  
28 rents, royalties, patents and copyrights.

29 (5) Dividends.

30 (6) Interest derived from obligations which are not

1 statutorily free from State or local taxation under the laws  
2 of the United States or this Commonwealth, an amount paid  
3 under contract of life insurance or endowment or annuity  
4 contract which is includable in gross income for Federal  
5 income tax purposes and an amount paid out of the Archer  
6 Medical Savings Account (Archer MSA) or health savings  
7 account that is includable in the gross income of an account  
8 beneficiary for Federal income tax purposes.

9 (7) Gambling and lottery winnings other than noncash  
10 prizes of the Pennsylvania State Lottery.

11 (8) Net gains or income derived through estates or  
12 trusts. To the extent that income or gain is subject to tax  
13 under one of the classes of income enumerated in this  
14 section, the income or gain shall not be subject to tax under  
15 another class.

16 (b) Computation of income.--Income shall be computed under  
17 the method of accounting on the basis of which the taxpayer  
18 regularly computes income in keeping the taxpayer's books. If  
19 the department determines that no method has been regularly used  
20 or the method used does not clearly reflect income, the  
21 computation of income shall be made under a method which clearly  
22 reflects income.

23 (c) Depreciation deduction.--The following shall apply:

24 (1) In computing income, a depreciation deduction shall  
25 be allowed for the exhaustion, wear and tear and obsolescence  
26 of property being employed in the operation of a business or  
27 held for the production of income.

28 (2) Except as provided in paragraph (3), the deduction  
29 must be reasonable and shall be computed in accordance with  
30 the property's adjusted basis at the time placed in service,

1 reasonably estimated useful life and net salvage value at the  
2 end of the property's reasonably estimated useful economic  
3 life under the straight-line method or other method  
4 prescribed by the department.

5 (3) A taxpayer may use any depreciation method, recovery  
6 method or convention that is also used by the taxpayer in  
7 determining Federal net taxable income if, when placed in  
8 service, the property has the same adjusted basis for Federal  
9 income tax purposes and the method or convention is allowable  
10 for Federal income tax purposes at the time the property is  
11 placed in service or under the Internal Revenue Code of 1986,  
12 whichever is earlier.

13 (4) The basis of property shall be reduced, but not  
14 below zero, for depreciation by the greater of the following:

15 (i) The amount deducted on a return and not  
16 disallowed, but only to the extent the deduction results  
17 in a reduction of income.

18 (ii) The amount allowable using the straight-line  
19 method of depreciation computed on the basis of the  
20 property's adjusted basis at the time placed in service,  
21 reasonably estimated useful life and net salvage value at  
22 the end of the property's reasonably estimated useful  
23 economic life, regardless of whether the deduction  
24 results in a reduction of income.

25 (d) Section 179 property.--The cost of property commonly  
26 referred to as Section 179 Property may be treated as a  
27 deductible expense only to the extent allowable under the  
28 version of section 179 of the Internal Revenue Code in effect at  
29 the time the property is placed in service or under section 179  
30 of the Internal Revenue Code of 1986 (26 U.S.C. § 179),

1 whichever is earlier. The basis of Section 179 Property shall be  
2 reduced, but not below zero, for costs treated as a deductible  
3 expense. The amount of the reduction shall be the amount  
4 deducted on a return and not disallowed, regardless of whether  
5 the deduction results in a reduction of income.

6 (e) Federal limitations.--This subpart shall be subject to  
7 applicable Federal limitations on State income taxation.

8 (f) Applicability of Internal Revenue Code of 1986.--

9 (1) The requirements of section 1035 of the Internal  
10 Revenue Code of 1986 shall be applicable.

11 (2) Except as provided in this subpart and without  
12 regard to sections 220(f)(4) and 223(f)(4) of the Internal  
13 Revenue Code of 1986, the requirements of sections 106(b) and  
14 (d), 220 and 223 of the Internal Revenue Code of 1986 shall  
15 be applicable.

16 (3) The provisions of section 1033 of the Internal  
17 Revenue Code of 1986 shall be applicable.

18 (g) Qualified tuition programs.--The following shall apply:

19 (1) An amount paid as a contribution to a qualified  
20 tuition program shall be deductible from taxable income on  
21 the annual personal income tax return. The amount paid as a  
22 contribution to a qualified tuition program allowable as a  
23 deduction under this subsection shall be subject to an annual  
24 limitation not to exceed the threshold for exclusion from  
25 gifts as provided in section 2503(b) of the Internal Revenue  
26 Code of 1986 per designated beneficiary. The deduction shall  
27 not result in taxable income being less than zero.

28 (2) The following shall apply:

29 (i) The following shall not be subject to tax under  
30 this subpart:

1           (A) An amount distributed from a qualified  
2           tuition program that is excludable from tax under  
3           section 529(c) (3) (B) of the Internal Revenue Code of  
4           1986.

5           (B) A rollover that is excludable from tax under  
6           section 529(c) (3) (C) of the Internal Revenue Code of  
7           1986.

8           (C) Undistributed earnings on a qualified  
9           tuition program.

10          (ii) A change in designated beneficiaries under  
11          section 529(c) (3) (C) of the Internal Revenue Code of 1986  
12          shall not constitute a taxable event under this subpart.

13          (3) An amount distributed from a qualified tuition  
14          program that is not described under paragraph (2) shall be  
15          taxable under this subpart.

16          (4) For purposes of this subsection:

17           (i) The term "designated beneficiary" shall have the  
18           same meaning as provided in section 529(e) (1) of the  
19           Internal Revenue Code of 1986.

20           (ii) The term "qualified tuition program" shall have  
21           the same meaning as provided in section 529(b) (1) of the  
22           Internal Revenue Code of 1986.

23          (h) Drilling and development costs.--

24           (1) Except as provided in paragraph (2), a person who  
25           incurs intangible drilling and development costs as defined  
26           in section 263(c) of the Internal Revenue Code of 1986 and  
27           regulations under the Internal Revenue Code of 1986 shall  
28           capitalize the costs and recover them over a 10-year period  
29           in the taxable year the costs are incurred.

30          (2) A person may elect to currently expense up to one-

1 third of the costs in the taxable year in which the costs are  
2 incurred and recover the remaining costs over a 10-year  
3 period beginning in the taxable year the costs are incurred.

4 (i) Unconstitutional classes severable.--If one or more or  
5 part of one or more classes of income under subsection (a) are  
6 held to be unconstitutional by a final decision of a court of  
7 last resort, the unconstitutional class or classes or part of a  
8 class or classes of income shall be deemed severable, and the  
9 tax imposed by this subpart shall apply with respect to all the  
10 remaining classes of income or parts of classes of income  
11 enumerated in subsection (a) as if the unconstitutional class or  
12 classes of income or part or parts of classes of income had not  
13 been included in this subpart.

14 § 2204. Special tax provisions for poverty.

15 (a) Intent.--The General Assembly, in recognition of the  
16 powers contained in section 2(b)(ii) of Article VIII of the  
17 Constitution of Pennsylvania which provides for the  
18 establishment as a class or classes of subjects of taxation the  
19 property or privileges of persons who, because of poverty, are  
20 determined to be in need of special tax provisions, declares as  
21 its legislative intent and purpose to establish special tax  
22 provisions as provided in this subpart.

23 (b) Public policy determination.--The General Assembly,  
24 having determined that there are individuals in this  
25 Commonwealth whose incomes are at a level that imposition of a  
26 tax on those incomes would deprive the individuals and the  
27 individuals' dependents of the bare necessities of life, and  
28 having further determined that poverty is a relative concept  
29 inextricably joined with actual income and the number of  
30 individuals dependent upon the income, deems it to be a matter

1 of public policy to provide special tax provisions for that  
2 class of individuals designated to relieve the individuals'  
3 economic burden.

4 (c) Eligibility.--For the taxable year 1974 and each year  
5 thereafter, a claimant who meets the standards of eligibility  
6 for poverty specified in this section shall be deemed a separate  
7 class of subject of taxation and shall be entitled to the  
8 benefit of the special provisions of this subpart.

9 (d) Determination of poverty.--A claim for special tax  
10 provisions under this section shall be determined in accordance  
11 with the following:

12 (1) If the poverty income of a claimant during an entire  
13 taxable year is \$6,500 or less, or, in the case of a married  
14 claimant, if the joint poverty income of the claimant and the  
15 claimant's spouse during an entire taxable year is \$13,000 or  
16 less, the claimant shall be entitled to a refund or  
17 forgiveness of money which has been paid over to, or would  
18 except for the provisions of this subpart be payable to, the  
19 Commonwealth under this subpart, with an additional income  
20 allowance of \$9,500 for each dependent of the claimant. For  
21 purposes of this subsection, a claimant shall not be  
22 considered to be married if all of the following apply:

23 (i) The claimant and the claimant's spouse file  
24 separate returns.

25 (ii) The claimant and the claimant's spouse lived  
26 apart at all times during the last six months of the  
27 taxable year or are separated pursuant to a written  
28 separation agreement.

29 (2) If the poverty income of the claimant during an  
30 entire taxable year does not exceed the poverty income

1 limitations under paragraph (1) by more than the dollar  
2 categories contained in this paragraph, the claimant shall be  
3 entitled to a refund or forgiveness based on the percentage  
4 prescribed in this paragraph of money which has been paid  
5 over to, or would except for the provisions of this subpart  
6 be payable to the Commonwealth under this subpart:

7 (i) Ninety percent if not more than \$250.

8 (ii) Eighty percent if not more than \$500.

9 (iii) Seventy percent if not more than \$750.

10 (iv) Sixty percent if not more than \$1,000.

11 (v) Fifty percent if not more than \$1,250.

12 (vi) Forty percent if not more than \$1,500.

13 (vii) Thirty percent if not more than \$1,750.

14 (viii) Twenty percent if not more than \$2,000.

15 (ix) Ten percent if not more than \$2,250.

16 (3) If an individual has a taxable year of less than 12  
17 months, the poverty income of the individual shall be  
18 annualized in a manner as the department may prescribe.  
19 § 2205. Alternative special tax provision for poverty study.

20 (a) Study.--The General Assembly directs the Joint State  
21 Government Commission to conduct or provide for a comprehensive  
22 study to determine whether alternative forms of special tax  
23 provisions for poverty would be more beneficial to persons who,  
24 because of poverty, are determined to be in need of special tax  
25 provisions.

26 (b) Comparison study.--The study shall include a comparison  
27 between the special tax provisions for poverty specified under  
28 section 2204 (relating to special tax provisions for poverty)  
29 and the earned income credit allowable under section 32 of the  
30 Internal Revenue Code of 1986.

1 (c) Effects of Federal law.--The study shall consider any  
2 effects of linking the alternative special tax provisions for  
3 poverty to Federal law, including misuse that may be inherent in  
4 the Federal program.

5 (d) Fiscal costs.--The study shall ascertain any differences  
6 between the fiscal costs to the Commonwealth of the special tax  
7 provisions for poverty specified under section 2204 and  
8 projected fiscal costs of other alternative provisions.

9 (e) Consultants.--The Joint State Government Commission may  
10 hire or retain consultants, utilizing a request for proposal  
11 procedure, as necessary to assist in the performance of its  
12 duties under this section.

13 (f) Report.--The executive director of the Joint State  
14 Government Commission shall present a report summarizing the  
15 results of this study to the chairperson and minority  
16 chairperson of the Finance Committee of the Senate and the  
17 chairperson and minority chairperson of the Finance Committee of  
18 the House of Representatives after August 1, 2009, and before  
19 September 1, 2009.

20 § 2206. Pennsylvania ABLE Savings Program tax exemption.

21 (a) Exempt amounts.--The following shall be exempt from all  
22 taxation by the Commonwealth and its political subdivisions:

23 (1) Undistributed earnings on an account.

24 (2) An amount distributed from an account that is not  
25 included in gross income under section 529A(c)(1) of the  
26 Internal Revenue Code of 1986.

27 (b) Contributions.--The following shall apply:

28 (1) An amount contributed to an account shall be  
29 deductible from the taxable income of the contributor under  
30 this subpart for the tax year the contribution was made.

1       (2) The total contributions made by a contributor during  
2 a taxable year to all accounts that are allowable as a  
3 deduction under this section may not exceed the dollar amount  
4 under section 2503(b) of the Internal Revenue Code of 1986.

5       (3) The deduction may not result in the contributor's  
6 taxable income being less than zero.

7       (4) The department and the Treasury Department shall  
8 cooperate in verifying account information relating to  
9 contributions to an account itemized by a contributor and the  
10 contributor's specific contributions.

11       (c) Taxable income.--An amount that is distributed from an  
12 account and not otherwise exempt from taxation under this  
13 section shall be taxable income to the designated beneficiary  
14 under this subpart.

15       (d) Change in beneficiaries.--A change in designated  
16 beneficiaries under section 529A(c) of the Internal Revenue Code  
17 of 1986 shall not constitute a taxable event.

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       "Account." An ABLE savings account as defined in section 102  
22 of the Pennsylvania ABLE Act.

23       "Contributor." An individual who makes a contribution to an  
24 account as defined in section 102 of the Pennsylvania ABLE Act.

25       "Designated beneficiary." The term has the same meaning as  
26 in section 102 of the Pennsylvania ABLE Act.

27       "Pennsylvania ABLE Act." The act of April 18, 2016 (P.L.128,  
28 No.17), known as the Pennsylvania ABLE Act.

29       "Pennsylvania ABLE Savings Program." The program established  
30 under the Pennsylvania ABLE Act.

1 "Qualified disability expense." The term has the same  
2 meaning as in section 102 of the Pennsylvania ABLE Act.

3 SUBCHAPTER B

4 ESTATES AND TRUSTS

5 Sec.

6 2211. Taxability of estates, trusts and their beneficiaries.

7 § 2211. Taxability of estates, trusts and their beneficiaries.

8 The income of a beneficiary of an estate or trust with  
9 respect to the estate or trust shall consist of the part of the  
10 income or gains received by the estate or trust for the estate's  
11 or trust's taxable year ending within or with the beneficiary's  
12 taxable year which, under the governing instrument and  
13 applicable State law, is required to be distributed, paid or  
14 credited to the beneficiary. The income or gains of the estate  
15 or trust, if any, taxable to the estate or trust shall consist  
16 of the income or gains received by the estate or trust which has  
17 not been distributed or credited to its beneficiaries.

18 SUBCHAPTER C

19 PARTNERSHIPS

20 Sec.

21 2221. Taxability of partners.

22 2222. Tax treatment determined at partnership level.

23 2223. Tax imposed at partnership level.

24 § 2221. Taxability of partners.

25 Except as provided under section 2223 (relating to tax  
26 imposed at partnership level), a partnership as an entity shall  
27 not be subject to the tax imposed by this subpart, but the  
28 income or gain of a member of a partnership with respect to the  
29 partnership shall be subject to the tax, and the tax shall be  
30 imposed on the member's share, whether or not distributed, of

1 the income or gain received by the partnership for its taxable  
2 year ending within or with the member's taxable year.

3 § 2222. Tax treatment determined at partnership level.

4 The classification or character of a partnership item shall  
5 be determined at the partnership level. This section shall not  
6 prohibit the department from adjusting a partner's return.

7 § 2223. Tax imposed at partnership level.

8 (a) Underreported income.--The following shall apply:

9 (1) A partnership underreporting income by more than  
10 \$1,000,000 for a tax year shall be liable for the tax,  
11 excluding interest, penalties or additions at the tax rate  
12 applicable to the tax year, on the underreported income  
13 without regard to the tax liability of the partners for the  
14 underreported income.

15 (2) The department shall assess the partnership for the  
16 tax on the underreported income.

17 (3) The department may not assess the partners for the  
18 underreported income or the tax on the underreported income.  
19 The partnership shall be required to provide an amended  
20 statement to each partner as required under section 2707(c)

21 (3) (relating to requirements concerning returns, notices,  
22 records and statements) of the partner's pro rata share of  
23 the underreported income within 90 days of the assessment  
24 becoming final.

25 (4) Nothing in this subsection shall relieve the  
26 partners of the partners' tax liability on the underreported  
27 income.

28 (b) Credit.--Each partner shall be allowed a credit for the  
29 partner's share of the tax assessed against the partnership  
30 under subsection (a) and paid by the partnership. The credit

1 shall be allowed for the partner's taxable year in which the  
2 underreported income was required to be reported.

3 (c) Applicability.--Subsection (a) shall apply to the  
4 following partnerships:

5 (1) A partnership that has 11 or more partners who are  
6 individuals.

7 (2) A partnership that has at least one partner which is  
8 a corporation, limited liability company, partnership or  
9 trust.

10 (3) A partnership that has only partners who are  
11 individuals and elects to be subject to this subsection. The  
12 election must be included on the partnership return to be  
13 filed with the department.

14 (d) Publicly traded partnership.--This section shall not  
15 apply to a publicly traded partnership.

16 (e) Tax liability.--Nothing under this section shall require  
17 one partner to be liable for the payment of a tax liability of  
18 another partner.

19 (f) Appeals.--Appeals involving a deficiency assessed under  
20 this section may only be pursued by the partnership. A  
21 reassessment of tax liability shall be binding on the partners.

22 SUBCHAPTER D

23 PENNSYLVANIA S CORPORATIONS

24 Sec.

25 2231. Election by small corporation.

26 2232. Manner of making election.

27 2233. Effective years of election.

28 2234. Revocation of election.

29 2235. Termination by corporation ceasing to be small  
30 corporation.

1 2236. Termination year.

2 2237. Taxable year of Pennsylvania S corporation.

3 2238. Income of Pennsylvania S corporation.

4 2239. Income of Pennsylvania S corporations taxed to  
5 shareholders.

6 2240. Limitation on pass-through of losses to shareholders.

7 2241. Adjustments to basis of stock of shareholders.

8 2242. Distributions.

9 § 2231. Election by small corporation.

10 A small corporation may elect not to be taxed as a  
11 Pennsylvania S corporation. The election requires the consent of  
12 100% of the outstanding shares of the small corporation on the  
13 day on which the election is made. A qualified Subchapter S  
14 subsidiary owned by a Pennsylvania S corporation shall be  
15 treated as a Pennsylvania S corporation whether or not an  
16 election has been made with respect to the subsidiary.

