

AN ACT

1. Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2. act relating to tax reform and State taxation by codifying
3. and enumerating certain subjects of taxation and imposing
4. taxes thereon; providing procedures for the payment,
5. collection, administration and enforcement thereof; providing
6. for tax credits in certain cases; conferring powers and
7. imposing duties upon the Department of Revenue, certain
8. employers, fiduciaries, individuals, persons, corporations
9. and other entities; prescribing crimes, offenses and
10. penalties,"
11. in tax for education, further providing for definitions,
12. for imposition of tax, for computation of tax, for exclusions
13. from tax, for credit against tax, for licenses, for
14. definitions, for imposition of tax, for time for filing
15. returns, for tax held in trust for the Commonwealth, for
16. discount, for assessment to recover erroneous refunds, for
17. refund of sales tax attributed to bad debt, for refunds,
18. providing for assessment after refunds, further providing for
19. interest, for additions to tax, for crimes and for keeping of
20. records; and providing for transfers;
21. in personal income tax, further providing for imposition,
22. for classes of income and for special poverty provisions;
23. establishing the Property Tax and Rent Relief Account; and
24. providing for restricted account and transfers to the
25. Property Tax Relief Fund;
26. in corporate net income tax, further providing for
27. definitions, for imposition, for reports and for payment of
28. tax;
29. in bank and trust company shares, further providing for
30. imposition, for taxable amount, for apportionment and for

1 definitions;

2 in cigarette tax, further providing for incidence and

3 rate of tax and for floor tax;

4 providing for a tobacco products tax;

5 in general provisions, further providing for underpayment

6 of estimated tax;

7 and providing for transfers to a restricted account for

8 the purpose of the Public School Employees' Retirement Fund

9 and to a city of first class in accordance with the Municipal

10 Pension Plan Funding Standard and Recovery Act and for

11 payment of additional cigarette tax.

12 The General Assembly of the Commonwealth of Pennsylvania

13 hereby enacts as follows:

14 Section 1. Section 201(a), (b), (c), (f), (g), (i), (k),

15 (m), (o), (w), (y), (ll), (pp), (qq) and (tt) of the act of

16 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of

17 1971, amended or added August 4, 1991 (P.L.97, No.22), December

18 13, 1991 (P.L.373, No.40), June 30, 1995 (P.L.139, No.21), May

19 7, 1997 (P.L.85, No.7), April 23, 1998 (P.L.239, No.45), May 24,

20 2000 (P.L.106, No.23), June 29, 2002 (P.L.559, No.89) and July

21 25, 2007 (P.L.373, No.55), are amended and the section is

22 amended by adding subsections to read:

23 Section 201. Definitions.--The following words, terms and

24 phrases when used in this Article II shall have the meaning

25 ascribed to them in this section, except where the context

26 clearly indicates a different meaning:

27 (a) "Soft drinks."

28 (1) All nonalcoholic beverages, whether carbonated or not,

29 such as soda water, ginger ale, coca cola, lime cola, pepsi

30 cola, Dr. Pepper, fruit juice when plain or carbonated water,

31 flavoring or syrup is added, carbonated water, orangeade,

32 lemonade, root beer or any and all preparations, commonly

33 referred to as "soft drinks," of whatsoever kind, and are

34 further described as including any and all beverages, commonly

35 referred to as "soft drinks," which are made with or without the

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

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

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

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

24 (1.1) Providing taxable services within this Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 * * *

6 (f) "Purchase at retail."

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

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

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

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

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

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

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

14 (g) "Purchase price."

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

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

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

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

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

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

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

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

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

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

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

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

8 * * *

9 (i) "Resale,"

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

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

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

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

7 (4) The term "resale" shall not include any sale of "malt or
8 brewed beverages" by a "retail dispenser," or any sale of
9 "liquor" or "malt or brewed beverages" by a person holding a
10 "retail liquor license" within the meaning of the "Liquor Code."

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

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

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

26 * * *

27 (k) "Sale at retail."

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

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

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

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

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

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

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

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

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

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

12 (A) The manufacture of tangible personal property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 services or help supply services.

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

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

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

7 (20) (i) Except as otherwise provided under section 204,
8 the rendition for a consideration of any service enumerated in
9 clause (dd).

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

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

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

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

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

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

27 * * *

28 (m) "Tangible personal property."

29 (1) Corporeal personal property including, but not limited
30 to, goods, wares, merchandise, steam and natural and

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

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

- 25 (i) video;
- 26 (ii) photographs;
- 27 (iii) books;
- 28 (iv) magazines;
- 29 (v) newspapers;
- 30 (vi) mailing lists;

1 (vii) any other otherwise taxable printed matter;

2 (viii) applications, commonly known as apps;

3 (ix) games;

4 (x) music;

5 (xi) any other audio;

6 (xii) software; or

7 (xiii) any other otherwise taxable tangible personal

8 property.

9 * * *

10 (o) "Use."

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

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

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

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

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

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

19 (B) The use or consumption of tangible personal property,
20 including but not limited to machinery and equipment and parts
21 therefor, and supplies or the obtaining of the services
22 described in subclauses (2), (3) and (4) of this clause directly
23 in the operations of--

24 (i) The manufacture of tangible personal property.