17 § 2232. Manner of making election.

18 (a) General rule.--An election made under section 2231  
19 (relating to election by small corporation) shall be made in the  
20 manner prescribed by the department.

21 (b) Election.--An election under section 2231 may be made  
22 for any taxable year at any time during the preceding taxable  
23 year or at any time on or before the due date or extended due  
24 date of the small corporation's tax return under Subpart C  
25 (relating to corporate net income tax).

26 § 2233. Effective years of election.

27 An election made under section 2231 (relating to election by  
28 small corporation) shall be effective for the taxable year for  
29 which the election is made and for each succeeding taxable year  
30 unless revoked or terminated.

1 § 2234. Revocation of election.

2 (a) Revocation of election.--An election under section 2231  
3 (relating to election by small corporation) may be revoked if  
4 shareholders holding more than one-half of the shares of stock  
5 of the corporation consent to the revocation. The corporation  
6 and a successor corporation shall not be eligible to revoke an  
7 election under this section for a taxable year prior to its  
8 fifth taxable year which begins after the first taxable year for  
9 which an election is effective unless the corporation becomes a  
10 qualified Subchapter S subsidiary.

11 (b) Effective date of revocation.--A revocation under  
12 subsection (a) shall be effective on the first day of the  
13 taxable year if made on or before the 15th day of the third  
14 month of the taxable year. If the revocation is made after that  
15 date, the revocation shall be effective for the following  
16 taxable year.

17 § 2235. Termination by corporation ceasing to be small  
18 corporation.

19 (a) Termination of status.--If a corporation ceases to be a  
20 small corporation, the corporation's status as a Pennsylvania S  
21 corporation shall terminate.

22 (b) Effective date of termination.--The termination shall be  
23 effective on the date on which the corporation ceases to be a  
24 small corporation.

25 § 2236. Termination year.

26 (a) Termination year generally.--The portion of the  
27 termination year of a Pennsylvania S corporation ending before  
28 the first day the termination is effective shall be treated as a  
29 short taxable year for which the corporation is a Pennsylvania S  
30 corporation.

1 (b) Termination year as short taxable year.--The portion of  
2 the year beginning on the first day the termination is effective  
3 shall be treated as a short taxable year for purposes of the tax  
4 imposed under Subpart C (relating to corporate net income tax).

5 (c) Income and expenses.--The allocation of income and  
6 expense items to be taken into consideration in each short year  
7 shall be made in accordance with regulations issued by the  
8 department.

9 § 2237. Taxable year of Pennsylvania S corporation.

10 The taxable year of a Pennsylvania S corporation shall be the  
11 same taxable year that the corporation uses for Federal income  
12 tax purposes.

13 § 2238. Income of Pennsylvania S corporation.

14 (a) General rule.--A Pennsylvania S corporation shall not be  
15 subject to the tax imposed under this subpart, except as  
16 provided under subsection (f), but the shareholders of the  
17 Pennsylvania S corporation shall be subject to the tax imposed  
18 under this subpart.

19 (b) Imposed tax treated as loss.--If a tax is imposed on a  
20 Pennsylvania S corporation or a qualified Subchapter S  
21 subsidiary owned by a Pennsylvania S corporation under section  
22 1374 of the Internal Revenue Code of 1986 or under Subpart C  
23 (relating to corporate net income tax) for a taxable year, for  
24 purposes of section 2239 (relating to income of Pennsylvania S  
25 corporations taxed to shareholders), the amount of tax imposed  
26 shall be treated as a loss sustained by the Pennsylvania S  
27 corporation during that year. In the case of taxes imposed under  
28 section 1374 of the Internal Revenue Code of 1986 or Subpart C,  
29 the character of the loss shall be determined by allocating the  
30 loss proportionately among the recognized built-in gains giving

1 rise to the tax.

2 (c) Distribution of property.--If a Pennsylvania S  
3 corporation makes a distribution of property, other than an  
4 obligation of the corporation, with respect to the Pennsylvania  
5 S corporation's stock and the fair market value of the property  
6 exceeds the property's adjusted basis in the hands of the  
7 corporation, gain shall be recognized on the distribution as if  
8 the property had been sold to the distributee at its fair market  
9 value.

10 (d) Computation of items.--An election which may affect the  
11 computation of items derived from a Pennsylvania S corporation  
12 shall be made by the corporation.

13 (e) Deduction.--A deduction, except a net loss deduction,  
14 which was disallowed when a corporation was subject to the tax  
15 imposed under Subpart C shall be allowed in years in which the  
16 corporation is a Pennsylvania S corporation to the same extent  
17 and in the same manner that the deduction would have been  
18 allowed if the corporation had remained subject to the tax  
19 imposed under Subpart C.

20 (f) Underreported income.--A Pennsylvania S corporation with  
21 underreported income shall be subject to the following:

22 (1) The following apply:

23 (i) A Pennsylvania S corporation underreporting  
24 income by more than \$1,000,000 for any tax year shall be  
25 liable for the tax, excluding interest, penalties or  
26 additions, at the tax rate applicable to the tax year, on  
27 the underreported income without regard to the tax  
28 liability of the shareholders for the underreported  
29 income.

30 (ii) The department shall assess the Pennsylvania S

1 corporation for the tax on the underreported income. The  
2 department shall not assess the shareholders for the  
3 underreported income or the tax on the underreported  
4 income. The Pennsylvania S corporation shall be required  
5 to provide an amended statement to each shareholder as  
6 required under section 2702 (relating to return of  
7 Pennsylvania S corporation) of the shareholder's pro rata  
8 share of the underreported income within 90 days of the  
9 assessment becoming final.

10 (iii) Nothing in this subsection shall relieve the  
11 shareholders of the shareholders' tax liability on the  
12 underreported income.

13 (2) Each shareholder shall be allowed a credit for the  
14 shareholder's share of the tax assessed against the  
15 Pennsylvania S corporation under paragraph (1) and paid by  
16 the Pennsylvania S corporation. The credit shall be allowed  
17 for the shareholder's taxable year in which the underreported  
18 income was required to be reported.

19 (3) Paragraph (1) shall apply to the following  
20 Pennsylvania S corporations:

21 (i) A Pennsylvania S corporation which has 11 or  
22 more shareholders.

23 (ii) A Pennsylvania S corporation which elects to be  
24 subject to this subsection. The election must be included  
25 on the Pennsylvania S corporation return filed with the  
26 department.

27 (4) Nothing in this section shall require one  
28 shareholder to be liable for the payment of a tax liability  
29 of another shareholder.

30 (5) Appeals involving the deficiency assessed under this

1 section may be filed only by the Pennsylvania S corporation.  
2 A reassessment of tax liability shall be binding on the  
3 shareholders.

4 § 2239. Income of Pennsylvania S corporations taxed to  
5 shareholders.

6 (a) Shareholder income or loss.--Each shareholder of a  
7 Pennsylvania S corporation shall take into income the  
8 shareholder's pro rata share of the income or loss in each  
9 applicable class of income received by the corporation for its  
10 taxable year ending within or with the shareholder's taxable  
11 year.

12 (b) Calculation.--Each shareholder's pro rata share of an  
13 item for any taxable year shall be the sum of the amounts  
14 determined by assigning an equal portion of all items to each  
15 day of the taxable year and then dividing that portion pro rata  
16 among the shares outstanding on that day.

17 (c) Determination of items.--The character of an item  
18 included in the shareholder's pro rata share shall be determined  
19 as if the item were realized directly by the shareholder from  
20 the source from which the item was realized by the corporation  
21 or incurred in the same manner as incurred by the corporation.

22 (d) Deduction.--With respect to a deduction allowed under  
23 section 2238(e) (relating to income of Pennsylvania S  
24 corporation), a nonresident shareholder shall be allowed the  
25 deduction only to the extent that the previously disallowed  
26 deduction would have been considered a deduction related to  
27 income from sources within this Commonwealth, within the meaning  
28 of section 2102 (relating to definitions), during the taxable  
29 year when the deduction was disallowed.

30 (e) Subsidiary not separate corporation.--For the purposes

1 of this subpart, a qualified Subchapter S subsidiary owned by a  
2 Pennsylvania S corporation shall not be treated as a separate  
3 corporation. All assets, liabilities and items of income,  
4 deduction and credit of the qualified Subchapter S subsidiary  
5 shall be treated as assets, liabilities and items of income,  
6 deduction and credit of the parent Pennsylvania S corporation.  
7 § 2240. Limitation on pass-through of losses to shareholders.

8 (a) Aggregate losses.--The aggregate amount of losses taken  
9 into account by a shareholder of a Pennsylvania S corporation  
10 under section 2239 (relating to income of Pennsylvania S  
11 corporations taxed to shareholders) shall not exceed the sum of  
12 the adjusted basis of the shareholder's stock in the  
13 Pennsylvania S corporation, determined after applying section  
14 2241(a) (relating to adjustments to basis of stock of  
15 shareholders) for the taxable year and the shareholder's  
16 adjusted basis of indebtedness of the Pennsylvania S corporation  
17 to the shareholder, determined before applying section 2241(d)  
18 for the taxable year.

19 (b) Carryover of losses prohibited.--There shall be no  
20 carryover of losses by the shareholders of a Pennsylvania S  
21 corporation.

22 § 2241. Adjustments to basis of stock of shareholders.

23 (a) Increase of basis.--The basis of the stock of a  
24 shareholder in a Pennsylvania S corporation shall be increased  
25 for any period by the shareholder's share of the corporation's  
26 income, including nontaxable income, as determined under section  
27 2239 (relating to income of Pennsylvania S corporations taxed to  
28 shareholders).

29 (b) Decrease of basis.--The basis of a shareholder's stock  
30 in a Pennsylvania S corporation shall be decreased for any

1 period, but not below zero, by a distribution by the corporation  
2 to the shareholder which was not included in the income of the  
3 shareholder under section 2242 (relating to distributions) and  
4 by the shareholder's share of the corporation's losses as  
5 determined under section 2239 to the extent that the loss  
6 reduced the shareholder's income subject to the tax imposed  
7 under this subpart or a tax measured by net income, imposed on  
8 the shareholder by another state.

9 (c) Excess losses.--If for a taxable year a shareholder's  
10 basis in the stock of a Pennsylvania S corporation is reduced to  
11 zero, excess losses will reduce the shareholder's basis, but not  
12 below zero, in any indebtedness of the Pennsylvania S  
13 corporation to the shareholder.

14 (d) Reduced basis.--If a shareholder's basis in any  
15 indebtedness is reduced under subsection (c), the reduction  
16 shall be restored before the shareholder's basis in the  
17 Pennsylvania S corporation's stock is increased.

18 § 2242. Distributions.

19 (a) Distribution of property to shareholder.--A distribution  
20 of property by a Pennsylvania S corporation which has no  
21 accumulated earnings and profits to a shareholder of the  
22 corporation shall not be included in the shareholder's income to  
23 the extent that it does not exceed the shareholder's adjusted  
24 basis in the stock. An amount of the distribution in excess of  
25 the adjusted basis in the stock shall be treated as a gain from  
26 the sale, exchange or other disposition of property.

27 (b) Excess treated as dividend.--

28 (1) A distribution of property by a Pennsylvania S  
29 corporation which has accumulated earnings and profits shall  
30 be treated in the same manner as a distribution by a

1 Pennsylvania S corporation without earnings and profits to  
2 the extent of the corporation's accumulated adjustment  
3 account.

4 (2) The portion of the distribution in excess of the  
5 accumulated adjustment account will be treated as a dividend  
6 to the extent of the accumulated earnings and profits of the  
7 corporation.

8 (3) A portion of the distribution in excess of the  
9 accumulated earnings and profits of the corporation shall be  
10 treated in the same manner as a distribution from a  
11 Pennsylvania S corporation without accumulated earnings and  
12 profits.

13 (c) Non-pro rata distribution.--In the case of a non-pro  
14 rata distribution of property, the adjustment shall be limited  
15 to an amount which bears the same ratio to the balance in the  
16 account as the number of shares sold, exchanged or otherwise  
17 disposed of bears to the number of shares in the corporation  
18 outstanding immediately before the sale, exchange or  
19 disposition.

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

23 "Accumulated adjustment account." An account of the  
24 Pennsylvania S corporation which is cumulatively adjusted for  
25 the most recent continuous period during which the corporation  
26 has been a Pennsylvania S corporation by increasing the account  
27 for corporate income and decreasing the account for corporate  
28 losses and all distributions of property by the corporation to  
29 the shareholders which were not included in the income of the  
30 shareholders, provided that no adjustment shall be made for

1 income or loss not in any of the classes of income enumerated in  
2 section 2203 (relating to classes of income) or for a  
3 nondeductible expense.

4 SUBCHAPTER E

5 OTHER ENTITIES

6 Sec.

7 2251. Treatment of unincorporated entities with single owners.

8 § 2251. Treatment of unincorporated entities with single  
9 owners.

10 Unless subject to tax under Subpart C (relating to corporate  
11 net income tax), an unincorporated entity that has a single  
12 owner shall be disregarded as an entity separate from the  
13 entity's owner.

14 SUBCHAPTER F

15 NONRESIDENT INDIVIDUALS

16 Sec.

17 2261. Nonresident individuals and taxable income.

18 2262. Spouses.

19 2263. Allocation of income of nonresident.

20 § 2261. Nonresident individuals and taxable income.

21 The income of a nonresident individual shall be the part of  
22 the nonresident individual's income derived from sources within  
23 this Commonwealth as defined in this subpart.

24 § 2262. Spouses.

25 (a) Separate return.--For spouses who are both nonresidents  
26 of this Commonwealth and subject to tax under this subpart, if  
27 the income of either spouse is determined on a separately filed  
28 return, each spouse's income from sources within this  
29 Commonwealth shall be separately determined.

30 (b) One spouse a nonresident.--If a spouse is a nonresident

1 of this Commonwealth and the other spouse is a resident of this  
2 Commonwealth, separate taxes shall be determined on the spouses'  
3 separate incomes on forms as the department shall prescribe,  
4 unless the spouses elect to determine the spouses' joint income  
5 as if both spouses were residents of this Commonwealth, in which  
6 case the spouses' tax liabilities shall be joint and several.  
7 § 2263. Allocation of income of nonresident.

8 If a nonresident taxpayer earns, receives or acquires income  
9 from sources partly within and partly outside this Commonwealth  
10 or engages in a business, trade, profession or occupation partly  
11 within and partly outside this Commonwealth and that portion of  
12 the income derived from or connected with sources within this  
13 Commonwealth cannot readily or accurately be ascertained, the  
14 department shall by regulation prescribe uniform rules for  
15 apportionment or allocation of the amount of the taxpayer's  
16 income as fairly and equitably represents income derived from  
17 sources within this Commonwealth and subject to tax under this  
18 subpart.

19 CHAPTER 23

20 CREDITS AGAINST TAX

21 Sec.

22 2301. Tax withheld.

23 2302. Tax paid under previous act.

24 2303. Income taxes imposed by other states.

25 § 2301. Tax withheld.

26 The amount withheld under section 2502 (relating to  
27 requirement of withholding tax) shall be allowed to the taxpayer  
28 from whose income the tax was withheld as a credit against the  
29 tax imposed on the taxpayer by this subpart.

30 § 2302. Tax paid under previous act.

1 The amount of tax withheld from an employee and paid over to  
2 the Commonwealth or paid over by a taxpayer as an estimated  
3 payment under repealed Article III of the act of March 4, 1971  
4 (P.L.6, No.2), known as the Tax Reform Code of 1971, which was  
5 repealed by the act of August 31, 1971 (P.L.362, No.93), shall  
6 be held as a credit against the tax imposed by former Article  
7 III of the Tax Reform Code of 1971.

8 § 2303. Income taxes imposed by other states.

9 (a) Credit.--The following shall apply:

10 (1) A resident taxpayer, before allowance of a credit  
11 under section 2301 (relating to tax withheld), shall be  
12 allowed a credit against the tax otherwise due under this  
13 subpart for the amount of income tax, wage tax or tax on or  
14 measured by gross or net earned or unearned income imposed on  
15 the resident taxpayer or on a Pennsylvania S corporation in  
16 which the resident taxpayer is a shareholder, to the extent  
17 of the resident taxpayer's pro rata share of the tax  
18 determined under section 2239 (relating to income of  
19 Pennsylvania S corporations taxed to shareholders), by  
20 another state with respect to income which is also subject to  
21 tax under this subpart.

22 (2) For purposes of this subsection, the term "state"  
23 shall only include a state of the United States, the District  
24 of Columbia, the Commonwealth of Puerto Rico and a territory  
25 or possession of the United States.

26 (b) Credit limit.--The credit provided under this section  
27 shall not exceed the proportion of the tax otherwise due under  
28 this subpart that the amount of the taxpayer's income subject to  
29 tax by the other jurisdiction bears to the taxpayer's entire  
30 taxable income.

1 CHAPTER 24

2 CONTRIBUTIONS OF REFUNDS BY CHECKOFF

3 Subchapter

4 A. Preliminary Provisions

5 B. Contributions

6 SUBCHAPTER A

7 PRELIMINARY PROVISIONS

8 Sec.

9 2401. Definitions.

10 2402. Operational provisions.

11 § 2401. Definitions.

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

15 "Individual income tax." The tax imposed under this subpart.

16 § 2402. Operational provisions.

17 (a) Expiration.--Except as set forth in subsection (b), a  
18 checkoff established under this chapter and applicable for the  
19 first time in a taxable year beginning after December 31, 2009,  
20 shall expire four years after the beginning of the first taxable  
21 year.

22 (b) No expiration.--Notwithstanding subsection (a), the  
23 checkoffs established under the following sections shall not  
24 expire:

25 (1) Section 2411 (relating to contributions to breast  
26 and cervical cancer research).

27 (2) Section 2412 (relating to contributions for wild  
28 resource conservation).

29 (3) Section 2413 (relating to contributions for organ  
30 and tissue donation awareness).