25 (ii) Farming, dairying, agriculture, horticulture or
26 floriculture when engaged in as a business enterprise. The term
27 "farming" shall include the propagation and raising of ranch-
28 raised furbearing animals and the propagation of game birds for
29 commercial purposes by holders of propagation permits issued
30 under 34 Pa.C.S. (relating to game) and the propagation and

1 raising of horses to be used exclusively for commercial racing
2 activities.

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

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

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

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

1 structure or (C) tools and equipment used but not installed in
2 the maintenance of facilities used directly in the production,
3 delivering or rendition of a public utility service.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (17) The obtaining by a construction contractor of tangible
25 personal property or services provided to tangible personal
26 property which will be used pursuant to a construction contract

27 whether or not the tangible personal property or services are
28 transferred.

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

1 (19) Except as otherwise provided under section 204, the
2 obtaining by the purchaser of any service enumerated in clause
3 (dd).

4 * * *

5 (w) "Lobbying services." Providing the services of a
6 lobbyist, as defined in the definition of "lobbyist" in [section
7 2 of the act of September 30, 1961 (P.L.1778, No.712), known as
8 the "Lobbying Registration and Regulation Act."] 65 Pa.C.S. §
9 13A03 (relating to definitions).

10 * * *

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

16 * * *

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

18 (1) Scenic and sightseeing transportation services.

19 Providing single-day or multiday scenic or sightseeing
20 transportation of passengers on land, water or in the air,
21 regardless of the mode of transportation, including, but not
22 limited to:

23 (i) cable car;

24 (ii) horse-drawn carriages;

25 (iii) monorail;

26 (iv) railroad;

27 (v) bus;

28 (vi) trolley;

29 (vii) human-drawn vehicle;

30 (viii) boat, including, but not limited to, charter fishing

1 boat, excursion boat, harbor sightseeing tour, hovercraft

2 services and swamp buggy and whale watching services; or

3 (ix) aerial scenic and sightseeing, including, but not

4 limited to, tramway, glider, helicopter, hot air balloon or

5 aircraft.

6 (2) Motor vehicle towing. Towing a motor vehicle plus

7 incidental services, including, but not limited to, storage and

8 emergency road repair services.

9 (3) Information services. Including:

10 (i) Software publishing services. Providing computer

11 software publishing or reproduction, including operations such

12 as:

13 (A) designing;

14 (B) providing documentation; or

15 (C) assisting in installation and providing maintenance and

16 support services to purchasers of packaged software, such as

17 applications software, games, operating systems, programming

18 language and compilation software, utility software or any other

19 packaged software.

20 (ii) Motion picture and video services. Providing one or

21 more of the following:

22 (A) Producing, or producing and distributing, motion

23 pictures, videos, television programs or television commercials.

24 (B) Distributing film and video productions to motion

25 picture theaters, television networks and stations and

26 exhibitors.

27 (C) Exhibiting or displaying motion pictures or videos,

28 including theaters, drive-in theaters, airlines, cinemas and

29 festivals. For purposes of this paragraph, the taxable purchase

30 price shall be the amount charged to view the motion picture or

1 video which usually will be a ticket price.

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

7 (4) (Reserved).

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

11 (6) Professional, scientific and technical services.

12 Providing one or more of the following:

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

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

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

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

30 (B) landscape architectural services;

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

1 (J) design engineering;

2 (K) electrical engineering;

3 (L) environmental engineering;

4 (M) erosion control engineering;

5 (P) geological engineering;

6 (Q) geophysical engineering;

7 (R) heating equipment engineering;

8 (S) industrial engineering;

9 (T) logging engineering;

10 (U) marine engineering;

11 (V) mechanical engineering;

12 (W) mining engineering;

13 (X) petroleum engineering; and

14 (Y) traffic engineering.

15 (v) Drafting services, including but not limited to drawing

16 detailed layouts, plans and illustration of buildings,

17 structures, systems or components from engineering and

18 architectural specifications, such as blueprint drafting

19 services or other services offered by draftsmen.

20 (vi) Building inspection services, including, but not

21 limited to, evaluating any aspects of the building structure and

22 component systems or preparing a report on the physical

23 condition of the property, generally for buyers or others

24 involved in real estate transactions, such as services provided

25 by building inspection bureaus and establishments providing home

26 inspection services, and energy efficiency inspection services.

27 (vii) Geophysical surveying and mapping services, including,

28 but not limited to:

29 (A) gathering, interpreting and mapping geophysical data

30 which may be used in locating and measuring the extent of

1 subsurface resources, such as oil, gas and minerals, but may
2 also be used for conducting surveys for engineering purposes;
3 (B) using a variety of surveying techniques depending on the
4 purpose of the survey, including magnetic surveys, gravity
5 surveys, seismic surveys or electrical and electromagnetic
6 surveys;

7 (C) aerial geophysical surveying;
8 (D) electrical geophysical surveying;
9 (E) electromagnetic geophysical surveying;
10 (F) geological surveying;
11 (G) gravity geophysical surveying;
12 (H) magnetic geophysical surveying;
13 (I) geophysical mapping services;
14 (J) radioactive geophysical surveying;
15 (K) remote sensing geophysical surveying;
16 (L) seismic geophysical surveying; or
17 (M) any other geophysical surveying and geophysical mapping
18 services.

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

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

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

27 (I) aerial surveying;

28 (II) cadastral surveying;

29 (III) cartographic surveying;

30 (IV) construction surveying;

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

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

1 (F) residential design; and
2 (G) interior decorating consulting.
3 (xi) Industrial design services, including, but not limited
4 to:

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

12 (B) automobile industrial design;

13 (C) furniture design;

14 (D) hand tool industrial design;

15 (E) industrial design consulting;

16 (F) packaging industrial design;

17 (G) tool design; and

18 (H) any other industrial design.

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

20 to:

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

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

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

29 (B) graphic and commercial art services;

30 (C) illustrating;

- 1 (D) visual communication design;
- 2 (E) corporate identification and logo design;
- 3 (F) graphic art and related services;
- 4 (G) graphic design;
- 5 (H) medical art and illustration services;
- 6 (I) silk screen design; and
- 7 (J) any other graphic design services.
- 8 (xiii) Specialized design services not listed under this
- 9 paragraph, including, but not limited to:
- 10 (A) providing professional design services, except
- 11 architectural, landscape architectural and engineering;
- 12 (B) interior, graphic and computer system design;
- 13 (C) clothing design;
- 14 (D) costume design;
- 15 (E) fashion design;
- 16 (F) float design;
- 17 (G) fur design;
- 18 (H) jewelry design;
- 19 (I) lighting design;
- 20 (J) shoe design;
- 21 (K) textile design; and
- 22 (L) any other similar specialized design services.
- 23 (xiv) Customer computer programming services, including, but
- 24 not limited to, writing, modifying, testing and supporting
- 25 software to meet the needs of a particular customer. The
- 26 services include, but are not limited to:
- 27 (A) application software programming;
- 28 (B) software development;
- 29 (C) software analysis and design services;
- 30 (D) web page design; and

1 (E) any other similar computer programming services.

2 (xv) Customer systems design services, including, but not

3 limited to:

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

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

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

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

12 (E) computer hardware and software consulting;

13 (F) computer systems integration analysis services;

14 (G) computer systems integration consulting;

15 (H) information management computer systems design services;

16 (I) local area network (LAN) computer systems design

17 services;

18 (J) computer network systems design services;

19 (K) office automation computer design services; and

20 (L) other similar computer systems design services.

21 (xvi) Computer facilities management services, including,

22 but not limited to, providing on-site management and operation

23 of clients' computer systems or data processing facilities,

24 including support services.

25 (xvii) Other computer-related services, including, but not

26 limited to, disaster recovery services and software installation

27 services.

28 (xviii) Administrative management and general consulting

29 services including, but not limited to:

30 (A) providing operating advice and assistance to businesses

1 and other organizations on administrative management issues,
2 such as financial planning and budgeting, equity and asset
3 management, records management, office planning, strategic and
4 organizational planning, site selection, new business startup,
5 and business process improvement;
6 (B) general management consulting;
7 (C) administrative, business, business start-up and
8 financial management;
9 (D) medical office management, records management,
10 reorganizational, site location or selection and strategic
11 planning services;
12 (E) human resource consulting;
13 (F) marketing consulting;
14 (G) process consulting;
15 (H) physical distribution consulting;
16 (I) logistics consulting; or
17 (J) other management consulting services.
18 (xix) Human resource consulting services, including, but not
19 limited to:
20 (A) providing advice, assistance and consulting services to
21 businesses and other organizations in human resource and
22 personnel policies, practices and procedures;
23 (B) employee benefits planning, communication and
24 administration;
25 (C) compensation systems planning;
26 (D) wage and salary administration;
27 (E) actuarial consulting, except insurance actuarial
28 services;
29 (F) employee assessment services;
30 (G) labor relations consulting;

1 (H) organization development consulting; or

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

3 (xx) Marketing consulting services, including, but not

4 limited to:

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

9 licensing and franchise planning and marketing planning and

10 strategy;

11 (B) customer service management consulting services;

12 (C) marketing management consulting services;

13 (D) sales management consulting services; and

14 (E) any other similar marketing consulting services.

15 (xxi) Process, physical distribution and logistics

16 consulting services, including, but not limited to:

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

19 (I) manufacturing operations improvement;

20 (II) productivity improvement;

21 (III) production planning and control;

22 (IV) quality assurance and quality control;

23 (V) inventory management;

24 (VI) distribution networks;

25 (VII) warehouse use, operations and utilization;

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

27 and

28 (IX) materials management and handling;

29 (B) customs consulting;

30 (C) efficiency management consulting;

1 (D) freight rate consulting;
2 (E) freight rate auditing;
3 (F) freight traffic consulting;
4 (G) materials management consulting;
5 (H) tariff rate consulting;
6 (I) tariff rate information services; and
7 (J) any other similar process, physical distribution and
8 logistics consulting services.
9 (xxii) Other management consulting services, including
10 providing telecommunications and utility management consulting.
11 (xxiii) Environmental consulting services, including
12 providing advice, assistance, consulting to businesses and other
13 organizations on environmental issues, including the control of
14 environmental contamination from pollutants, toxic substances,
15 and hazardous materials and identifying problems, inspecting
16 buildings for hazardous materials and measuring and evaluating
17 risks and recommending solutions. The services include air and
18 water quality consulting, asbestos contamination consulting,
19 remediation consulting and environmental law consulting,
20 providing sanitation or site remediation consulting services.
21 (xxiv) Other scientific and technical consulting services,
22 including agricultural, agrology, agronomy, biological chemical,
23 dairy herd, economic, energy, entomology, geochemical,
24 horticultural, hydrology, livestock breeding, motion picture,
25 nuclear energy, physics, radio, safety, security and any other
26 similar scientific and technical consulting services.
27 (xxv) Research and development services in biotechnology,
28 physical, engineering and life sciences, including conducting
29 research and experimental development biotechnology and services
30 involving the study of the use of microorganisms and cellular

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

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

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

1 services, display letter services, mannequin decorating, sign
2 lettering and painting, welcoming services and window dressing
3 or trimming services.