1       (4) Section 2414 (relating to contributions for juvenile  
2 diabetes cure research).

3       (5) Section 2415 (relating to contributions for military  
4 family relief assistance).

5       (6) Section 2416 (relating to contributions for  
6 Children's Trust Fund).

7       (7) Section 2417 (relating to contributions for American  
8 Red Cross).

9                               SUBCHAPTER B

10                              CONTRIBUTIONS

11 Sec.

12 2411. Contributions to breast and cervical cancer research.

13 2412. Contributions for wild resource conservation.

14 2413. Contributions for organ and tissue donation awareness.

15 2414. Contributions for juvenile diabetes cure research.

16 2415. Contributions for military family relief assistance.

17 2416. Contributions for Children's Trust Fund.

18 2417. Contributions for American Red Cross.

19 2418. Contributions for tuition account programs.

20 2419. Contributions for pediatric cancer research.

21 § 2411. Contributions to breast and cervical cancer research.

22       (a) Contribution.--The department shall provide a space on  
23 the Pennsylvania individual income tax return form where an  
24 individual may voluntarily designate a contribution of any  
25 amount to breast and cervical cancer research.

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.--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 Pennsylvania Breast Cancer Coalition.

6 (d) Instructions for contributions.--The department shall  
7 provide adequate information concerning the checkoff for breast  
8 and cervical cancer research in the instructions which accompany  
9 State income tax return forms, which shall include the listing  
10 of an address furnished to it by the Department of Health to  
11 which contributions may be sent by taxpayers wishing to  
12 contribute to this effort but who do not receive refunds. The  
13 Pennsylvania Breast Cancer Coalition shall conduct a public  
14 information campaign on the opportunity to contribute to breast  
15 and cervical cancer research to Pennsylvania taxpayers.

16 (e) Report.--The Pennsylvania Breast Cancer Coalition shall  
17 report annually to the chairperson and minority chairperson of  
18 the Health and Human Services Committee of the Senate and the  
19 chairperson and minority chairperson of the Health Committee of  
20 the House of Representatives the amount received from the  
21 checkoff plan and how the money was utilized.

22 (f) Appropriation.--The General Assembly may appropriate  
23 funds for breast and cervical cancer research.

24 § 2412. Contributions for wild resource conservation.

25 (a) Contribution.--The department shall provide a space on  
26 the Pennsylvania individual income tax return form where an  
27 individual may voluntarily designate a contribution of any  
28 amount to the Wild Resource Conservation Fund established under  
29 section 5 of the act of June 23, 1982 (P.L.597, No.170), known  
30 as the Wild Resource Conservation Act.

1 (b) Deduction from refund.--The amount designated by an  
2 individual on the income tax return form shall be deducted from  
3 the tax refund to which the individual is entitled and shall not  
4 constitute a charge against the income tax revenues due to the  
5 Commonwealth.

6 (c) Total designation.--The department shall determine  
7 annually the total amount designated under this section and  
8 shall report the amount to the State Treasurer who shall  
9 transfer the amount from the General Fund to the Wild Resource  
10 Conservation Fund for use as provided in the Wild Resource  
11 Conservation Act. The department shall be reimbursed from the  
12 fund for administrative costs incurred above and beyond the cost  
13 savings the department realizes as a result of individual total  
14 refund designations.

15 (d) Instructions for contributions.--The department shall  
16 provide adequate information concerning the Wild Resource  
17 Conservation Fund in the instructions which accompany State  
18 income tax return forms, which shall include the listing of an  
19 address furnished to it by the Wild Resource Conservation Board  
20 to which contributions may be sent by taxpayers wishing to  
21 contribute to the fund but who do not receive refunds.

22 (e) Applicability.--This section shall apply to taxable  
23 years beginning on or after January 1, 1997.

24 § 2413. Contributions for organ and tissue donation awareness.

25 (a) Contribution.--The department shall provide a space on  
26 the Pennsylvania individual income tax return form where an  
27 individual may voluntarily designate a contribution of any  
28 amount to the Governor Robert P. Casey Memorial Organ and Tissue  
29 Donation Awareness Trust Fund established under 20 Pa.C.S. §  
30 8622 (relating to the Governor Robert P. Casey Memorial Organ

1 and Tissue Donation Awareness Trust Fund).

2 (b) Deduction from refund.--The amount designated by an  
3 individual on the Pennsylvania individual income tax return form  
4 shall be deducted from the tax refund to which the individual is  
5 entitled and shall not constitute a charge against the income  
6 tax revenues due to the Commonwealth.

7 (c) Total designation.--The department shall annually  
8 determine the total amount designated under this section and  
9 shall report the amount to the State Treasurer who shall  
10 transfer the amount to the Governor Robert P. Casey Memorial  
11 Organ and Tissue Donation Awareness Trust Fund.

12 (d) Instructions for contributions.--The department shall  
13 provide on its forms or in the instructions which accompany  
14 Pennsylvania individual income tax return forms adequate  
15 information concerning the Governor Robert P. Casey Memorial  
16 Organ and Tissue Donation Awareness Trust Fund, which shall  
17 include the listing of an address furnished to it by the Organ  
18 Donation Advisory Committee to which contributions may be sent  
19 by taxpayers wishing to contribute to the fund but who do not  
20 receive refunds.

21 (e) Applicability.--This section shall apply to taxable  
22 years beginning on or after January 1, 1997.

23 § 2414. Contributions for juvenile diabetes cure research.

24 (a) Contribution.--The department shall provide a space on  
25 the Pennsylvania individual income tax return form where an  
26 individual may voluntarily designate a contribution of any  
27 amount for juvenile diabetes cure research related to:

- 28 (1) Restoring normal blood sugar levels.  
29 (2) Preventing and reversing complications.  
30 (3) Preventing juvenile diabetes.

1 (b) Deduction from refund.--The amount designated on the  
2 Pennsylvania individual income tax return form shall be deducted  
3 from the tax refund to which the individual is entitled and  
4 shall not constitute a charge against the income tax revenues  
5 due to the Commonwealth.

6 (c) Total designation.--

7 (1) The department shall determine annually the total  
8 amount designated under this section, less reasonable  
9 administrative costs, and shall report the amount to the  
10 State Treasurer, who shall transfer the amount to a  
11 restricted revenue account within the General Fund to be used  
12 by the Department of Health for aiding juvenile diabetes cure  
13 research.

14 (2) The Department of Health shall distribute the  
15 amounts to institutions of higher education and independent  
16 research institutes of this Commonwealth to support projects  
17 that have been subject to an established peer and scientific  
18 review process identical or similar to the National  
19 Institutes of Health review system.

20 (d) Instructions for contributions.--The department shall  
21 provide adequate information concerning the checkoff for  
22 juvenile diabetes cure research in the instructions which  
23 accompany the Pennsylvania income tax return forms, which shall  
24 include the listing of an address furnished to it by the  
25 Department of Health to which contributions may be sent by  
26 taxpayers wishing to contribute to this effort but who do not  
27 receive refunds.

28 (e) Report.--The Department of Health shall report annually  
29 to the chairperson and minority chairperson of the Health and  
30 Human Services Committee of the Senate and the chairperson and

1 minority chairperson of the Health Committee of the House of  
2 Representatives the amount received from the checkoff plan and  
3 how the money was utilized.

4 § 2415. Contributions for military family relief assistance.

5 (a) Contribution.--Beginning with taxable years ending after  
6 December 31, 2004, the department shall provide a space on the  
7 Pennsylvania individual income tax return form where an  
8 individual may voluntarily designate a contribution of any  
9 amount to a fund for military family relief assistance.

10 (b) Deduction from refund.--The amount designated on the  
11 Pennsylvania individual income tax return form shall be deducted  
12 from the tax refund to which the individual is entitled and  
13 shall not constitute a charge against the income tax revenues  
14 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 to a  
19 restricted revenue account within the General Fund to be used by  
20 the Department of Military and Veterans Affairs for  
21 contributions to military family relief assistance as provided  
22 by statute.

23 (d) Instructions for contributions.--The department shall  
24 provide adequate information concerning the checkoff for  
25 military family relief assistance in the instructions which  
26 accompany the Pennsylvania income tax return forms, which shall  
27 include the listing of an address furnished to it by the  
28 Department of Military and Veterans Affairs to which  
29 contributions may be sent by taxpayers wishing to contribute to  
30 this effort but who do not receive refunds.

1 (e) Report.--The Department of Military and Veterans Affairs  
2 shall report annually to the chairperson and minority  
3 chairperson of the Veterans Affairs and Emergency Preparedness  
4 Committee of the Senate and the chairperson and minority  
5 chairperson of the Veterans Affairs and Emergency Preparedness  
6 Committee of the House of Representatives the amount received  
7 from the checkoff plan and how the money was utilized.

8 § 2416. Contributions for Children's Trust Fund.

9 (a) Contribution.--The department shall provide a space on  
10 the Pennsylvania individual income tax return form where an  
11 individual may voluntarily designate a contribution of any  
12 amount to the Children's Trust Fund established in section 8 of  
13 the act of December 15, 1988 (P.L.1235, No.151), known as the  
14 Children's Trust Fund Act.

15 (b) Deduction from refund.--The amount designated under  
16 subsection (a) by an individual on the income tax return form  
17 shall 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 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 from the  
24 General Fund to the Children's Trust Fund.

25 § 2417. Contributions for American Red Cross.

26 (a) Contribution.--The department shall provide a space on  
27 the Pennsylvania individual income tax return form where an  
28 individual may voluntarily designate a contribution of any  
29 amount to the American Red Cross established under 36 U.S.C. Ch.  
30 3001 (relating to the American National Red Cross).

1 (b) Deduction from refund.--The amount designated under  
2 subsection (a) by an individual on the income tax return form  
3 shall be deducted from the tax refund to which the individual is  
4 entitled and shall not constitute a charge against the income  
5 tax revenues due to the Commonwealth.

6 (c) Total designation.--The department shall determine  
7 annually the total amount designated under this section, less  
8 reasonable administrative costs, and shall report the amount to  
9 the State Treasurer, who shall transfer the amount from the  
10 General Fund to the American Red Cross.

11 § 2418. Contributions for tuition account programs.

12 (a) Contribution.--Beginning with the 2016 Pennsylvania  
13 individual income tax return, the department shall provide a  
14 space on the income tax return form by which a taxpayer who is  
15 an account owner may voluntarily designate a contribution to a  
16 beneficiary's Tuition Account Guaranteed Savings Program or the  
17 Tuition Account Investment Program established under the act of  
18 April 3, 1992 (P.L.28, No.11), known as the Tuition Account  
19 Programs and College Savings Bond Act.

20 (b) Deduction from refund.--The amount designated under  
21 subsection (a) by a taxpayer on the income tax return form shall  
22 be deducted from the tax refund to which the individual is  
23 entitled and shall not constitute a charge against the income  
24 tax revenues due to the Commonwealth.

25 (c) Total designation.--The department shall determine  
26 annually the amount designated under this section and shall  
27 report the amount to the State Treasurer, who shall transfer the  
28 amount from the General Fund to the appropriate account within  
29 the Tuition Account Guaranteed Savings Program or the Tuition  
30 Account Investment Program.

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

4 "Account owner." As defined in section 302 of the Tuition  
5 Account Programs and College Savings Bond Act.

6 "Beneficiary." As defined in section 302 of the Tuition  
7 Account Programs and College Savings Bond Act.

8 § 2419. Contributions for pediatric cancer research.

9 (a) Contribution.--The department shall provide a space on  
10 the Pennsylvania individual income tax return form where an  
11 individual may voluntarily designate a contribution of any  
12 amount to be utilized for pediatric cancer research. On or  
13 before December 1 of each year, the Secretary of Health shall  
14 designate hospitals within this Commonwealth conducting  
15 pediatric cancer research that are eligible to receive funding  
16 under this section for the following calendar year.

17 (b) Deduction from refund.--The amount designated on the  
18 individual income tax return form shall be deducted from the tax  
19 refund to which the individual is entitled and shall not  
20 constitute a charge against the income tax revenues due to the  
21 Commonwealth.

22 (c) Total designation.--The department shall determine  
23 annually the total amount designated under this section, less  
24 reasonable administrative costs, and shall report the amount to  
25 the State Treasurer, who shall transfer the amount from the  
26 General Fund to the Pennsylvania Cancer Control, Prevention and  
27 Research Advisory Board within the Department of Health.

28 (d) Instructions for contributions.--The department shall  
29 provide adequate information concerning the checkoff for  
30 pediatric cancer research in the instructions that accompany

1 State income tax return forms, which shall include the listing  
2 of an address furnished to it by the Department of Health to  
3 which contributions may be sent by taxpayers wishing to  
4 contribute to this effort but who do not receive refunds. The  
5 Department of Health shall conduct a public information campaign  
6 on the availability of this opportunity to Pennsylvania  
7 taxpayers.

8 (e) Report.--The Department of Health shall report annually  
9 to the chairperson and minority chairperson of the Health and  
10 Human Services Committee of the Senate and the chairperson and  
11 minority chairperson of the Health Committee of the House of  
12 Representatives the amount received from the checkoff plan and  
13 how the money was utilized.

14 CHAPTER 25

15 WITHHOLDING OF TAX

16 Subchapter

17 A. Withholding Tax Generally

18 B. Withholding Tax on Income from Sources Within  
19 Commonwealth

20 SUBCHAPTER A

21 WITHHOLDING TAX GENERALLY

22 Sec.

23 2501. Definitions.

24 2502. Requirement of withholding tax.

25 2503. Withholding tax requirement for nonemployer payors.

26 2504. Information statement.

27 2505. Information statement for nonemployer payors.

28 2506. Information statement for payees.

29 2507. Time for filing withholding returns.

30 2508. Time for filing payors' returns.

- 1 2509. Payment of taxes withheld.  
2 2510. Payment of taxes withheld for nonemployer payors.  
3 2511. Liability for withheld taxes.  
4 2512. Payor's liability for withheld taxes.  
5 2513. Failure to withhold.  
6 2514. Bulk and auction sales and transfers and notice.  
7 2515. Payor's failure to withhold.  
8 2516. Designation of third parties to perform acts required of  
9 employers.  
10 2517. When withholding not required.

11 § 2501. Definitions.

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

15 "Payee." The person receiving the payments subject to  
16 withholding under this subchapter.

17 "Payments." The term shall not include a partner or  
18 shareholder's distributive share of income from a partnership or  
19 Pennsylvania S corporation.

20 "Payor." The person required to withhold under this  
21 subchapter.

22 § 2502. Requirement of withholding tax.

23 (a) General rule.--An employer maintaining an office or  
24 transacting business within this Commonwealth and making payment  
25 of compensation to a resident individual or a nonresident  
26 individual taxpayer performing services on behalf of the  
27 employer within this Commonwealth shall deduct and withhold from  
28 the employee's compensation for each payroll period a tax  
29 computed in a manner as to result in withholding from the  
30 employee's compensation during each calendar year an amount

1 substantially equivalent to the tax reasonably estimated to be  
2 due for the year with respect to the compensation. The method of  
3 determining the amount to be withheld shall be prescribed by  
4 regulations of the department.

5 (b) Lottery winnings.--If the Pennsylvania State Lottery or  
6 a person making a Pennsylvania State Lottery prize payment in  
7 the form of an annuity is required to withhold Federal income  
8 tax under section 3402 of the Internal Revenue Code of 1986 or  
9 backup withholding under section 3406 of the Internal Revenue  
10 Code of 1986 from a gambling or lottery prize payment awarded by  
11 the Pennsylvania State Lottery that is taxable under this  
12 chapter, the Pennsylvania State Lottery or the person making the  
13 annuity payment shall deduct and withhold from the prize payment  
14 an amount equal to the amount of the prize payment subject to  
15 withholding under section 3402 or 3406 of the Internal Revenue  
16 Code of 1986 multiplied by the tax rate in effect under this  
17 subpart at the time the prize payment is made.

18 § 2503. Withholding tax requirement for nonemployer payors.

19 (a) General requirements.--Notwithstanding the provisions of  
20 section 2502 (relating to requirement of withholding tax), a  
21 person shall deduct and withhold from the payments an amount  
22 equal to the net amount of the payments multiplied by the tax  
23 rate specified under section 2201(b) (relating to imposition of  
24 tax) if the person:

25 (1) makes payments of income from sources within this  
26 Commonwealth described in section 2203(a)(1) or (2) (relating  
27 to classes of income) to either a nonresident individual or  
28 an entity that is disregarded under section 2251 (relating to  
29 treatment of unincorporated entities with single owners) that  
30 has a nonresident member; and

1       (2) is required under section 2707(f)(1) (relating to  
2 requirements concerning returns, notices, records and  
3 statements) to file a copy of form 1099-MISC with the  
4 department regarding the payments.

5       (b) Optional withholding.--Withholding of tax by payors is  
6 optional and at the discretion of the payor with respect to  
7 payees who receive payments of less than \$5,000 annually from  
8 the payor.

9       (c) Nonapplicability.--This section shall not apply to  
10 payments made by a payor to a payee if the payor is any of the  
11 following:

12       (1) The United States or an agency or instrumentality of  
13 the United States.

14       (2) The Commonwealth or an agency, instrumentality or  
15 political subdivision of the Commonwealth.

16       (d) Regulations.--The department may prescribe regulations  
17 to implement and clarify the withholding requirement specified  
18 in this section.

19 § 2504. Information statement.

20       (a) Statement.--The following shall apply:

21       (1) An employer required to deduct and withhold tax  
22 under section 2502(a) (relating to requirement of withholding  
23 tax) shall furnish to each employee paid compensation during  
24 the calendar year a written statement in the manner and form  
25 prescribed by the department showing:

26       (i) The amount of compensation paid by the employer  
27 to the employee.

28       (ii) The amount deducted and withheld as tax under  
29 section 2502(a).

30       (iii) Other information as the department shall

1 prescribe.

2 (2) Each statement required by this section for a  
3 calendar year shall be furnished to the employee on or before  
4 January 31 of the year succeeding the calendar year.

5 (3) If the employee's employment is terminated before  
6 the close of the calendar year, the employer shall furnish  
7 the statement to the employee at any time after the  
8 termination but no later than January 31 of the year  
9 succeeding the calendar year.

10 (4) If an employee who is terminated before the close of  
11 the calendar year requests the employer in writing to furnish  
12 the employee the statement at an earlier time and, if there  
13 is no reasonable expectation on the part of the employer and  
14 employee of further employment during the calendar year, the  
15 employer shall furnish the statement to the employee on or  
16 before the 30th day after the day of the request or the 30th  
17 day after the day on which the last payment of wages is made,  
18 whichever occurs later.

19 (b) Lottery winnings.--A person required to deduct and  
20 withhold tax under section 2502(b) shall report the prize and  
21 the amount of withholding to the taxpayer on Internal Revenue  
22 Service Form W-2G or similar form used for reporting Federal  
23 income tax withholding from the prize.

24 § 2505. Information statement for nonemployer payors.

25 (a) Form to be furnished.--A payor required to deduct and  
26 withhold tax under section 2503 (relating to withholding tax  
27 requirement for nonemployer payors) shall furnish to a payee to  
28 whom the payor has paid income from sources within this  
29 Commonwealth during the calendar year a copy of form 1099-MISC  
30 required under section 2707(f)(1) (relating to requirements

1 concerning returns, notices, records and statements).

2 (b) Time frame.--The copy of form 1099-MISC required by this  
3 section for each calendar year shall be forwarded to the payee  
4 on or before March 1 of the year succeeding the calendar year.  
5 § 2506. Information statement for payees.

6 A payee receiving a copy of form 1099-MISC from a payor under  
7 section 2505 (relating to information statement for nonemployer  
8 payors) shall file a duplicate of the form with the payee's  
9 State income tax return.

10 § 2507. Time for filing withholding returns.

11 (a) Quarterly filing.--The following shall apply:

12 (1) An employer required to deduct and withhold tax  
13 under section 2502(a) (relating to requirement of withholding  
14 tax) shall file a quarterly withholding return on or before  
15 the last day of April, July, October and January for the  
16 three months ending the last day of March, June, September  
17 and December.

18 (2) Quarterly returns shall be filed with the department  
19 at the department's main office or at any branch office that  
20 the department designates for filing returns.

21 (b) Time frame for filing.--A person required to deduct and  
22 withhold tax under section 2502(b) shall file a withholding tax  
23 return at the same time the person is required to file the  
24 person's annual return of withheld Federal income tax,  
25 designated as IRS Form 945, from nonpayroll payments. The return  
26 shall be filed with the department.

27 § 2508. Time for filing payors' returns.

28 (a) Quarterly filing.--A payor required to deduct and  
29 withhold tax under section 2503 (relating to withholding tax  
30 requirement for nonemployer payors) shall file a quarterly

1 withholding return on or before the last day of April, July,  
2 October and January for each three-month period ending the last  
3 day of March, June, September and December.

4 (b) Manner of filing.--The quarterly returns shall be filed  
5 with the department in the manner prescribed by regulation.

6 § 2509. Payment of taxes withheld.

7 (a) Payment of tax by employer.--

8 (1) An employer withholding tax under section 2502(a)  
9 (relating to requirement of withholding tax) shall pay over  
10 to the department or to a depository designated by the  
11 department the tax required to be deducted and withheld under  
12 section 2502(a). The following shall apply:

13 (i) If the aggregated amount required to be deducted  
14 and withheld by an employer for a calendar year is  
15 expected to be less than \$1,200, the employer shall file  
16 a return and pay the tax on or before the last day for  
17 filing a quarterly return under section 2507 (relating to  
18 time for filing withholding returns).

19 (ii) If the aggregated amount required to be  
20 deducted and withheld by an employer for a calendar year  
21 is expected to be \$1,200 or more but less than \$4,000,  
22 the employer shall pay the tax monthly on or before the  
23 15th day of the month succeeding the months of January to  
24 November, inclusive, and on or before the last day of  
25 January following the month of December.

26 (iii) If the aggregated amount required to be  
27 deducted and withheld by an employer for a calendar year  
28 is expected to be \$4,000 or more but less than \$20,000,  
29 the employer shall pay the tax semimonthly within three  
30 banking days after the close of the semimonthly period.

1           (iv) If the aggregated amount required to be  
2           deducted and withheld by an employer for a calendar year  
3           is expected to be \$20,000 or more, the employer shall pay  
4           the tax on the Wednesday after payday if the payday falls  
5           on a Wednesday, Thursday or Friday and on the Friday  
6           after payday if the payday falls on a Saturday, Sunday,  
7           Monday or Tuesday.

8           (2) The following shall apply:

9           (i) Notwithstanding any provision to the contrary,  
10           if an employer fails to deduct, truthfully account for or  
11           pay the tax withheld or file returns as prescribed by  
12           this chapter, the department may serve a notice on the  
13           employer requiring the employer to:

14                   (A) withhold taxes which are required to be  
15                   deducted under section 2502(a);

16                   (B) deposit the taxes in a bank approved by the  
17                   department in a separate account in trust for and  
18                   payable to the department; and

19                   (C) keep the amount of the tax in the account  
20                   until payment is made to the department.

21           (ii) The notice under subparagraph (i) shall remain  
22           in effect until the department serves a notice of  
23           cancellation on the employer.

24           (b) Frequency of remittance.--A person deducting and  
25           withholding tax under section 2502(b) shall remit the tax to the  
26           department on the same frequency that the person is required to  
27           remit Federal income tax withheld from nonpayroll payments.  
28           § 2510. Payment of taxes withheld for nonemployer payors.

29           A payor withholding tax under section 2503 (relating to  
30           withholding tax requirement for nonemployer payors) shall pay

1 over to the department or a depository designated by the  
2 department the tax required to be deducted and withheld under  
3 section 2503. The time for paying over the withheld tax shall be  
4 as specified in section 2509(a)(1)(i), (ii), (iii) and (iv)  
5 (relating to payment of taxes withheld).

6 § 2511. Liability for withheld taxes.

7 (a) Liability.--A person required to deduct and withhold tax  
8 under section 2502 (relating to requirement of withholding tax)  
9 is liable for the tax.

10 (b) Enforcement.--

11 (1) For purposes of assessment and collection, an amount  
12 required to be withheld and paid to the department and  
13 additions to tax penalties and interest shall be considered  
14 the tax of the person.

15 (2) Taxes deducted and withheld under section 2502 or  
16 under color of section 2502 shall constitute a trust fund for  
17 the Commonwealth and shall be enforceable against the person,  
18 the person's representative or any other person receiving a  
19 part of the fund.

20 § 2512. Payor's liability for withheld taxes.

21 (a) Liability.--A payor required to deduct and withhold tax  
22 under section 2503 (relating to withholding tax requirement for  
23 nonemployer payors) is liable for the tax.

24 (b) Enforcement.--

25 (1) For purposes of assessment and collection, an amount  
26 required to be withheld and paid to the department and  
27 additions to tax, penalties and interest shall be considered  
28 the tax of the payor.

29 (2) Taxes deducted and withheld from payees under  
30 section 2503 or under color of section 2503 shall constitute

1 a trust fund for the Commonwealth and shall be enforceable  
2 against the payor, the payor's representative or any other  
3 person receiving a part of the fund.

4 § 2513. Failure to withhold.

5 If a person fails to deduct and withhold tax as prescribed in  
6 this subchapter but subsequently pays the tax, the tax which was  
7 required to be deducted and withheld shall not be collected from  
8 the person, but the person shall be liable for penalties,  
9 interest or additions imposed for failure to deduct and withhold  
10 the tax.

11 § 2514. Bulk and auction sales and transfers and notice.

12 An employer liable for filing returns in accordance with this  
13 subpart who sells, causes to be sold at auction or sells or  
14 transfers in bulk 51% or more of the employer's stock of goods,  
15 wares, merchandise, fixtures, machinery, equipment, buildings or  
16 real estate held by or on behalf of the employer shall be  
17 subject to section 1403 of the Fiscal Code.

18 § 2515. Payor's failure to withhold.

19 If a payor fails to deduct and withhold tax as prescribed  
20 under section 2503 (relating to withholding tax requirement for  
21 nonemployer payors) but subsequently pays the tax, the tax which  
22 was required to be deducted and withheld shall not be collected  
23 from the payor, but the payor shall be liable for penalties,  
24 interest or additions imposed for failure to deduct and  
25 withhold.

26 § 2516. Designation of third parties to perform acts required  
27 of employers.

28 If a fiduciary, agent or other person has the control,  
29 receipt, custody or disposal of or pays the compensation of an  
30 employee or a group of employees employed by one or more

1 employers, the department may designate the fiduciary, agent or  
2 other person to perform acts required of employers under this  
3 subpart as the department may by regulation prescribe. Except as  
4 otherwise prescribed by the department, all provisions of this  
5 subpart which are applicable to an employer shall be applicable  
6 to a fiduciary, agent or other person.  
7 § 2517. When withholding not required.

8 Notwithstanding any provision to the contrary, on and after  
9 January 1, 1975, an employer shall not be required to withhold  
10 tax upon payment of wages to an employee if the employee can  
11 certify that the employee:

12 (1) incurred no personal income tax liability for the  
13 preceding tax year; and

14 (2) anticipates no liability for personal income tax for  
15 the current taxable year.

16 SUBCHAPTER B

17 WITHHOLDING TAX ON INCOME FROM SOURCES

18 WITHIN COMMONWEALTH

19 Sec.

20 2521. General rule.

21 2522. Amount of withholding tax.

22 2523. Treatment of nonresident partners, members or  
23 shareholders.

24 2524. Liability for tax, interest, penalties and additions.

25 2525. Withholding on income.

26 2526. Annual withholding statement.

27 § 2521. General rule.

28 (a) Time for payment.--

29 (1) If a partnership, estate, trust or Pennsylvania S  
30 corporation receives income from sources within this

1 Commonwealth for a taxable year and a portion of the income  
2 is allocable to a nonresident partner, beneficiary, member or  
3 shareholder of the partnership, estate, trust or Pennsylvania  
4 S corporation, the partnership, estate, trust or Pennsylvania  
5 S corporation shall pay a withholding tax under this section  
6 at the time and in the manner prescribed by the department.

7 (2) Notwithstanding any other provision of this subpart,  
8 all withholding tax shall be paid on or before the 15th day  
9 of the fourth month following the end of the taxable year.

10 (b) Applicability.--This section shall not apply to a  
11 publicly traded partnership as defined under section 7704 of the  
12 Internal Revenue Code of 1986 with equity securities registered  
13 with the Securities and Exchange Commission under section 12 of  
14 the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. §  
15 78a et seq.).

16 § 2522. Amount of withholding tax.

17 (a) Calculation.--The amount of tax withheld from  
18 nonresidents and the amount of withholding tax payable under  
19 section 2521 (relating to general rule) shall be equal to the  
20 income from sources within this Commonwealth of the partnership,  
21 association or Pennsylvania S corporation which is allocable to  
22 nonresident partners, members or shareholders multiplied by the  
23 tax rate specified in section 2201(b) (relating to imposition of  
24 tax).

25 (b) Income, gain, loss or deduction.--There shall not be  
26 taken into account items of income, gain, loss or deduction to  
27 the extent allocable to a partner, member or shareholder who is  
28 not a nonresident.

29 (c) Share of income.--There shall not be taken into account  
30 a share of income of a nonresident partner, member or

1 shareholder from sources within this Commonwealth to the extent  
2 that the amount was subject to withholding under section 2526  
3 (relating to annual withholding statement) and to the extent  
4 withholding actually occurred under section 2525 (relating to  
5 withholding on income) by the time withholding is required to be  
6 made by the partnership, association or Pennsylvania S  
7 corporation under section 2521.

8 § 2523. Treatment of nonresident partners, members or  
9 shareholders.

10 (a) Credit for partner, member, shareholder or holder of  
11 beneficial interest.--The following shall apply:

12 (1) A nonresident partner, member, shareholder or holder  
13 of a beneficial interest shall be allowed a credit for the  
14 partner's, member's, shareholder's or holder of a beneficial  
15 interest's share of the withholding tax paid by the  
16 partnership, association or Pennsylvania S corporation.

17 (2) The credit shall be allowed for the partner's,  
18 member's, shareholder's or holder of a beneficial interest's  
19 taxable year in which the partnership's, association's or  
20 Pennsylvania S corporation's taxable year for which the tax  
21 was paid ends.

22 (b) Nonresident lessor credit.--The following shall apply:

23 (1) A nonresident lessor shall be allowed a credit for  
24 the nonresident lessor's share of the withholding tax paid by  
25 the lessee under section 2525 (relating to withholding on  
26 income).

27 (2) The credit under this subsection shall be allowed  
28 for the nonresident lessor's taxable year in which the lessee  
29 withheld tax.

30 § 2524. Liability for tax, interest, penalties and additions.

1 If a partnership, association or Pennsylvania S corporation  
2 fails to pay withholding tax as prescribed in this subchapter  
3 but subsequently pays the tax, the partnership, association or  
4 Pennsylvania S corporation shall be liable for penalties,  
5 interest or additions imposed for failure to properly withhold  
6 the tax.

7 § 2525. Withholding on income.

8 (a) Income tax on rental payments.--A lessee of real estate  
9 in this Commonwealth who makes a lease payment in the course of  
10 a trade or business to a nonresident lessor shall withhold  
11 Pennsylvania personal income tax on rental payments to the  
12 nonresident lessor.

13 (b) Amount of tax.--A lessee shall withhold from each  
14 payment made to a lessor an amount equal to the net amount  
15 payable to the lessor multiplied by the tax rate specified under  
16 section 2201(b) (relating to imposition of tax).

17 (c) Optional withholding.--The withholding of tax under this  
18 section is optional and at the discretion of the lessee if the  
19 lessee pays the lessor less than \$5,000 annually on a lease.

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

23 "In the course of a trade or business." Includes a person,  
24 other than a tenant of residential property, making lease  
25 payments to a nonresident or agent of a nonresident who collects  
26 rent or lease payments on behalf of a nonresident owner.

27 "Lease payment." The following shall apply:

28 (1) The term includes rents, royalties, bonus payments,  
29 damage payments, delay rents and other payments made under a  
30 lease, other than compensation derived from intangible

1 property having a taxable or business situs in this  
2 Commonwealth.

3 (2) Classification as a "lease payment" under this  
4 section is solely for the purposes of establishing  
5 withholding requirements and is not relevant for a  
6 determination as to the proper income classification of a  
7 lease payment.

8 "Lessor." Includes an individual, estate or trust.

9 § 2526. Annual withholding statement.

10 (a) Annual statement to lessor.--A lessee shall furnish to a  
11 lessor an annual statement at the time and in the manner  
12 prescribed by the department showing the total payments made by  
13 the lessee to the lessor during the preceding taxable year and  
14 showing the amount of the tax deducted and withheld from the  
15 payments under section 2525 (relating to withholding on income).

16 (b) Annual statement to department.--A lessee shall file  
17 with the department an annual statement at the time and in the  
18 manner prescribed by the department showing the total payments  
19 made to each lessor subject to withholding during the preceding  
20 taxable year or any portion of the preceding taxable year and  
21 the total amount of tax deducted and withheld under section  
22 2525.

23 (c) Duplicate.--A lessor shall file a duplicate of the  
24 annual statement furnished by the lessee under this section with  
25 the lessor's State income tax return.

26 CHAPTER 26

27 ESTIMATED TAX

28 Sec.

29 2601. Definitions.

30 2602. Declarations of estimated tax.

1 2603. Payments of estimated tax.

2 § 2601. Definitions.

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

6 "Estimated tax." The amount that an individual, trust or  
7 estate estimates to be the tax due under this subpart for the  
8 taxable year, less the amount estimated to be the sum of credits  
9 allowable against the tax under this subpart.

10 § 2602. Declarations of estimated tax.

11 (a) Declaration.--A resident or nonresident individual,  
12 trust or estate shall, at the time specified under this section,  
13 make a declaration of the estimated tax for the taxable year  
14 containing information as the department may prescribe by  
15 regulation, if the individual's, trust's or estate's income,  
16 other than from income on which tax is withheld under this  
17 subchapter, is expected to exceed \$8,000.

18 (b) Joint declaration.--

19 (1) Spouses may make a joint declaration of estimated  
20 tax under this section as if they were one taxpayer, in which  
21 case the liability with respect to the estimated tax shall be  
22 joint and several.

23 (2) If a joint declaration is made but the spouses elect  
24 to determine each spouse's taxes separately, the spouses may  
25 choose to treat the estimated tax for the year as the  
26 estimated tax of either spouse or to divide the estimated tax  
27 between them.

28 (c) Date for filing.--Except as otherwise provided in this  
29 section, the date for filing a declaration of estimated tax  
30 shall depend upon when the resident or nonresident individual,

1 trust or estate determines that the income on which no tax has  
2 been withheld under this subchapter is expected to exceed \$8,000  
3 in the taxable year. The following shall apply:

4 (1) If the determination is made on or before April 1 of  
5 the taxable year, a declaration of estimated tax shall be  
6 filed no later than April 15 of the taxable year.

7 (2) If the determination is made after April 1 but  
8 before June 2 of the taxable year, the declaration shall be  
9 filed no later than June 15 of the taxable year.

10 (3) If the determination is made after June 1 but before  
11 September 2 of the taxable year, the declaration shall be  
12 filed no later than September 15 of the taxable year.

13 (4) If the determination is made after September 1 of  
14 the taxable year, the declaration shall be filed no later  
15 than January 15 of the year succeeding the taxable year.

16 (d) Income from farming.--

17 (1) Notwithstanding subsection (c), a declaration of  
18 estimated tax of an individual having an estimated gross  
19 income from farming for the taxable year which is at least  
20 two-thirds of the individual's total estimated gross income  
21 for the taxable year may be filed at any time on or before  
22 January 15 of the succeeding year.

23 (2) If a farmer files a final return and pays the entire  
24 tax by March 1, the return may be considered the declaration  
25 due on or before January 15.