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

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

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

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

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

28 (xxxiii) Veterinary services including services provided by
29 licensed veterinarians including providing and prescribing
30 medicine and performing surgery and any other service provided

1 by a veterinarian. The term includes testing services performed
2 by or for veterinarians.

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

5 (A) Appraisal services, excluding real estate.

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

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

10 (D) Consumer credit counseling services.

11 (E) Credit repair services.

12 (F) Electronic communication verification content services.

13 (G) Estate assessment or appraisal services.

14 (H) Handwriting analysis services.

15 (I) Handwriting expert services.

16 (J) Marine surveying.

17 (K) Ship appraisal services.

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

20 (M) Meteorological services.

21 (N) Patent broker and marketing services.

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

24 (P) Quantity surveying.

25 (Q) Weather forecasting services.

26 (7) Office administration services. Providing office

27 administrative services, including financial planning, billing,
28 recordkeeping, personnel, distribution or logistics for others

29 on a contract or fee basis.

30 (8) Facilities support services. Providing staff to perform

1 support services within a client's facilities, including
2 janitorial, maintenance, trash disposal, guard, security, mail
3 routing, reception, laundry and related services. The term
4 includes providing private jail services or operating
5 correctional facilities on a contract or fee basis.
6 (9) Professional employment services. Providing human
7 resources and human resource management services to client
8 businesses by entities operating in a coemployment relationship
9 with client businesses or organizations and are specialized in
10 performing a wide range of human resource and personnel
11 management duties, including payroll, payroll tax, benefits
12 administration, workers' compensation, unemployment and human
13 resource administration. Services include payroll, including
14 withholding and remitting employment-related taxes, for some or
15 all of the employees of the employees' clients, serving as the
16 employer of those employees for benefits and related purposes or
17 providing any similar services provided by a professional
18 employment organization. The term includes employee leasing
19 services, labor leasing services and staff leasing services.
20 (10) Business support services. Providing one or more of the
21 following:
22 (i) Providing document preparation services, including
23 letter or resume writing, document editing or proofreading,
24 typing, word or data processing, desktop publishing, stenography
25 except court reporting or stenotype recording, transcription and
26 other secretarial services.
27 (ii) Answering telephone calls and relaying messages to
28 clients.
29 (iii) Providing telemarketing services on a contract or fee
30 basis for others, including promoting a client's product or

1 services by telephone, taking orders by telephone or soliciting
2 contributions by telephone.
3 (iv) Providing mailbox rental and other postal and mailing
4 services except direct mail advertising.
5 (v) Providing photocopying, duplicating, blueprinting,
6 scanning and other document copying services.
7 (vi) Providing facsimile and on-site computer rental
8 services.
9 (vii) Collecting payments for claims on behalf of or
10 remitting payments collected for clients.
11 (viii) Compiling or providing information including credit
12 and employment histories on individuals and credit histories on
13 businesses.
14 (ix) Repossessing tangible assets for a creditor.
15 (x) Providing reporting and stenotype recording of live
16 legal proceedings and transcribing recorded materials.
17 (11) Travel arrangements and reservation services.
18 Providing travel, tour or accommodations arrangement services,
19 assembling and planning tours, marketing and promoting
20 communities and facilities to businesses and leisure travelers
21 through a range of activities, including assisting organizations
22 in locating meeting and convention sites, providing travel
23 information on area attractions, lodging accommodations and
24 restaurants, providing maps and organizing group tours of local
25 historical, recreational and cultural attractions, providing
26 travel reservation services including airline, train, bus, ship,
27 car rental, hotel, time share, restaurant and sports and
28 theatrical ticket reservation services.
29 (12) Packaging and labeling services. Packaging or wrapping
30 client-owned materials, including labeling and imprinting.

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

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

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

26 (15) Waste collection.

27 (i) Waste collection includes both:

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

30 (B) Operating hazardous or nonhazardous waste transfer

1 stations or landfills or recycling centers within a local area.

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

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

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

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

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

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

1 electronics technology, computer operations, local area network
2 management and management, professional and career development.

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

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

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

12 (B) Foreign language instruction including sign language.

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

15 (D) Automobile driving instruction.

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

18 (i) Personal care services.

19 (ii) Homemaker and companion services.

20 (iii) Physical therapy.

21 (iv) Medical social services.

22 (v) Medications.

23 (vi) Medical equipment and supplies.

24 (vii) Counseling.

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

26 (ix) Occupation and vocational therapy.

27 (x) Dietary and nutritional services.

28 (xi) Speech therapy.

29 (x) Audiology.