26 (e) Estimated tax less than \$100.--A declaration of  
27 estimated tax of an individual, trust or estate having a total  
28 estimated tax for the taxable year of \$100 or less may be filed  
29 at any time on or before January 15 of the succeeding year under  
30 regulations of the department.

1 (f) Amendment of declaration.--An individual, trust or  
2 estate may amend a declaration under regulations of the  
3 department.

4 (g) Filing and paying for full year.--If, on or before  
5 January 31 of the year succeeding a taxable year, an individual,  
6 trust or estate files a return for the entire taxable year for  
7 which a declaration was required to be filed within the time  
8 prescribed under subsection (c) (4) and pays the full amount of  
9 the tax due on the return:

10 (1) The return shall be considered the declaration which  
11 was required to be filed no later than January 15.

12 (2) The return shall be considered as the amendment  
13 permitted under subsection (f) to be filed on or before  
14 January 15, if the amount of tax shown on the return is  
15 greater than the amount of estimated tax shown in a  
16 declaration previously made.

17 (h) Noncalendar taxable year.--This subpart shall apply to a  
18 taxable year other than a calendar year by the substitution of  
19 the months of the fiscal year for the corresponding months  
20 specified in this section.

21 (i) Short taxable year.--This subpart shall apply to an  
22 individual, trust or estate having a taxable year of less than  
23 12 months in accordance with regulations of the department.

24 § 2603. Payments of estimated tax.

25 (a) Payments generally.--Subject to the provisions of  
26 section 2602(i) (relating to declarations of estimated tax), the  
27 estimated tax with respect to which a declaration is required  
28 shall be paid as follows:

29 (1) If the declaration is filed on or before April 15 of  
30 the taxable year, the estimated tax shall be paid in four

1 equal installments as follows:

2 (i) The first installment shall be paid at the time  
3 the declaration is filed.

4 (ii) The second installment shall be paid on or  
5 before the succeeding June 15.

6 (iii) The third installment shall be paid on or  
7 before the succeeding September 15.

8 (iv) The fourth installment shall be paid on or  
9 before the succeeding January 15.

10 (2) If the declaration is not required to be filed on or  
11 before April 15 of the taxable year and is filed after April  
12 15 but before June 16 of the taxable year, the estimated tax  
13 shall be paid in three equal installments as follows:

14 (i) The first installment shall be paid at the time  
15 the declaration is filed.

16 (ii) The second installment shall be paid on the  
17 succeeding September 15.

18 (iii) The third installment shall be paid on the  
19 succeeding January 15.

20 (3) If the declaration is not required to be filed on or  
21 before June 15 of the taxable year and is filed after June 15  
22 but before September 16 of the taxable year, the estimated  
23 tax shall be paid in two equal installments as follows:

24 (i) The first installment shall be paid at the time  
25 the declaration is filed.

26 (ii) The second installment shall be paid on the  
27 succeeding January 15.

28 (4) If the declaration is not required to be filed on or  
29 before September 15 of the taxable year and is filed after  
30 September 15 of the taxable year, the estimated tax shall be

1 paid in full at the time the declaration is filed.

2 (5) If the declaration is not filed within the time  
3 prescribed in this section or after the expiration of an  
4 extension of time, paragraphs (2), (3) and (4) shall not  
5 apply, and all installments of estimated tax which were due  
6 and payable on or before the date the declaration was filed  
7 shall be paid at the time the declaration is filed. Remaining  
8 installments shall be paid at the times and in the amounts as  
9 if the declaration had been filed when due.

10 (b) Farming.--If an individual described in section 2602(d)  
11 (relating to declarations of estimated tax) makes a declaration  
12 of estimated tax after September 15 of the taxable year but  
13 before the following March 1, the estimated tax shall be paid in  
14 full at the time of the filing of the declaration.

15 (c) Amendment of declaration.--

16 (1) If an amendment of a declaration is filed, the  
17 remaining unpaid installments, if any, shall be ratably  
18 increased or decreased to reflect an increase or decrease in  
19 the estimated tax by reason of the amendment.

20 (2) If an amendment is made after September 15 of the  
21 taxable year, an increase in the estimated tax by reason of  
22 the amendment shall be paid at the time the amendment is  
23 made.

## 24 CHAPTER 27

### 25 RETURNS AND PAYMENT OF TAX

26 Sec.

27 2701. Returns and liability.

28 2702. Return of Pennsylvania S corporation.

29 2703. Returns of married, deceased or disabled individuals and  
30 fiduciaries.

1 2704. Time and place for filing returns and paying tax.  
2 2705. Signing of returns and other documents.  
3 2706. Extension of time.  
4 2707. Requirements concerning returns, notices, records and  
5 statements.  
6 2708. Timely mailing treated as timely filing and payment.  
7 2709. Procedure for claiming special tax provisions.  
8 2710. Proof of eligibility.  
9 § 2701. Returns and liability.

10 (a) Tax return.--On or before the date when the taxpayer's  
11 Federal income tax return is due or would be due if the taxpayer  
12 were required to file a Federal income tax return under the  
13 Internal Revenue Code of 1954, a tax return under this subpart  
14 shall be made and filed by or for every taxpayer having income  
15 for the taxable year.

16 (b) Special provisions for members of armed forces.--

17 (1) This subsection shall apply to an individual:

18 (i) serving in the armed forces of the United States  
19 in an area designated by the President of the United  
20 States by Executive order as a "combat zone" as described  
21 in section 7508 of the Internal Revenue Code of 1986, as  
22 amended, at any time during a period designated by the  
23 President by Executive order as the period of combatant  
24 activities in the combat zone;

25 (ii) hospitalized within or outside the United  
26 States as a result of injury received while serving in  
27 the combat zone during that time specified in  
28 subparagraph (i); or

29 (iii) serving in a military capacity as a result of  
30 a Federal callup to active duty or civilian capacity

1 outside this Commonwealth in support of the armed forces.

2 (2) The period of service in the area specified in  
3 paragraph (1), plus the period of hospitalization within or  
4 outside the United States attributable to injury, and the  
5 next 180 days shall be disregarded, with respect to tax  
6 liability under this subpart, including interest, penalty,  
7 additional amount or addition to the tax of the individual,  
8 in determining any of the following:

9 (i) Whether any of the following acts were performed  
10 within the time prescribed in this paragraph:

11 (A) Filing a return of income tax, except income  
12 tax withheld at source.

13 (B) Payment of income tax, except income tax  
14 withheld at source, an installment of income tax  
15 withheld at source or any other tax liability to the  
16 Commonwealth.

17 (C) Filing a petition for redetermination of a  
18 deficiency or review of a decision rendered by the  
19 department.

20 (D) Allowance of a credit or refund of a tax.

21 (E) Filing a claim for credit or refund of a  
22 tax.

23 (F) Bringing suit upon a claim for credit.

24 (G) Assessment of a tax.

25 (H) Giving or making a notice or demand for the  
26 payment of a tax or a tax liability to the  
27 Commonwealth.

28 (I) Collection by the department of a tax  
29 liability.

30 (J) Bringing suit by the Commonwealth, or any

1 officer on its behalf, in respect of any liability in  
2 respect of any tax.

3 (K) Any other act required or permitted under  
4 this subpart specified in regulations prescribed by  
5 the department.

6 (ii) The amount of a credit or refund, including  
7 interest.

8 (3) This subsection shall apply to the spouse of an  
9 individual entitled to the benefits under this subsection.  
10 This paragraph shall not cause this subsection to apply for a  
11 spouse for a taxable year beginning more than one year after  
12 the date of termination of combatant activities in a combat  
13 zone.

14 (4) The period of service in the area referred to in  
15 this subsection shall include the period during which an  
16 individual entitled to benefits under this subsection is in a  
17 missing status.

18 (5) If a qualified individual under paragraph (1) is  
19 killed while serving in a combat zone, the tax liability of  
20 the decedent for the year of death and the immediately prior  
21 year shall be waived by the Commonwealth.

22 § 2702. Return of Pennsylvania S corporation.

23 (a) Annual return.--Each Pennsylvania S corporation shall  
24 make a return for each taxable year stating all of the  
25 following:

26 (1) All items of gross income and deductions.

27 (2) The names and addresses of all persons owning stock  
28 in the corporation at any time during the taxable year.

29 (3) The number of shares of stock owned by each  
30 shareholder at all times during the taxable year.

1       (4) The amount of money and other property distributed  
2 by the corporation during the taxable year to each  
3 shareholder.

4       (5) The date of each distribution.

5       (6) Each shareholder's pro rata share of each item of  
6 the corporation for the taxable year.

7       (7) Other information as the department may require.

8       (b) Time for filing.--The return shall be filed on or before  
9 30 days after the date the corporation's Federal income tax  
10 return is due.

11       (c) Copy of income tax return required.--Each Pennsylvania S  
12 corporation shall also submit to the department a true copy of  
13 the income tax return filed with the Federal Government at the  
14 time the return required under subsection (a) is filed.

15       (d) Statement to shareholders.--Each Pennsylvania S  
16 corporation required to file a return under subsection (a) for a  
17 taxable year shall, on or before the day on which the return for  
18 the taxable year was filed, furnish to each person who is a  
19 shareholder at any time during the taxable year a written  
20 statement of the shareholder's pro rata share of each item on  
21 the corporate return on a form required by the department.

22 § 2703. Returns of married, deceased or disabled individuals  
23 and fiduciaries.

24       (a) Separate liabilities.--If the income tax liability of a  
25 spouse is determined on a separate return, each spouse's tax  
26 liabilities under this subpart shall be separate.

27       (b) Joint liabilities.--If the income tax liabilities of  
28 each spouse are determined on a joint return, the spouses' tax  
29 liabilities under this subpart shall be joint and several.

30       (c) Nonresident spouse.--

1       (1) Subject to paragraph (2), if either spouse is a  
2 resident and the other is a nonresident, the spouses shall  
3 file separate returns under this subpart on a single form or  
4 separate forms as required by the department, in which event  
5 the spouses' tax liabilities under this subpart shall be  
6 separate, except as provided in subsection (d).

7       (2) Notwithstanding paragraph (1), spouses may determine  
8 their joint taxable income as if both were residents, in  
9 which event the spouses' tax liabilities under this subpart  
10 shall be joint and several.

11 (d) Excess credited to spouse.--

12       (1) Subject to paragraph (2), if spouses file separate  
13 tax returns under this subpart on a single form under  
14 subsection (a) or (c), the following shall apply:

15           (i) If the sum of the payments by either spouse,  
16 including withheld and estimated taxes, exceeds the  
17 amount of the tax for which the spouse is separately  
18 liable, the excess may be applied by the department to  
19 the credit of the other spouse if the sum of the payments  
20 by the other spouse, including withheld and estimated  
21 taxes, is less than the amount of the tax for which the  
22 other spouse is separately liable.

23           (ii) If the sum of the payments made by both spouses  
24 with respect to the taxes for which the spouses are  
25 separately liable, including withheld and estimated  
26 taxes, exceeds the total of the taxes due, a refund of  
27 the excess may be made payable to both spouses or, if  
28 either is deceased, to the survivor spouse.

29       (2) Paragraph (1) shall not apply if the return of  
30 either spouse includes a demand that an overpayment made by

1 either spouse shall be applied only on account of the  
2 separate liability.

3 (e) Return of deceased individual.--Except as provided under  
4 subsections (f) and (g), the final return for a deceased  
5 individual shall be made, signed and filed by the executor,  
6 administrator or other personal representative charged with the  
7 deceased individual's property.

8 (f) Return of surviving spouse.--

9 (1) The following shall apply:

10 (i) During the year in which a spouse dies, a  
11 surviving spouse may file a return for the year jointly  
12 with the final return of the deceased spouse if the joint  
13 return could have been filed if both spouses were living  
14 for the entire taxable year.

15 (ii) If a personal representative, executor,  
16 administrator or other fiduciary is appointed on behalf  
17 of the deceased spouse before the deceased spouse's tax  
18 return is filed, the surviving spouse may not file a  
19 joint return without the consent of the fiduciary.

20 (iii) If a joint return is filed, both the fiduciary  
21 of the deceased spouse's estate and the surviving spouse  
22 must sign the joint return.

23 (2) The following shall apply:

24 (i) A surviving spouse may make, sign and file the  
25 final tax return of the deceased spouse if the deceased  
26 spouse did not previously file a return for that taxable  
27 year and if a personal representative, executor or  
28 administrator has not been appointed by the time the  
29 return is made, signed and filed.

30 (ii) If the surviving spouse properly files a final

1 return for the deceased spouse under this paragraph, a  
2 fiduciary who is later appointed for the deceased spouse  
3 may supersede the final return filed by the surviving  
4 spouse by filing a separate return for the deceased  
5 spouse.

6 (iii) A joint return improperly filed by the  
7 surviving spouse or superseded by the fiduciary shall be  
8 treated as void.

9 (iv) If the surviving spouse files a return jointly  
10 with the deceased spouse's return under this paragraph  
11 and the return is superseded by the filing of a return by  
12 the deceased spouse's fiduciary, the surviving spouse  
13 shall be required to file a separate return within 90  
14 days of the filing of the fiduciary's return.

15 (v) The surviving spouse's separate return shall be  
16 deemed to be filed on:

17 (A) the day the joint return was filed if the  
18 joint return is filed on time; or

19 (B) the date the department receives it.

20 (g) Joint return for deceased spouses.--

21 (1) If both taxpayers die during the same tax year, a  
22 final return for each deceased spouse may be jointly filed if  
23 a joint return could have been filed had both spouses lived  
24 for the entire taxable year and with the consent of the  
25 personal representatives, executors or administrators of both  
26 deceased spouses under subsection (f) by the due date,  
27 including extensions, of the joint tax return.

28 (2) Both fiduciaries must sign the joint return under  
29 paragraph (1).

30 (h) Individual unable to complete return.--The return for an

1 individual who is unable to make a return by reason of age or  
2 disability shall be made and filed by a guardian, committee,  
3 fiduciary or other person charged with the care of the  
4 individual and the individual's property or by a duly authorized  
5 agent.

6 (i) Estates and trusts.--The return for an estate or trust  
7 shall be made and filed by the fiduciary. If two or more  
8 fiduciaries are acting jointly, the return may be made by any  
9 one of them.

10 § 2704. Time and place for filing returns and paying tax.

11 (a) Payment.--A person required to make and file a return  
12 under this subpart shall, without assessment, notice or demand,  
13 pay a tax due to the department on or before the date fixed for  
14 filing the return, as determined without regard to an extension  
15 of time for filing the return.

16 (b) Place and documents for filing.--The department shall  
17 prescribe by regulation the following:

18 (1) The place for filing a return.

19 (2) Forms for returns, declarations, statements or other  
20 documents required under this subpart.

21 (3) Payment of a tax.

22 § 2705. Signing of returns and other documents.

23 (a) Return to be signed.--A return other than an estimated  
24 return under section 2602 (relating to declarations of estimated  
25 tax), statement or other document required to be made under this  
26 subpart shall be signed in accordance with regulations or  
27 instructions prescribed by the department.

28 (b) Partnerships.--A return, statement or other document  
29 required of a partnership shall be signed by one or more  
30 partners. The fact that a partner's name is signed to a return,

1 statement or other document shall be prima facie evidence for  
2 all purposes that the partner is authorized to sign on behalf of  
3 the partnership.

4 (c) Certification of return, declaration, statement or other  
5 document.--The making or filing of a return, declaration,  
6 statement or other document or copy of a return, declaration,  
7 statement or other document required to be made or filed under  
8 this subpart shall constitute a certification by the person  
9 making or filing the return, declaration, statement or other  
10 document or copy of a return, declaration, statement or other  
11 document that the statements contained in the return,  
12 declaration, statement or other document are true and that a  
13 copy filed is a true copy.

14 § 2706. Extension of time.

15 (a) Authorization.--The department may, upon application,  
16 grant a reasonable extension of time for filing a return,  
17 declaration, statement, or other document required under this  
18 subpart on terms and conditions as the department may require.

19 (b) Limitation.--Except for a taxpayer who is outside the  
20 United States, an extension for filing a return, declaration,  
21 statement or other document shall not exceed six months.

22 § 2707. Requirements concerning returns, notices, records and  
23 statements.

24 (a) Regulations.--

25 (1) The department may prescribe by regulation for the  
26 following:

27 (i) The keeping of records.

28 (ii) The content and form of returns, declarations,  
29 statements and other documents.

30 (iii) The filing of copies of Federal income tax

1 returns and determinations.

2 (2) The department may require a person, by regulation  
3 or notice served upon the person, to make returns, render  
4 statements or keep records as the department deems sufficient  
5 to show whether or not the person is liable for tax under  
6 this subpart.

7 (b) Identifying information.--

8 (1) When required by regulation prescribed by the  
9 department:

10 (i) A person required under the authority of this  
11 subpart to make a return, declaration, statement or other  
12 document shall include in the return, declaration,  
13 statement or other document an identifying number as may  
14 be prescribed for securing proper identification of the  
15 person.

16 (ii) A person with respect to whom a return,  
17 declaration, statement or other document is required  
18 under the authority of this subpart to make a return,  
19 declaration, statement or other document with respect to  
20 another person shall request from the other person, and  
21 shall include in a return, declaration, statement or  
22 other document, an identifying number as may be  
23 prescribed for securing proper identification of the  
24 other person.

25 (2) For purposes of this section, the department may  
26 require information necessary to assign an identifying number  
27 to a person.

28 (c) Partnerships, estates and trusts.--

29 (1) The following shall apply:

30 (i) Each partnership, estate or trust having a

1 resident partner or resident beneficiary or each  
2 partnership, estate or trust having income derived from  
3 sources within this Commonwealth shall make a return for  
4 the taxable year setting forth all items of income, loss  
5 and deduction and other pertinent information as the  
6 department may require.

7 (ii) The return shall be filed on or before the 15th  
8 day of the fourth month following the close of each  
9 taxable year.

10 (iii) For purposes of this subsection, "taxable  
11 year" means the year or period which would be a taxable  
12 year of the partnership if the partnership is subject to  
13 tax under this subpart.

14 (2) Each partnership, estate or trust required to file a  
15 return under paragraph (1) shall also file with the  
16 department a true copy of the income tax return filed with  
17 the Federal Government at the time the return required under  
18 paragraph (1) is filed.

19 (3) Each partnership, estate or trust required to file a  
20 return under paragraph (1) for any taxable year shall, on or  
21 before the day the return is filed, furnish to each partner  
22 or nominee for another person or to each beneficiary to whom  
23 the income or gains of the estate or trust is taxable a  
24 written statement of the partner's pro rata share of each  
25 item on the partnership return or the beneficiary's pro rata  
26 share of income on the estate or trust return in a form  
27 required by the department.

28 (4) The following shall apply:

29 (i) A partnership required to file a return under  
30 paragraph (1) for a taxable year shall, on or before the

1 day the return is filed, furnish to each partner  
2 classified as a corporation, partnership or disregarded  
3 entity for Federal income tax purposes a copy of the  
4 Pennsylvania income tax form reporting corporate partner  
5 apportioned business income or loss.

6 (ii) A reporting partnership shall not be required  
7 to provide a partner who is either a partnership or  
8 disregarded entity a copy of the form if the reporting  
9 partnership is able to determine that an entity  
10 classified as a corporation for Federal income tax  
11 purposes is not an indirect owner of the reporting  
12 partnership.

13 (d) Returns of information.--

14 (1) The department may prescribe regulations requiring  
15 returns of information to be made and filed on or before  
16 February 28 of each year as to the payment or credit in any  
17 calendar year of amounts of \$10 or more to a taxpayer.

18 (2) Returns may be required of:

19 (i) A person, including a lessee or mortgagor of  
20 real or personal property, a fiduciary and an employer.

21 (ii) All officers and employees of this  
22 Commonwealth.

23 (iii) A municipal corporation or political  
24 subdivision of this Commonwealth having the control,  
25 receipt, custody, disposal or payment of interest, rents,  
26 salaries, wages, premiums, annuities, compensations,  
27 remunerations, emoluments or other fixed or determinable  
28 gains, profits or income, except interest coupons payable  
29 to bearer.

30 (3) A duplicate of the statement of tax withheld on

1 compensation required to be furnished by an employer to an  
2 employee shall constitute the return of information required  
3 to be made under this section with respect to compensation.

4 (e) Gambling and lottery winnings.--A person who is required  
5 to make a form W-2G return to the United States Secretary of the  
6 Treasury in regard to taxable gambling or lottery winnings from  
7 sources within this Commonwealth shall file a copy of the form  
8 with the department by March 1 of each year or, if filed  
9 electronically, by March 31 of each year.

10 (f) Form 1099-MISC.--The following shall apply:

11 (1) A person shall file a copy of form 1099-MISC with  
12 the department and send a copy of the form to a payee by  
13 March 1 of each year or, if filed electronically, by March 31  
14 of each year if the person:

15 (i) makes payments of Pennsylvania source income  
16 that fall within any of the classes of income enumerated  
17 in section 2203(a) (relating to classes of income);

18 (ii) makes payments to an individual, an entity  
19 treated as a partnership for tax purposes or a single  
20 member limited liability company; and

21 (iii) is required to make a form 1099-MISC return to  
22 the United States Secretary of the Treasury with respect  
23 to the payments.

24 (2) If the form 1099-MISC filed by a payor with the  
25 United States Secretary of the Treasury is not completed in a  
26 manner that State income and State tax withheld information,  
27 currently boxes 16 through 18 on Federal form 1099-MISC, is  
28 reflected, the payor shall update the copies of form 1099-  
29 MISC to be provided under this section to reflect the  
30 information prior to filing it with the department and

1 sending it to the payee.

2 (3) If the payor is required to perform electronic  
3 filing for Pennsylvania employer withholding purposes, the  
4 form 1099-MISC shall be filed electronically with the  
5 department.

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

9 "Payee." The person receiving the payments subject to  
10 withholding under this subsection.

11 "Payments." The term does not include a partner or  
12 shareholder's distributive share of income from a partnership  
13 or Pennsylvania S corporation.

14 "Payor." The person required to withhold under this  
15 subsection.

16 (g) List of partners, members, beneficiaries or  
17 shareholders.--

18 (1) The following shall apply:

19 (i) Each estate, trust, Pennsylvania S corporation  
20 or partnership, other than a publicly traded partnership,  
21 shall maintain at the end of the entity's taxable year an  
22 accurate list of partners, members, beneficiaries and  
23 shareholders.

24 (ii) The list shall include the name, current  
25 address and tax identification number of all existing  
26 partners, members, beneficiaries and shareholders and of  
27 all partners, members, beneficiaries and shareholders who  
28 were admitted or who withdrew during the taxable year,  
29 including the date of admittance or withdrawal.

30 (2) If the entity under paragraph (1) does not maintain

1 an accurate list as required, the tax, penalty and interest  
2 with respect to the entity shall be considered the tax,  
3 penalty and interest of the partnership, estate, trust or  
4 Pennsylvania S corporation and of the general partner, tax  
5 matters partner, corporate officer or trustee.

6 § 2708. Timely mailing treated as timely filing and payment.

7 (a) Timely mailing.--Notwithstanding the provisions of any  
8 State tax law to the contrary, when a report or payment of all  
9 or a portion of a State tax is required by law to be received by  
10 the department or other agency of the Commonwealth on or before  
11 a day certain, the taxpayer shall be deemed to have complied  
12 with the law if the letter transmitting the report or payment of  
13 the tax received by the department is postmarked by the United  
14 States Postal Service on or prior to the final day on which the  
15 payment is due.

16 (b) Receipt as evidence.--For the purposes of this subpart,  
17 presentation of a receipt indicating that the report or payment  
18 was mailed by registered or certified mail on or before the due  
19 date shall be evidence of timely filing and payment.

20 § 2709. Procedure for claiming special tax provisions.

21 The following procedures shall be employed for claiming  
22 special tax provisions:

23 (1) A claimant may claim the special tax provisions upon  
24 the expiration of the taxable year in which the claimant  
25 filed an annual return under this subpart. Notwithstanding  
26 any other provisions of this subpart to the contrary, the  
27 department shall promulgate rules or regulations as it deems  
28 necessary to implement the provisions of this section.

29 (2) If a claimant receives income as defined in this  
30 subpart, other than compensation from an employer, the

1 claimant may claim the special tax provisions in connection  
2 with the filing of estimated tax returns.

3 § 2710. Proof of eligibility.

4 (a) Establishment of eligibility procedures.--The department  
5 shall establish rules, regulations, schedules and other  
6 procedures necessary for the submission and establishment of  
7 proof of eligibility of persons for special tax provisions or  
8 other matters relating to the provisions of this subpart.

9 (b) Procedures.--Procedures may include, but not be limited  
10 to, the submission of requisite information and certifications  
11 upon forms provided by the department, including special tax  
12 return or report forms as necessary.

13 CHAPTER 28

14 PROCEDURE AND ADMINISTRATION

15 Sec.

16 2801. Payment on notice and demand.

17 2802. Assessment.

18 2803. Jeopardy assessments.

19 2804. Procedure for reassessment.

20 2805. Collection of tax.

21 2806. Collection upon failure to request reassessment, review  
22 or appeal.

23 2807. Lien for tax.

24 2808. Refund or credit of overpayment.

25 2809. Restrictions on refunds.

26 2810. Limitations on assessment and collection.

27 2811. Extension of limitation period.

28 2812. Limitations on refund or credit.

29 2813. Interest.

30 2814. Additions, penalties and fees.

1 2815. Abatement of additions or penalties.

2 2816. Citation authority.

3 2817. Crimes.

4 2818. Rules and regulations.

5 2819. Examination.

6 2820. Cooperation with other governmental agencies.

7 2821. Appropriation for refunds.

8 § 2801. Payment on notice and demand.

9 Upon receipt of notice and demand from the department, the  
10 amount of a tax due under the provisions of this subpart stated  
11 in the notice and demand shall be paid.

12 § 2802. Assessment.

13 (a) Duty of department.--The department shall make the  
14 inquiries, determinations and assessments of all taxes imposed  
15 by this subpart.

16 (b) Procedure or time for assessment.--If the procedure or  
17 time for the assessment of a tax is not otherwise provided for,  
18 the department may establish the procedure or time for the  
19 assessment of a tax by regulations.

20 (c) Estimated assessment.--

21 (1) If a taxpayer fails to file a return required by  
22 this subpart, the department may make an estimated assessment  
23 of the proper amount of tax owed by the taxpayer based on  
24 available information.

25 (2) A notice of assessment in the estimated amount shall  
26 be sent to the taxpayer.

27 (3) The tax shall be paid within 90 days after a notice  
28 of the estimated assessment has been mailed to the taxpayer,  
29 unless the taxpayer has filed a petition for reassessment in  
30 the manner prescribed by Article XXVII (relating to procedure

1 and administration) within the 90-day period.

2 (d) Notice.--A notice of assessment issued by the department  
3 under this subpart shall be mailed to the taxpayer. The notice  
4 shall specify the basis of the assessment.

5 § 2803. Jeopardy assessments.

6 (a) Jeopardy assessments, filing and notice.--If the  
7 department believes that the assessment or the collection of a  
8 deficiency will be jeopardized in whole or in part by delay, the  
9 department may mail or issue notice of the department's finding  
10 to the taxpayer, together with a demand for immediate payment of  
11 the tax or the deficiency declared to be in jeopardy, including  
12 interest, penalties and additions.

13 (b) Closing of taxable year.--The department shall declare  
14 the taxable period for a taxpayer immediately terminated and  
15 shall cause notice of the finding and declaration to be given to  
16 a taxpayer, together with a demand for immediate payment of the  
17 tax for the taxable period declared terminated and the tax for  
18 the preceding taxable year or as much of the tax as is unpaid if  
19 the department believes that a taxpayer is planning to do any of  
20 the following:

21 (1) Leave this Commonwealth to escape tax collection  
22 proceedings.

23 (2) Remove the taxpayer's property from this  
24 Commonwealth to escape tax collection proceedings.

25 (3) Conceal the taxpayer or the taxpayer's property in  
26 this Commonwealth to escape tax collection proceedings.

27 (4) Commit any other act which would prejudice or render  
28 ineffectual proceedings to collect the tax for the current or  
29 previous taxable year unless the proceedings are brought  
30 without delay.

1 (c) Jeopardy assessments and collection.--

2 (1) A jeopardy assessment is immediately due and  
3 payable, and proceedings for collection may be commenced  
4 immediately after notice is issued to the taxpayer.

5 (2) The following shall apply:

6 (i) The taxpayer may stay collection and prevent the  
7 jeopardy assessment from becoming final by filing, within  
8 10 days after the date of the notice of jeopardy  
9 assessment, a petition for reassessment, notwithstanding  
10 the provisions of section 2702 of the Tax Reform Code of  
11 1971 to the contrary.

12 (ii) The petition shall be accompanied by a bond or  
13 other security in an amount the department deems  
14 necessary.

15 (iii) The amount of the bond or security may not  
16 exceed double the amount, including interest, penalties  
17 and additions, of tax for which the stay is desired.

18 (d) Final jeopardy assessment.--If a petition for  
19 reassessment, accompanied by bond or other security, is not  
20 filed within the 10-day period, the assessment shall become  
21 final.

22 (e) Hearing on jeopardy assessment.--If a taxpayer requests  
23 a hearing on the petition for reassessment, the department shall  
24 grant the taxpayer or the taxpayer's authorized representative  
25 an oral hearing.

26 (f) Action on petition for reassessment.--

27 (1) The department shall consider the petition for  
28 reassessment and notify the taxpayer of the department's  
29 decision.

30 (2) The department's decision as to the validity of the

1 jeopardy assessment shall be final unless the taxpayer,  
2 within 90 days after notification of the department's  
3 decision, files a petition for review authorized under  
4 section 2704 of the Tax Reform Code of 1971.

5 (g) Presumptive evidence of jeopardy.--

6 (1) In a proceeding brought to enforce payment of taxes  
7 made due and payable under this section, the belief of the  
8 department under subsection (a), whether made after notice to  
9 the taxpayer or not, is presumptive evidence that the  
10 assessment or collection of the tax or the deficiency was in  
11 jeopardy.

12 (2) A certification by the department of the mailing or  
13 issuing of the notices specified in this section is  
14 presumptive evidence that the notices were mailed or issued.

15 § 2804. Procedure for reassessment.

16 A taxpayer against whom an assessment is made may petition  
17 the department for a reassessment under Article XXVII (relating  
18 to procedure and administration).

19 § 2805. Collection of tax.

20 The department shall collect taxes imposed under this subpart  
21 in the manner provided by law for the collection of taxes  
22 imposed by the laws of this Commonwealth.

23 § 2806. Collection upon failure to request reassessment, review  
24 or appeal.

25 (a) Time frames.--The department may collect a tax:

26 (1) Ninety days after the date a copy of the notice of  
27 assessment was mailed, if no petition for reassessment has  
28 been filed.

29 (2) Ninety days after the date of mailing of the notice  
30 of the department's action on the reassessment, if no

1 petition for review has been filed.

2 (3) Thirty days after the date of mailing of the notice  
3 of the decision of the Board of Finance and Revenue upon a  
4 petition for review or from the expiration of the board's  
5 time for acting upon the petition, if no decision has been  
6 made.

7 (4) Immediately, in all cases of judicial sales,  
8 receiverships, assignments or bankruptcies.

9 (b) Administrative remedies to be exhausted.--In a  
10 proceeding for the collection of the tax imposed under this  
11 subpart, the person against whom the assessment was made shall  
12 not be permitted to set up a ground of defense that might have  
13 been presented to the department, the Board of Finance and  
14 Revenue or the Commonwealth Court if the person had properly  
15 pursued the administrative remedies under this subpart.

16 § 2807. Lien for tax.

17 (a) Lien.--

18 (1) If a person liable to pay a tax neglects or refuses  
19 to pay the tax on the date the tax becomes collectible, the  
20 amount of the tax, together with costs which may accrue in  
21 addition to the tax, shall be a lien in favor of the  
22 Commonwealth against the real and personal property of the  
23 person after the lien has been duly entered and docketed of  
24 record by the prothonotary of the county where the property  
25 is situated.

26 (2) A prothonotary may not require, as a condition  
27 precedent to the entry of the lien, the payment of costs for  
28 entry and docketing of the lien.

29 (b) Record and priority of lien.--

30 (1) The department may transmit to the prothonotaries of

1 the respective counties certified copies of all liens for  
2 taxes imposed under this subpart.

3 (2) A prothonotary receiving a lien from the department  
4 shall enter and docket the lien of record in the  
5 prothonotary's office. Each lien shall be indexed in the same  
6 manner as a judgment.

7 (3) A lien shall have priority to, and be fully paid  
8 before, any other obligation, judgment, claim, lien or estate  
9 paid and satisfied out of the judicial sale of real and  
10 personal property with which the property may subsequently  
11 become charged, or for which the property may subsequently  
12 become liable, subject to mortgage or other liens existing  
13 and duly recorded at the time the tax lien is recorded,  
14 except the cost of sale, the writ upon which the sale is made  
15 and real estate taxes imposed or assessed upon the property.

16 (4) A writ of execution may directly issue upon the lien  
17 without the issuance and prosecution to judgment of a writ of  
18 scire facias if, not less than 10 days before issuance of an  
19 execution on the lien, notice of the filing and effect of the  
20 lien is sent by certified mail to the taxpayer at the  
21 taxpayer's last known mailing address.

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

27 (c) Violation and penalties.--A prothonotary who willfully  
28 fails to carry out a duty imposed upon the prothonotary by this  
29 section commits a misdemeanor and shall, upon conviction, be  
30 sentenced to pay a fine not exceeding \$1,000 and costs of

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

3 § 2808. Refund or credit of overpayment.

4 (a) Overpayment.--In the case of a payment of tax not due  
5 under this subpart, the department may credit the amount of the  
6 overpayment against any liability of the tax imposed by this  
7 subpart to the person who made the overpayment and shall refund  
8 any balance to the person.

9 (b) Credit regulations.--The department shall prescribe  
10 regulations providing for the crediting against the estimated  
11 tax for a taxable year of the amount determined to be an  
12 overpayment of the tax for a preceding taxable year.

13 (c) Overpayment of installment.--If a taxpayer has paid as  
14 an installment of estimated tax more than the correct amount of  
15 the installment, the overpayment shall be credited against the  
16 unpaid installments, if any. If the amount paid, whether or not  
17 on the basis of installments, exceeds the amount determined to  
18 be the correct amount of the tax, the overpayment shall be  
19 credited or refunded as provided in subsection (a) or (b).

20 § 2809. Restrictions on refunds.

21 A credit or refund may be made under section 2808 (relating  
22 to refund or credit of overpayment):

23 (1) By reason of the overpayment of an installment of  
24 estimated tax.

25 (2) Upon reassessment.

26 (3) Upon the filing of a final return or amended final  
27 return showing an overpayment of tax.

28 § 2810. Limitations on assessment and collection.

29 (a) Time period for assessment.--The amount of a tax imposed  
30 by this subpart shall be assessed within three years after the

1 return is filed. For the purposes of this subsection and  
2 subsection (b), a return filed before the last day prescribed  
3 for the filing of the return, or before the last day of an  
4 extension of time for the filing of the return, shall be  
5 considered filed on the last day.

6 (b) Incorrect income filed.--If a taxpayer omits from income  
7 an amount includable in the person's income in excess of 25% of  
8 the amount of income stated in the return, the tax may be  
9 assessed at any time within six years after the return was  
10 filed.

11 (c) No return or amended return filed.--If no return is  
12 filed, or if a taxpayer fails to file an amended return when  
13 required, the amount of the tax due may be assessed at any time.

14 (d) False or fraudulent return.--If a taxpayer files a false  
15 or fraudulent return with intent to evade the tax imposed by  
16 this subpart, the amount of tax due may be assessed at any time.