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

1 (18) Other ambulatory health care services. Providing
2 services including outpatient care centers, medical laboratories
3 and diagnostic imaging centers and home health care providers.
4 The term does not include offices of physicians, dentists and
5 other health practitioners providing ambulatory health care
6 services including ambulance services, blood and organ banks,
7 health screening, physical fitness evaluation and hearing
8 testing services, smoking cessation programs and pacemaker
9 monitoring services.

10 (19) Nursing care facility services.

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

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

20 (19.1) Residential, intellectual and developmental
21 disability, mental health and substance abuse facility services.
22 Services provided by group homes and intermediate care
23 facilities providing residential care services for persons
24 diagnosed with intellectual and developmental disabilities and
25 mental health and substance abuse illnesses.

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

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

1 (ii) do not desire to live independently.

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

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

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

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

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

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

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

30 (v) Preparing and providing meals at fixed or mobile

1 locations, such as food banks and soup kitchens.

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

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

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

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

16 (24) Vocational rehabilitation services. Providing:

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

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

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

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

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

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

30 (ii) pre-kindergarten schooling; and

1 (iii) any other similar child day-care service.

2 (26) Performing arts company, group or theater services:

3 (i) Providing live theatrical presentations including
4 musicals, operas, plays and comedy, improvisational, mime and
5 puppet shows.

6 (ii) Operating dinner theaters engaged in providing live
7 theatrical productions and food and beverages for consumption on
8 the premises.

9 (iii) Providing live theatrical dance presentations.

10 (iv) Providing live musical entertainment.

11 (v) This subclause does not include live musical
12 entertainment provided by any of the following:

13 (A) An elementary or secondary school.

14 (B) A nonprofit corporation or nonprofit incorporated
15 association under Federal law or State law.

16 (C) An entity which is authorized to do business in this
17 Commonwealth as a nonprofit corporation or unincorporated
18 association under the laws of this Commonwealth. This paragraph
19 includes any youth or athletic, volunteer fire, ambulance,
20 religious, charitable, fraternal, veterans or civic association
21 and a separately chartered auxiliary of the association operated
22 on a nonprofit basis.

23 (27) Sports teams or club services.

24 (i) Providing live sporting events before a paying audience.

25 (ii) Operating racetracks.

26 (iii) Independent athletes or professional or
27 semiprofessional sports teams or clubs providing live sporting
28 or racing events before a paying audience.

29 (iv) Owners of racing participants, such as cars and horses,
30 providing the participants in racing events or other spectator

1 sports events.

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

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

6 (A) An elementary or secondary school.

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

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

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

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

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

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

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

1 caverns and similar institutions. For purposes of this
2 subclause, the purchase price of the service is typically a
3 ticket or admission price.

4 (31) Amusement park and arcade services. Providing a variety
5 of attractions, such as mechanical rides, water rides, games,
6 shows, theme exhibits, refreshment stands and picnic grounds.
7 This subclause includes indoor play area services, electronic or
8 other game arcades, billiard salon services, family fun centers,
9 pinball machines, coin-operated games and rides and other
10 similar amusement park or arcade services. For purposes of this
11 subclause, the purchase price for amusement parks is typically a
12 ticket or admission price.

13 (32) Other amusement and recreation industry services.

14 (i) Providing miniature golf courses, golf courses and golf
15 courses along with dining facilities and other recreational
16 facilities which are known as country clubs.

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

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

22 (A) retailing fuel and marine supplies; and

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

24 (iv) Providing fitness and recreational sports facilities
25 featuring exercise and other active physical fitness
26 conditioning or recreational sports activities, such as
27 swimming, skating, or racquet sports.

28 (v) Providing bowling centers.

29 (vi) Providing other recreational and amusement services.

30 (33) Recreational vehicle park and recreational camp

1 services.

2 (i) Providing recreational vehicle parks and campgrounds and
3 recreational and vacation camps.

4 (ii) Providing sites to accommodate campers and their
5 equipment, including tents, tent trailers, travel trailers and
6 recreational vehicles.

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

11 (34) Personal care services providing one or more of the
12 following:

13 (i) Hair care, facials or applying makeup other than
14 permanent makeup.

15 (ii) Cutting, trimming and styling male hair and shaving and
16 trimming male beards.

17 (iii) Cutting, trimming, shampooing, coloring, waving or
18 styling hair.

19 (iv) Nail care, such as manicures, pedicures and nail
20 extensions.

21 (v) Nonmedical services to assist clients in attaining or
22 maintaining a desired weight. This subparagraph includes saunas
23 and steam baths.

24 (vi) Color consulting.

25 (vii) Day spa services.

26 (viii) Hair removal.

27 (ix) Ear piercing.

28 (x) Hair replacement, other than by a physician.

29 (xi) Massage.

30 (xii) Scalp treatments.