17 (e) Assessment for erroneous credit or refund.--The  
18 department may file an assessment to recover a refund, part of a  
19 refund, credit or part of a credit which was erroneously made or  
20 allowed within three years of the granting of the refund or  
21 credit or within the period in which an assessment or  
22 reassessment could have been filed by the department with  
23 respect to the taxable period for which the refund was granted,  
24 whichever period occurs later.

25 § 2811. Extension of limitation period.

26 (a) Consent for extension.--Notwithstanding section 2810  
27 (relating to limitations on assessment and collection), if a  
28 taxpayer consents in writing to an extension of the time period  
29 for assessment, the amount of tax due may be assessed at any  
30 time within the extended period.

1 (b) Further extensions.--The extension period may be further  
2 extended by subsequent consents in writing made before the  
3 expiration of the extended period.

4 § 2812. Limitations on refund or credit.

5 An application for refund must be filed with the department  
6 under Article XXVII (relating to procedure and administration)  
7 within the time limits of section 3003.1 of the Tax Reform Code  
8 of 1971.

9 § 2813. Interest.

10 (a) Applicability.--This section shall not apply to a  
11 failure to pay estimated tax.

12 (b) Interest generally.--

13 (1) If an amount of tax imposed by Subchapter A of  
14 Chapter 22 (relating to imposition of tax) is not paid on or  
15 before the last date prescribed for payment, interest on the  
16 amount at the rate established under section 806 of the  
17 Fiscal Code shall be paid for the period from the last date  
18 to the date paid.

19 (2) The last date prescribed for payment shall be  
20 determined without regard to any extension of time for filing  
21 the return.

22 (c) Interest on underpayment.--If an amount of tax required  
23 to be withheld by an employer and paid to the department under  
24 Subchapter A of Chapter 25 (relating to withholding tax  
25 generally) is not paid by the due date prescribed under section  
26 2509 (relating to payment of taxes withheld), interest on the  
27 amount at the rate established under section 806 of the Fiscal  
28 Code shall be paid from that date for the period of  
29 underpayment.

30 § 2814. Additions, penalties and fees.

1 (a) Addition for failure to file.--

2 (1) In the case of failure to file a return required  
3 under this subpart on the date prescribed for filing,  
4 determined with regard to any extension of time for filing,  
5 unless it is shown that the failure is due to reasonable  
6 cause and not due to willful neglect, 5% shall be added to  
7 the amount required to be shown as tax on the return if the  
8 failure is for not more than one month, with an additional 5%  
9 for each additional month or fraction of a month during which  
10 the failure continues, not to exceed 25% in the aggregate.  
11 The amount added shall not be less than \$5.

12 (2) The amount of tax required to be shown on the return  
13 shall, for purposes of computing the additions for the first  
14 month, be reduced by the amount of any part of the tax which  
15 is paid on or before the date prescribed for payment of the  
16 tax and by the amount of a credit against the tax which may  
17 be claimed on the return.

18 (3) The amount of tax required to be shown on the return  
19 shall, for purposes of computing the addition for any  
20 subsequent month, be reduced by the amount of any part of the  
21 tax which is paid by the beginning of the subsequent month  
22 and by the amount of a credit against the tax which may be  
23 claimed on the return.

24 (b) Addition for underpayment.--

25 (1) If an underpayment of a tax imposed by Chapter 22  
26 (relating to taxation generally) is due to negligence or  
27 intentional disregard of rules and regulations, but without  
28 intent to defraud, 5% of the amount of the underpayment shall  
29 be added to the tax.

30 (2) If an underpayment of a tax imposed by Chapter 22 is

1 due to negligence or intentional disregard of rules and  
2 regulations, but without intent to defraud, and the taxpayer  
3 omits from income an amount includable in the taxpayer's  
4 income in excess of 25% of the amount of income stated in the  
5 return, 25% of the amount of the underpayment shall be added  
6 to the tax.

7 (c) Underpayment due to fraud.--If an underpayment of tax  
8 required under this subpart to be shown on a return is due to  
9 fraud, 50% of the amount of the underpayment shall be added to  
10 the tax. This amount shall be in lieu of any amount determined  
11 under subsection (b) or (h).

12 (d) Underpayment of installments.--

13 (1) The following shall apply:

14 (i) If a taxpayer fails to pay all or part of an  
15 installment of estimated tax, the taxpayer shall be  
16 deemed to have made an underpayment of estimated tax.

17 (ii) An amount shall be added to the tax for the  
18 taxable year at the rate established under section 806 of  
19 the Fiscal Code for the period of the underpayment but  
20 not beyond the 15th day of the fourth month following the  
21 close of the taxable year.

22 (iii) The amount of the underpayment shall be the  
23 excess of the amount of the installment which would be  
24 required to be paid if the estimated tax were equal to  
25 90% of the tax, or two-thirds in the case of an  
26 individual described in section 2602(e) (relating to  
27 declarations of estimated tax), shown on the return for  
28 the taxable year or, if no return was filed, of the tax  
29 for the year, over the amount, if any, of the  
30 installments paid on or before the last day prescribed

1 for payment.

2 (iv) No underpayment shall be deemed to exist with  
3 respect to an installment otherwise due on or after the  
4 taxpayer's death or, in the case of a decedent's estate  
5 or a trust created by the decedent to receive the residue  
6 of the decedent's estate, for a period of two years after  
7 the decedent's death.

8 (2) No addition to tax shall be imposed if the total  
9 amount of all payments of estimated tax made on or before the  
10 last date prescribed for the payment of the installment  
11 equals or exceeds the lesser of the following:

12 (i) The amount required to be paid on or before the  
13 date if the estimated tax were an amount equal to the tax  
14 computed after consideration of the special tax  
15 provisions for poverty at the rates applicable to the  
16 taxable year, but otherwise on the basis of the facts  
17 shown on the return for, and the law applicable to, the  
18 preceding taxable year.

19 (ii) An amount equal to 90% of the tax computed, at  
20 the rates applicable to the taxable year, on the basis of  
21 the actual income for the months in the taxable year  
22 ending before the month in which the installment is  
23 required to be paid, or, in the case of a trust or  
24 estate, an amount equal to 90% of the applicable  
25 percentage of the tax for the taxable year as determined  
26 under section 6654(d)(2)(C)(ii) of the Internal Revenue  
27 Code of 1986, as amended, at rates applicable to the  
28 taxable year computed on an annualized basis in  
29 accordance with United States Treasury regulations, based  
30 upon the actual income for the months of the taxable year

1 ending with the last day of the second preceding month  
2 prior to the month in which the installment is required  
3 to be paid.

4 (e) Penalties.--

5 (1) In addition to other penalties provided by law, a  
6 person required to collect, account for and pay over a tax  
7 imposed by this subpart who willfully fails to collect the  
8 tax or truthfully account for and pay over the tax, or  
9 attempts to evade or defeat a tax or the payment of a tax,  
10 shall be liable to a penalty equal to the total amount of the  
11 tax evaded, not collected or not accounted for and paid over.

12 (2) No penalty shall be imposed under subsection (b),  
13 (c) or (h) for an offense to which this subsection is  
14 applicable.

15 (3) As used in this subsection, the term "person"  
16 includes an officer or employee of a corporation or a member  
17 or employee of a partnership who, as an officer, employee or  
18 member, has a duty to collect, account for and pay over a tax  
19 imposed by this subpart for which the violation occurs.

20 (f) Penalties.--

21 (1) A person required under the provisions of section  
22 2504 (relating to information statement) to furnish a  
23 statement to an employee who willfully furnishes a false or  
24 fraudulent statement, or who willfully fails to furnish a  
25 statement in the manner, at the time and showing the  
26 information required under section 2404 and the regulations  
27 prescribed under section 2404, shall for each failure be  
28 subject to a penalty of \$50 for each employee.

29 (2) A person required to furnish an information return  
30 who furnishes a false or fraudulent return or who fails to

1 file or provide an information return shall be subject to a  
2 penalty of \$250.

3 (3) Each partnership, estate, trust or Pennsylvania S  
4 corporation required to file a return with the department  
5 under section 2702 (relating to return of Pennsylvania S  
6 corporation) or 2707(c) (relating to requirements concerning  
7 returns, notices, records and statements) who furnishes a  
8 false or fraudulent return or who fails to file the return in  
9 the manner and at the time required under section 2702 or  
10 2707(c) shall, for each failure, be subject to a penalty of  
11 \$250.

12 (4) A person required to file a copy of form 1099-MISC  
13 with the department under section 2707(f) who willfully  
14 furnishes a false or fraudulent form or who willfully fails  
15 to file the form in the manner, at the time and showing the  
16 information required under section 2707(f), shall for each  
17 failure be subject to a penalty of \$50.

18 (5) A person required under section 2707(f) to furnish a  
19 copy of form 1099-MISC to a payee who willfully furnishes a  
20 false or fraudulent form or who willfully fails to furnish a  
21 form in the manner, at the time and showing the information  
22 required by section 2707(f), shall for each failure be  
23 subject to a penalty of \$50.

24 (6) A person required to file an annual statement with  
25 the department under section 2526 (relating to annual  
26 withholding statement) who willfully furnishes a false or  
27 fraudulent statement or who willfully fails to file the  
28 statement in the manner, at the time and showing the  
29 information required under section 2526 and the regulations  
30 prescribed under section 2526, shall for each failure be

1 subject to a penalty of \$50.

2 (7) A person required under the provisions of section  
3 2526 to furnish an annual statement to a lessor who willfully  
4 furnishes a false or fraudulent statement or who willfully  
5 fails to furnish a statement in the manner, at the time and  
6 showing the information required by section 2526 and the  
7 regulations prescribed under section 2526, shall for each  
8 failure be subject to a penalty of \$50.

9 (g) Penalty for underpayment.--

10 (1) If an amount of tax required to be withheld by an  
11 employer and paid over to the department under section 2509  
12 (relating to payment of taxes withheld) or 2510 (relating to  
13 payment of taxes withheld for nonemployer payors) is not paid  
14 on or before the due date prescribed for filing the quarterly  
15 return under section 2507 (relating to time for filing  
16 withholding returns) or 2508 (relating to time for filing  
17 payors' returns), determined without regard to an extension  
18 of time for filing, 5% of the amount of the underpayment  
19 shall be added to the tax and paid to the department for each  
20 month or fraction of a month from the due date for the period  
21 from the due date to the date paid.

22 (2) The underpayment shall, for purposes of computing  
23 the addition for a month, be reduced by the amount of the tax  
24 that is paid by the beginning of that month.

25 (3) The total of the additions shall not exceed 50% of  
26 the amount of tax required to be shown on the return reduced  
27 by the amount of any part of the tax which is paid by the  
28 return due date and by the amount of any credit against the  
29 tax which may be claimed on the return.

30 (h) Penalty for incorrect self-assessment.--If an

1 individual, estate or trust files a return required under  
2 section 2701 (relating to returns and liability) which does not  
3 contain information on which the substantial correctness of the  
4 self-assessment may be judged or which contains information that  
5 on its face indicates that the self-assessment is substantially  
6 incorrect and the self-assessment is due to a position that is  
7 frivolous or a desire which appears on the purported return to  
8 delay or impede the administration of Pennsylvania income tax  
9 laws, the individual, estate or trust shall pay a penalty of  
10 \$500. The penalty imposed by this subsection shall be in  
11 addition to any other penalty provided by law.

12 (i) Penalty for underpayment by partnership, association,  
13 Pennsylvania S corporation or lessee.--

14 (1) If an amount of tax required to be withheld by a  
15 partnership, association, Pennsylvania S corporation or  
16 lessee and paid over to the department under section 2521  
17 (relating to general rule) or 2525 (relating to withholding  
18 on income) is not paid on or before the date prescribed, 5%  
19 of the amount of the underpayment shall be added to the tax  
20 and paid to the department for each month or fraction of a  
21 month from the due date, for the period from the due date to  
22 the date paid.

23 (2) The underpayment shall, for purposes of computing  
24 the addition for any month, be reduced by the amount of any  
25 part of the tax which is paid by the beginning of that month.

26 (3) The total of the additions shall not exceed 50% of  
27 the amount of the tax.

28 § 2815. Abatement of additions or penalties.

29 Upon the filing of a petition for reassessment or petition  
30 for review by a taxpayer, other than an employer, as provided

1 under this subpart, the department may waive or abate, in whole  
2 or in part, additions or penalties of \$300 or less imposed upon  
3 the taxpayer for a taxable year if the taxpayer has established  
4 that the taxpayer acted in good faith with no negligence or  
5 intent to defraud.

6 § 2816. Citation authority.

7 (a) Penalties.--Notwithstanding any other provision of this  
8 part, a person who does any of the following commits a summary  
9 offense and shall, upon conviction, be subject to the fines and  
10 penalties imposed under section 1335(c) (relating to penalties):

11 (1) Does not pay withholding tax, interest or penalties  
12 within 90 days after the due date, and the tax liability due  
13 has not been timely appealed or subject to a duly authorized  
14 deferred payment plan.

15 (2) Underpays a withholding tax, interest or penalty  
16 within 90 days after the due date, and the tax liability due  
17 has not been timely appealed or subject to a duly authorized  
18 deferred payment plan.

19 (3) Fails to file a tax withholding return, report or  
20 other reporting document within 90 days after the due date of  
21 the applicable payment or return, report or other reporting  
22 document.

23 (b) Additional penalties.--The penalties imposed under this  
24 section shall be in addition to other penalties imposed under  
25 this subpart.

26 (c) Enforcement.--The secretary may designate employees of  
27 the department to enforce this section. Employees shall exhibit  
28 proof of and be within the scope of the designation when  
29 instituting proceedings as provided under the Pennsylvania Rules  
30 of Criminal Procedure.

1 § 2817. Crimes.

2 (a) Evasion, defeat or nonpayment of tax.--A person who  
3 willfully attempts in any manner to evade or defeat a tax  
4 imposed by this subpart or the payment of a tax, in addition to  
5 other penalties provided by law, commits a misdemeanor and  
6 shall, upon conviction, be sentenced to pay a fine not exceeding  
7 \$25,000 or to imprisonment not exceeding two years, or both.

8 (b) Failure to collect tax.--A person required under this  
9 subpart to collect, account for and pay over a tax imposed by  
10 this subpart who willfully fails to collect or truthfully  
11 account for and pay over the tax, in addition to other penalties  
12 provided by law, commits a misdemeanor and shall, upon  
13 conviction, be sentenced to pay a fine not exceeding \$25,000 or  
14 to imprisonment not exceeding two years, or both.

15 (c) Failure to supply records or information.--A person  
16 required under this subpart to pay a tax, make a return, keep  
17 records or supply information who willfully fails to pay the  
18 tax, make the return, keep records or supply information at the  
19 time required by law or regulations, in addition to other  
20 penalties provided by law, commits a misdemeanor and shall, upon  
21 conviction, be sentenced to pay a fine not exceeding \$5,000 or  
22 to imprisonment not exceeding two years, or both.

23 (d) False statements or claims.--A person who willfully  
24 makes and subscribes a return, statement or other document that  
25 is verified by a written declaration to be made under the  
26 penalties of perjury and which the person does not believe to be  
27 true and correct as to every material matter, or willfully aids  
28 or assists in, procures, counsels or advises the preparation or  
29 presentation of a return, affidavit, claim or other document  
30 which is fraudulent or is false as to a material matter, whether

1 or not the falsity or fraud is with the knowledge or consent of  
2 the person authorized or required to present the return,  
3 affidavit, claim or document, commits a misdemeanor and shall,  
4 upon conviction, be sentenced to pay a fine not exceeding \$5,000  
5 or to imprisonment not exceeding two years, or both.

6 (e) Fraudulent information.--A person who willfully delivers  
7 or discloses to the department a list, return, account,  
8 statement or other document known by the person to be fraudulent  
9 or false as to a material matter commits a misdemeanor and  
10 shall, upon conviction, be sentenced to pay a fine not exceeding  
11 \$5,000 or to imprisonment not exceeding two years, or both.

12 (f) Disclosure of information.--

13 (1) It shall be unlawful for an officer, agent or  
14 employee of the Commonwealth to divulge or make known in any  
15 manner not provided by law, except for official purposes, to  
16 any person the amount or source of income, profits, losses,  
17 expenditures or other information disclosed in a return, or  
18 to permit a return or copy of a return or a book containing  
19 an abstract or other information to be seen or examined by a  
20 person except as provided by law.

21 (2) It shall be unlawful for a person to print or  
22 publish in any manner not provided by law, a return, part of  
23 a return, source of income, profits, losses or expenditures  
24 appearing in a return.

25 (3) A person who violates paragraph (1) or (2) commits a  
26 misdemeanor and shall, upon conviction, be sentenced to pay a  
27 fine not exceeding \$1,000 or to imprisonment not exceeding  
28 one year, or both, together with the costs of prosecution. If  
29 the offender is an officer or employee of the Commonwealth,  
30 the offender shall be dismissed from office or discharged

1 from employment.

2 (g) Disclosure of information to court.--

3 (1) Notwithstanding subsection (f), it shall be lawful  
4 for an officer or employee of the Commonwealth having custody  
5 of returns to produce the returns or evidence of information  
6 contained in the returns in an action or proceeding in any  
7 court on behalf of the department under the provisions of  
8 this subpart to which the department is a party, or on behalf  
9 of a party to an action or proceeding under the provisions of  
10 this subpart when the returns or facts shown are directly  
11 involved in the action or proceeding where the court requires  
12 the production of and may admit into evidence the returns or  
13 the facts shown by the returns as are pertinent to the action  
14 or proceeding and no more.

15 (2) Nothing in this section shall be construed to  
16 prohibit any of the following:

17 (i) The delivery to a taxpayer or the taxpayer's  
18 duly authorized representative of a certified copy of a  
19 return filed in connection with the taxpayer's tax.

20 (ii) The publication of statistics classified to  
21 prevent the identification of particular returns and the  
22 items of the returns.

23 (iii) The inspection by the Attorney General or  
24 other legal representatives of the Commonwealth of the  
25 return of a taxpayer who shall bring action to review the  
26 tax based on the return or against whom an action or  
27 proceeding has been instituted for the collection or  
28 recovery of the tax imposed by this subpart.