1 (xiii) Tanning services.
2 (xiv) Tattooing.
3 (xv) Other similar personal care service.
4 (35) Death care services. Providing for the preparation of
5 the dead for burial or interment and conducting funerals. This
6 subclause includes:
7 (i) providing facilities for wakes;
8 (ii) arranging transportation for the dead;
9 (iii) selling caskets and related merchandise;
10 (iv) operating sites or structures reserved for the
11 interment of human or animal remains; and
12 (v) cremating the dead.
13 (36) Drycleaning and laundry services.
14 (i) Providing services at facilities with coin-operated or
15 similar self-service laundry and drycleaning equipment for
16 customer use on the premises.
17 (ii) Supplying and servicing coin-operated or similar self-
18 service laundry and drycleaning equipment for customer use in
19 places of business operated by others, such as apartments and
20 dormitories.
21 (iii) Providing drycleaning and laundering services.
22 (iv) Providing dropoff and pickup sites for laundries or
23 drycleaners.
24 (v) Providing specialty cleaning services for specific types
25 of garments and other textile items. Carpets and upholstery are
26 not subject to this subparagraph. Items such as the following
27 are subject to this subparagraph:
28 (A) Fur, leather or suede garments.
29 (B) Wedding gowns.
30 (C) Hats.

- 1 (D) Draperies and pillows.
2 (vi) Supplying, on a rental or contract basis, laundered
3 items, including:
4 (A) uniforms, gowns and coats and related work clothing,
5 including protective apparel;
6 (B) table linens;
7 (C) bed linens;
8 (D) towels;
9 (E) diapers;
10 (F) clean room apparel; and
11 (G) dust-control items, such as treated mops, shop towels,
12 wiping towels, rugs, mats, dust tool covers and cloths.
13 (37) Other personal services.
14 (i) Providing pet care services, such as boarding, grooming,
15 sitting, and training pets.
16 (ii) Developing film or making photographic slides, prints,
17 and enlargements.
18 (iii) One-hour photofinishing labs providing film developing
19 or making photographic slides, prints and enlargements on a
20 short turnaround or while-you-wait basis.
21 (iv) Providing parking spaces for motor vehicles, usually on
22 an hourly, daily or monthly basis and offering valet parking
23 services.
24 (v) Baby shoe bronzing.
25 (vi) Bail bonding.
26 (vii) Balloon-o-gram services.
27 (viii) Coin-operated machine blood pressure testing.
28 (ix) Locker services.
29 (x) Providing photographic machines.
30 (xi) Providing scales.

1 (xii) Shoeshine services.
2 (xiii) Check room services.
3 (xiv) Comfort station services.
4 (xv) Concierge services.
5 (xvi) Consumer buying services.
6 (xvii) Credit card notification services, such as lost or
7 stolen reporting.
8 (xviii) Dating, social introduction and social escort
9 services.
10 (xix) Discount buying services, including medical cards and
11 similar negotiated discount plans for individuals.
12 (xx) Astrology, fortune-telling, numerology, palm reading,
13 physic and phrenology services.
14 (xxi) Genealogical investigation services.
15 (xxii) House sitting.
16 (xxiii) Identity theft protection services.
17 (xxiv) Party planning and wedding planning.
18 (xxv) Pay telephone services.
19 (xxvi) Personal fitness training.
20 (xxvii) Personal organizer services.
21 (xxviii) Personal shopping services.
22 (xxix) Porter services.
23 (xxx) Singing telegram services.
24 (xxxi) Wedding chapels. This subparagraph does not apply to
25 churches.
26 (xxxii) Similar services.
27 (38) Real estate agent and broker services. Acting as an
28 agent or broker in selling real estate for others or buying real
29 estate for others or renting real estate for others. The
30 services include auctioning real estate, real estate broker

1 services, real estate agent services and any other similar
2 services.

3 * * *

4 (11) "[Premium cable or premium] Cable or video programming
5 service." That portion of cable television services, video
6 programming services, community antenna television services or
7 any other distribution of television, video, audio or radio
8 services which [meets all of the following criteria:

9 (1)] is transmitted with or without the use of wires to
10 purchasers.[];

11 (2) which consists substantially of programming
12 uninterrupted by paid commercial advertising which includes, but
13 is not limited to, programming primarily composed of
14 uninterrupted full-length motion pictures or sporting events,
15 pay-per-view, paid programming or like audio or radio
16 broadcasting; and

17 (3) does not constitute a component of a basic service tier
18 provided by a cable television system or a cable programming
19 service tier provided by a cable television system. A basic
20 service tier shall include all signals of domestic television
21 broadcast stations, any public, educational, governmental or
22 religious programming and any additional video programming
23 signals or service added to the basic service tier by the cable
24 operator. The basic service tier shall also include a single
25 additional lower-priced package of broadcast channels and access
26 information channels which is a subset of the basic service tier
27 as set forth above. A cable programming service tier includes
28 any video programming other than: (i) the basic service tier;
29 (ii) video programming offered on a pay-per-channel or pay-per-
30 view basis; or (iii) a combination of multiple channels of pay-

1 per-channel or pay-per-view programming offered as a package.]
2 If a purchaser receives or agrees to receive [premium] cable or
3 [premium] video programming service, then the following charges
4 are included in the purchase price: charges for installation or
5 repair of any [premium] cable or [premium] video programming
6 service, upgrade to include additional [premium] cable or
7 [premium] video programming service, downgrade to exclude all or
8 some [premium] cable or [premium] video programming service,
9 additional [premium] cable outlets in excess of ten or any other
10 charge or fee related to [premium] cable or [premium] video
11 programming services. The term shall not apply to transmissions
12 by public television, public radio services or official Federal,
13 State or local government cable services. Nor shall the term
14 apply to local origination programming which provides a variety
15 of public service programs unique to the community, programming
16 which provides coverage of public affairs issues which are
17 presented without commentary or analysis, including United
18 States Congressional proceedings, or programming which is
19 substantially related to religious subjects. Nor shall the term
20 "[premium] cable or [premium] video programming service" apply
21 to subscriber charges for access to a video dial tone system or
22 charges by a common carrier to a video programmer for the
23 transport of video programming.

24 * * *

25 (pp) "Building machinery and equipment." Generation
26 equipment, storage equipment, conditioning equipment,
27 distribution equipment and termination equipment, [which shall
28 be limited to the following] located in a building unless
29 specifically noted otherwise and part only of the following
30 systems:

1 (1) air conditioning limited to heating, cooling,
2 purification, humidification, dehumidification and ventilation;
3 (2) electrical;
4 (3) plumbing;
5 (4) communications limited to voice, video, data, sound,
6 master clock and noise abatement;
7 (5) alarms limited to fire, security and detection;
8 (6) control system limited to energy management, vehicular
9 traffic and parking lot and building access;
10 (7) medical system limited to diagnosis and treatment
11 equipment, medical gas, nurse call and doctor paging;
12 (8) laboratory system;
13 (9) cathodic protection system; or
14 (10) [furniture,] cabinetry and kitchen equipment.
15 The term shall include boilers, chillers, air cleaners,
16 humidifiers, fans, switchgear, pumps, telephones, speakers,
17 horns, motion detectors, dampers, actuators, grills, registers,
18 traffic signals, sensors, card access devices, guardrails,
19 [medial devices,] floor troughs and grates and laundry
20 equipment, together with integral coverings and enclosures,
21 whether or not the item constitutes a fixture or is otherwise
22 affixed to the real estate, whether or not damage would be done
23 to the item or its surroundings upon removal or whether or not
24 the item is physically located within a real estate structure.
25 The term "building machinery and equipment" shall not include
26 guardrail posts, pipes, fittings, pipe supports and hangers,
27 valves, underground tanks, wire, conduit, receptacle and
28 junction boxes, insulation, ductwork and coverings thereof, or
29 foundations or supports for any building machinery and
30 equipment, including light poles or bridge and road drainage

1 equipment:

2 (qq) "Real estate structure." A structure or item purchased
3 by a construction contractor pursuant to a construction contract
4 with:

5 (1) a charitable organization, a volunteer firemen's
6 organization, a nonprofit educational institution or a religious
7 organization for religious purposes and which qualifies as an
8 institution of purely public charity under the act of November
9 26, 1997 (P.L.508, No.55), known as the "Institutions of Purely
10 Public Charity Act";

11 (2) the United States; or

12 (3) the Commonwealth, its instrumentalities or political
13 subdivisions.

14 The term includes building machinery and equipment; developed
15 or undeveloped land; streets; roads; highways; parking lots;
16 stadiums and stadium seating; recreational courts; sidewalks;
17 foundations; structural supports; walls; floors; ceilings;
18 roofs; doors; canopies; millwork; elevators; windows and
19 external window coverings; [outdoor advertising boards or signs]
20 billboards; airport runways; bridges; dams; dikes; vehicular
21 traffic control devices, including vehicular traffic signs;
22 satellite dishes; antennas; guardrail posts; pipes; fittings;
23 pipe supports and hangers; valves; underground tanks; wire;
24 conduit; receptacle and junction boxes; insulation; ductwork and
25 coverings thereof; and any structure or item similar to any of
26 the foregoing, whether or not the structure or item constitutes
27 a fixture or is affixed to the real estate, or whether or not
28 damage would be done to the structure or item or its
29 surroundings upon removal. The term also includes foundations or
30 supports for any building machinery and equipment, including

1 light poles or bridge and road drainage equipment.

2 * * *

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

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

5 wagering is conducted under the act of December 17, 1981

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

7 Act."

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

9 Commission.]

10 * * *

11 (eee) "Dentist." Doctors of dental medicine or doctors of

12 dental surgery, as defined in the act of May 1, 1933 (P.L.216,

13 No.76), known as "The Dental Law."

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

15 of December 20, 1985 (P.L.457, No.112), known as the "Medical

16 Practice Act of 1985," or doctors of osteopathy, as defined in

17 the act of October 5, 1978 (P.L.1109, No.261), known as the

18 "Osteopathic Medical Practice Act."

19 Section 2. Section 202 of the act, amended September 9, 1971

20 (P.L.437, No.105), October 4, 1978 (P.L.987, No.201), April 23,

21 1998 (P.L.239, No.45), May 24, 2000 (P.L.106, No.23) and June

22 29, 2002 (P.L.559, No.89), is amended to read:

23 Section 202. Imposition of Tax.--(a) There is hereby

24 imposed upon each separate sale at retail of tangible personal

25 property or services, as defined herein, within this

26 Commonwealth a tax of six and six-tenths per cent of the

27 purchase price, which tax shall be collected by the vendor from

28 the purchaser, and shall be paid over to the Commonwealth as

29 herein provided.

30 (b) There is hereby imposed upon the use, on and after the

1 effective date of this article, within this Commonwealth of
2 tangible personal property purchased at retail on or after the
3 effective date of this article, and on those services described
4 herein purchased at retail on and after the effective date of
5 this article, a tax of six and six-tenths per cent of the
6 purchase price, which tax shall be paid to the Commonwealth by
7 the person who makes such use as herein provided, except that
8 such tax shall not be paid to the Commonwealth by such person
9 where he has paid the tax imposed by subsection (a) of this
10 section or has paid the tax imposed by this subsection (b) to
11 the vendor with respect to such use. The tax at the rate of six
12 and six-tenths per cent imposed by this subsection shall not be
13 deemed applicable where the tax has been incurred under the
14 provisions of the "Tax Act of 1963 for Education."