29 (iv) The delivery to the Pennsylvania Higher  
30 Education Assistance Agency of a certified copy or

1 extract of a State income tax return requested by the  
2 agency for use in determining the eligibility of  
3 applicants for State grants, if the executive director of  
4 the agency certifies that the agency has in its  
5 possession a statement signed by the applicant and the  
6 applicant's parent, parents, guardian or guardians  
7 authorizing the agency to obtain a certified copy or  
8 extract of a State income tax return from the director of  
9 the State Income Tax Bureau.

10 § 2818. Rules and regulations.

11 The department shall enforce the provisions of this subpart  
12 and shall prescribe, adopt, promulgate and enforce rules and  
13 regulations relating to any matter or thing pertaining to the  
14 administration and enforcement of the provisions of this subpart  
15 and the collection of taxes imposed by this subpart.

16 § 2819. Examination.

17 (a) Examination of records.--The department, or an agent  
18 authorized in writing by the department, may examine the books,  
19 papers and records of a taxpayer or supposed taxpayer and  
20 require the production of a copy of the taxpayer's return as  
21 made to and filed with the Federal Government, if one was made  
22 and filed, in order to verify the accuracy of a return made or,  
23 if no return was made, to ascertain and assess the tax imposed  
24 by this subpart.

25 (b) Taxpayer to provide access.--Each taxpayer or supposed  
26 taxpayer is directed and required to give to the department or  
27 the department's duly authorized agent the means, facilities and  
28 opportunity for examinations and investigations as are provided  
29 and authorized.

30 (c) Inquisitorial powers.--The department shall examine a

1 person under oath concerning income which was or should have  
2 been returned for taxation, and may compel the production of  
3 books, papers and records and the attendance of all persons,  
4 whether as parties or witnesses, whom the department believes  
5 have knowledge of the income. The procedure for the hearing or  
6 examination shall be the same as that provided by the Fiscal  
7 Code relating to inquisitorial powers of fiscal officers.

8 § 2820. Cooperation with other governmental agencies.

9 (a) Inspection of returns.--

10 (1) Notwithstanding the provisions of section 2817(f)  
11 (relating to crimes), the department may:

12 (i) permit the United States Commissioner of  
13 Internal Revenue, the proper officer of a political  
14 subdivision of this Commonwealth or any other state  
15 imposing tax based upon the incomes of individuals or the  
16 authorized representative of an officer to inspect the  
17 tax returns of a taxpayer; or

18 (ii) furnish to the officer or the officer's  
19 authorized representative an abstract of the return of  
20 income of a taxpayer or supply to the officer or the  
21 officer's authorized representative information  
22 concerning an item of income contained in a return of a  
23 taxpayer.

24 (2) The following shall apply:

25 (i) Permission shall be granted or information  
26 furnished to an officer or the officer's representative  
27 only if the statutes of the United States or another  
28 state grant substantially similar privileges to the  
29 proper officer of this Commonwealth charged with the  
30 administration of the personal income tax law of this

1 Commonwealth.

2 (ii) An officer or authorized agent of a county  
3 imposing a personal property tax shall be furnished the  
4 following information from the returns upon payment to  
5 the department of the cost of collecting and reproducing  
6 the requested information:

7 (A) The name, address and Social Security number  
8 of the taxpayer.

9 (B) If the taxpayer has reported dividends or  
10 interest.

11 (b) Reciprocal agreements.--

12 (1) The department may enter into an agreement with the  
13 taxing authorities of a state which imposes a tax on or  
14 measured by income to provide that compensation paid in the  
15 state to residents of this Commonwealth shall be exempt from  
16 the tax.

17 (2) Compensation paid in this Commonwealth to residents  
18 of another state shall be exempt from Pennsylvania personal  
19 income tax.

20 (3) The department, in the agreements, may provide for  
21 reciprocal withholding, employer liability, exchange of  
22 information and all other matters relating to cooperation  
23 between the states.

24 § 2821. Appropriation for refunds.

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

29 CHAPTER 29

30 MISCELLANEOUS PROVISIONS

1 Sec.

2 2901. Constitutional construction.

3 2902. Saving clause and limitations.

4 2903. Applicability.

5 § 2901. Constitutional construction.

6 In addition to the provisions relating to legislative intent  
7 under section 2203(i) (relating to classes of income), if a  
8 word, phrase, clause, sentence, section or provision of this  
9 subpart is for any reason held to be unconstitutional, the  
10 decision of the court shall not affect or impair any of the  
11 remaining provisions of this subpart. It is declared as the  
12 legislative intent that this subpart would have been adopted had  
13 the unconstitutional word, phrase, clause, sentence, section or  
14 provision of this subpart not been included in this subpart.

15 § 2902. Saving clause and limitations.

16 (a) General rule.--Except as provided in subsection (b),  
17 notwithstanding anything contained in any law to the contrary,  
18 including but not limited to the provisions of the act of August  
19 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling  
20 Act, the validity of an ordinance, part of an ordinance, a  
21 resolution or part of a resolution, including an amendment or  
22 supplement to the ordinance, part of the ordinance, resolution  
23 or part of the resolution enacted before, on or after the  
24 effective date of this section or adopted by a political  
25 subdivision of this Commonwealth for or relating to the  
26 imposition, levy or collection of a tax, shall not be affected  
27 or impaired by anything contained in this subpart.

28 (b) Exceptions.--

29 (1) Notwithstanding subsection (a), a rate of tax  
30 imposed by ordinance of a city of the first class under the

1 Sterling Act on salaries, wages, commissions, compensation or  
2 other income received or to be received for work done or  
3 services performed within the city by persons who are not  
4 legal residents of the city, shall not, except as otherwise  
5 provided in this section, exceed the tax imposition rate of  
6 4.3125% for the tax year 1977 or for any tax year thereafter.

7 (2) If a city under paragraph (1) by ordinance imposes a  
8 tax rate on residents or nonresidents in excess of the tax  
9 rate under paragraph (1) on the income categories enumerated  
10 in this subpart:

11 (i) The provisions of the ordinance imposing the tax  
12 rate increase on income of persons who are legal  
13 residents of the city shall be deemed valid and legally  
14 effective within the meaning and application of  
15 subsection (a).

16 (ii) The provisions of the ordinance imposing a tax  
17 rate in excess of 4.3125% with respect to persons who are  
18 not legal residents of the city shall be deemed suspended  
19 and without validity to the extent that the tax rate  
20 exceeds the 4.3125% on income of the nonresidents. The  
21 excess tax rate provisions shall remain suspended and  
22 without validity until the date on which the city by  
23 ordinance imposes a rate of tax on income of both legal  
24 residents or nonresidents of the city in excess of the  
25 tax rate imposition of 5.75% per year. In that case, the  
26 General Assembly declares the suspension to be removed  
27 and the tax rate valid as to nonresidents, provided that  
28 the suspension is removed and the rate deemed valid only  
29 to the extent the tax rate imposed on income of the  
30 nonresidents does not exceed 75% of the tax rate imposed

1 by ordinance per year on the income of legal residents of  
2 the city. It is the intention of the General Assembly by  
3 this subsection to impose certain terms and conditions  
4 with respect to the validity and legal effectiveness of  
5 the Sterling Act or an ordinance of the city of the first  
6 class enacted under the Sterling Act which imposes a tax  
7 on the income of nonresidents of the city.

8 (3) Notwithstanding the suspension provisions under this  
9 section, each city of the first class which imposes a tax  
10 under the Sterling Act shall by ordinance direct every  
11 employer maintaining an office or transacting business within  
12 the city and making payment of compensation to a resident  
13 individual or nonresident individual taxpayer performing  
14 services on behalf of the employer within the city to deduct  
15 and withhold from the compensation for each payroll period a  
16 tax computed in a manner as to result, so far as practicable,  
17 in withholding from the employee's compensation during each  
18 calendar year an amount substantially equivalent to the tax  
19 reasonably estimated to be due for that year with respect to  
20 the compensation. The method of determining the amount to be  
21 withheld shall be to withhold the highest amount of tax  
22 imposed with provision in the ordinance to provide refunds of  
23 the excess tax withheld to qualified nonresident taxpayers  
24 within four months of the end of each calendar year.

25 (4) If all or part of the provisions of subsection (b)  
26 are declared by a court to be unconstitutional, it shall be  
27 the duty of the court to construe the remaining provisions of  
28 this subpart in accordance with section 2901 (relating to  
29 constitutional construction).

30 (c) Revenue commissioner, deductions and payments.--

1       (1) Each employer having a place of business within this  
2 Commonwealth who employs one or more persons who are  
3 residents of a city of the first class shall:

4       (i) within 30 days after becoming such an employer,  
5 register with the revenue commissioner of a city of the  
6 first class the employer's name and address and other  
7 information as the revenue commissioner may require; and

8       (ii) at the time of payment to the employee, deduct  
9 from the salary, wages, commissions or compensation due  
10 the employee the tax imposed by the city of the first  
11 class on any salary, wage, commission or other  
12 compensation due the employee.

13       (2) An employer required to withhold taxes under this  
14 subsection shall calculate the amount of salary, wages,  
15 commissions and compensation of each employee as determined  
16 under the classes of income under section 2203 (relating to  
17 classes of income).

18       (3) Each employer employing one or more persons who are  
19 residents of a city of the first class who pay a tax imposed  
20 under this subpart shall file a return and pay to the revenue  
21 commissioner the amount of taxes deducted as provided under  
22 paragraph (2). The following shall apply:

23       (i) The return shall be on a form furnished by the  
24 revenue commissioner.

25       (ii) The return shall specify the following:

26       (A) The names and residences of each employee of  
27 that employer during all or any part of the period  
28 covered by the return.

29       (B) The amounts of salaries, wages, commissions  
30 or other compensation earned during the period by

1 each employee.

2 (C) Other information as the revenue  
3 commissioner may require.

4 (4) The employer shall remit the return and the total  
5 tax deducted in accordance with time frames established by  
6 section 2509 (relating to payment of taxes withheld).

7 (5) Annually, on or before the 28th day of February,  
8 each employer who has filed returns of tax withheld and  
9 remitted the tax through the year shall be required to file  
10 an Employer's Annual Reconciliation of Wage Tax Withheld,  
11 along with a copy of Form W-2 of the Internal Revenue Service  
12 for each employee, other listings or electronic data  
13 processing tapes, setting forth the following information:

14 (i) The name and address of the employer.

15 (ii) The employer's Federal identification number.

16 (iii) The full name and residence address of each  
17 employee.

18 (iv) The employee's Social Security number.

19 (v) The total wages paid during the year before any  
20 deductions.

21 (vi) The employer's city account number.

22 (6) Employers or their designated agents required to  
23 file with the revenue commissioner under this subsection  
24 shall not be required by the revenue commissioner to be  
25 bonded. Employer liability for taxes withheld under this  
26 subsection shall be the same as provided in sections 2511  
27 (relating to liability for withheld taxes) and 2513 (relating  
28 to failure to withhold).

29 (7) If an employer fails to deduct and withhold tax as  
30 prescribed in this subsection, it shall not relieve the

1 employee from payment of the tax where payment cannot, for  
2 any reason, be obtained from the employer.

3 § 2903. Applicability.

4 (a) General rule.--The tax under this subpart shall first  
5 apply and be imposed upon income received by or accrued to a  
6 taxpayer on and after June 1, 1971.

7 (b) Exception.--A taxpayer who filed returns on the basis of  
8 a fiscal year or who is the beneficiary of an estate or trust or  
9 member of a partnership which files its returns under this  
10 subpart on the basis of a fiscal year shall be subject to tax  
11 for the first taxable period on the portion of the fiscal year  
12 or of the fiscal year of the estate, trust or partnership which  
13 postdates May 31, 1971, as prescribed by the department by  
14 regulations.

15 (c) Additions or penalties.--Section 2814 (relating to  
16 additions, penalties and fees), which provides for additions or  
17 penalties to the tax, shall not take effect until March 20,  
18 1972.

19 Section 3. Repeals are as follows:

20 (1) The General Assembly declares that the repeals under  
21 paragraph (2) are necessary to effectuate the addition of 53  
22 Pa.C.S. Ch. 90.

23 (2) The following are repealed:

24 (i) Section 1730-E of the act of April 9, 1929  
25 (P.L.343, No.176), known as The Fiscal Code.

26 (ii) Section 3171-B(a) (4) (ii) and (iii) and (b) (2)  
27 of the act of July 28, 1953 (P.L.723, No.230), known as  
28 the Second Class County Code.

29 (iii) Chapter 13 of the act of June 27, 2006 (1st  
30 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief

1 Act.

2 (3) The General Assembly declares that the repeal under  
3 paragraph (4) is necessary to effectuate the addition of 53  
4 Pa.C.S. Ch. 90A Subch. F.

5 (4) Section 688 of the act of March 10, 1949 (P.L.30,  
6 No.14), known as the Public School Code of 1949, is repealed.

7 (5) The General Assembly declares that the repeal under  
8 paragraph (6) is necessary to effectuate the addition of 72  
9 Pa.C.S. Pt. II Subpt. A.

10 (6) Article II of the act of March 4, 1971 (P.L.6,  
11 No.2), known as the Tax Reform Code of 1971, is repealed.

12 (7) The General Assembly declares that the repeal under  
13 paragraph (8) is necessary to effectuate the addition of 72  
14 Pa.C.S. Pt. II Subpt. B.

15 (8) Article III of the act of March 4, 1971 (P.L.6,  
16 No.2), known as the Tax Reform Code of 1971, is repealed.

17 (9) The following acts and parts of acts are repealed  
18 insofar as they are inconsistent with this act:

19 (i) Except as provided under paragraph (4), any  
20 provision of the act of March 10, 1949 (P.L.30, No.14),  
21 known as the Public School Code of 1949, and of any other  
22 law relating to the authority of a school district to  
23 levy, assess and collect a tax on real property and the  
24 power of a city of the first class to levy, assess and  
25 collect a tax on real property.

26 (ii) Any provision of the act of August 9, 1963  
27 (P.L.643, No.341), known as the First Class City Public  
28 Education Home Rule Act, and any home rule school  
29 district charter adopted under the First Class City  
30 Public Education Home Rule Act.

1 (iii) Except as provided under paragraph (2)(iii),  
2 any provision of the act of June 27, 2006 (1st Sp.Sess.,  
3 P.L.1873, No.1), known as the Taxpayer Relief Act.

4 (10) All acts and parts of acts that are inconsistent  
5 with this act are repealed to the extent of the  
6 inconsistency.

7 Section 4. The addition of 72 Pa.C.S. Pt. II Subpt. A is a  
8 continuation of Article II of the act of March 4, 1971 (P.L.6,  
9 No.2), known as the Tax Reform Code of 1971. The following  
10 apply:

11 (1) Except as otherwise provided in 72 Pa.C.S. Pt. II  
12 Subpt. A, all activities initiated under Article II of the  
13 Tax Reform Code of 1971 shall continue and remain in full  
14 force and effect and may be completed under 72 Pa.C.S. Pt. II  
15 Subpt. A. Orders, regulations, rules and decisions which were  
16 made under Article II of the Tax Reform Code of 1971 and  
17 which are in effect on the effective date of section 3(6) of  
18 this act shall remain in full force and effect until revoked,  
19 vacated or modified under 72 Pa.C.S. Pt. II Subpt. A.  
20 Contracts, obligations and collective bargaining agreements  
21 entered into under Article II of the Tax Reform Code of 1971  
22 are not affected nor impaired by the repeal of Article II of  
23 the Tax Reform Code of 1971.

24 (2) Except as set forth in paragraph (3), any difference  
25 in language between 72 Pa.C.S. Pt. II Subpt. A and Article II  
26 of the Tax Reform Code of 1971 is intended only to conform to  
27 the style of the Pennsylvania Consolidated Statutes and is  
28 not intended to change or affect the legislative intent,  
29 judicial construction or administration and implementation of  
30 Article II of the Tax Reform Code of 1971.

1 (3) Paragraph (2) does not apply to the addition of the  
2 following provisions:

3 (i) Paragraph (1)(iv) of the definition of the term  
4 "sale at retail" under 72 Pa.C.S. § 1102.

5 (ii) Paragraph (1)(ii)(D) of the definition of the  
6 term "use" under 72 Pa.C.S. § 1102.

7 (iii) 72 Pa.C.S. § 1321(17).

8 (iv) 72 Pa.C.S. § 1321(19).

9 (v) 72 Pa.C.S. § 1321(40).

10 Section 5. The addition of 72 Pa.C.S. Pt. II Subpt. B is a  
11 continuation of Article III of the act of March 4, 1971 (P.L.6,  
12 No.2), known as the Tax Reform Code of 1971. The following  
13 apply:

14 (1) Except as otherwise provided in 72 Pa.C.S. Pt. II  
15 Subpt. B, all activities initiated under Article III of the  
16 Tax Reform Code of 1971 shall continue and remain in full  
17 force and effect and may be completed under 72 Pa.C.S. Pt. II  
18 Subpt. B. Orders, regulations, rules and decisions which were  
19 made under Article III of the Tax Reform Code of 1971 and  
20 which are in effect on the effective date of section 3(8) of  
21 this act shall remain in full force and effect until revoked,  
22 vacated or modified under 72 Pa.C.S. Pt. II Subpt. B.

23 Contracts, obligations and collective bargaining agreements  
24 entered into under Article III of the Tax Reform Code of 1971  
25 are not affected nor impaired by the repeal of Article III of  
26 the Tax Reform Code of 1971.

27 (2) Except as set forth in paragraph (3), any difference  
28 in language between 72 Pa.C.S. Pt. II Subpt. B and Article  
29 III of the Tax Reform Code of 1971 is intended only to  
30 conform to the style of the Pennsylvania Consolidated

1 Statutes and is not intended to change or affect the  
2 legislative intent, judicial construction or administration  
3 and implementation of Article III of the Tax Reform Code of  
4 1971.

5 (3) Paragraph (2) does not apply to the addition of the  
6 definition of the term "compensation" under 72 Pa.C.S. §  
7 2102.

8 Section 6. This act shall take effect immediately.