15 (c) Notwithstanding any other provisions of this article,
16 the tax with respect to telecommunications service within the
17 meaning of clause (m) of section 201 of this article shall,
18 except for telegrams paid for in cash at telegraph offices, be
19 computed at the rate of six and six-tenths per cent upon the
20 total amount charged to customers for such services,
21 irrespective of whether such charge is based upon a flat rate or
22 upon a message unit charge, but in no event shall charges for
23 telephone calls paid for by inserting money into a telephone
24 accepting direct deposits of money to operate be subject to this
25 tax. A telecommunications service provider shall have no
26 responsibility or liability to the Commonwealth for billing,
27 collecting or remitting taxes that apply to services, products
28 or other commerce sold over telecommunications lines by third-
29 party vendors. To prevent actual multistate taxation of
30 interstate telecommunications service, any taxpayer, upon proof

1 that the taxpayer has paid a similar tax to another state on the
2 same interstate telecommunications service, shall be allowed a
3 credit against the tax imposed by this section on the same
4 interstate telecommunications service to the extent of the
5 amount of such tax properly due and paid to such other state.

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

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

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

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

28 (e.1) (1) Notwithstanding any other provision of this
29 article, the sale or use of prepaid mobile telecommunications
30 service evidenced by the transfer of tangible personal property

1 shall be subject to the tax imposed by subsections (a) and (b).

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

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

17 (f) Notwithstanding any other provision of this article, tax
18 with respect to sales of prebuilt housing shall be imposed on
19 the prebuilt housing builder at the time of the prebuilt housing
20 sale within this Commonwealth and shall be paid and reported by
21 the prebuilt housing builder to the department in the time and
22 manner provided in this article: Provided, however, That a
23 manufacturer of prebuilt housing may, at its option, precollect
24 the tax from the prebuilt housing builder at the time of sale to
25 the prebuilt housing builder. In any case where prebuilt housing
26 is purchased and the tax is not paid by the prebuilt housing
27 builder or precollected by the manufacturer, the prebuilt
28 housing purchaser shall remit tax directly to the department if
29 the prebuilt housing is used in this Commonwealth without regard
30 to whether the prebuilt housing becomes a real estate structure.

1 (g) Notwithstanding any other provisions of this article and
2 in accordance with the Mobile Telecommunications Sourcing Act (4
3 U.S.C. § 116), the sale or use of mobile telecommunications
4 services which are deemed to be provided to a customer by a home
5 service provider under section 117(a) and (b) of the Mobile
6 Telecommunications Sourcing Act shall be subject to the tax of
7 six per cent of the purchase price, which tax shall be collected
8 by the home service provider from the customer, and shall be
9 paid over to the Commonwealth as herein provided if the
10 customer's place of primary use is located within this
11 Commonwealth, regardless of where the mobile telecommunications
12 services originate, terminate or pass through. For purposes of
13 this subsection, words and phrases used in this subsection shall
14 have the same meanings given to them in the Mobile
15 Telecommunications Sourcing Act.

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

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

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

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

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

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

30 (e) If the purchase price is fifty-one cents (51¢) or more

1 but less than sixty-eight cents (68¢), four cents (4¢) shall be
2 collected.

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

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

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

14 Section 4. Section 204 heading, (4), (5), (11), (13), (17),
15 (29), (30), (31), (32), (33), (34), (35), (36), (37), (38),
16 (39), (41), (45), (50), (53), (55), (57), (58), (61), (63),
17 (64), (65) and (66) of the act, amended or added August 31, 1971
18 (P.L.362, No.93), July 20, 1974 (P.L.535, No.183), October 17,
19 1974 (P.L.756, No.255), December 14, 1977 (P.L.322, No.93),
20 October 27, 1979 (P.L.242, No.79), December 8, 1980 (P.L.1117,
21 No.195), October 22, 1981 (P.L.314, No.109), December 19, 1985
22 (P.L.354, No.100), December 13, 1991 (P.L.373, No.40), June 16,
23 1994 (P.L.279, No.48), June 30, 1995 (P.L.139, No.21), May 7,
24 1997 (P.L.85, No.7), April 23, 1998 (P.L.239, No.45), May 24,
25 2000 (P.L.106, No.23), June 22, 2001 (P.L.353, No.23), June 29,
26 2002 (P.L.559, No.89), December 23, 2003 (P.L.250, No.46), July
27 6, 2006 (P.L.319, No.67), November 29, 2006 (P.L.1630, No.189)
28 and July 2, 2012 (P.L.751, No.85), are amended and the section
29 is amended by adding paragraphs to read:
30 Section 204. [Exclusions] Exemptions from Tax.--The tax

1 imposed by section 202 shall not be imposed upon any of the
2 following:

3 * * *

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

9 (5) The sale at retail or use of steam, natural and
10 manufactured and bottled gas, fuel oil, electricity [or
11 intrastate subscriber line charges, basic local telephone
12 service or telegraph service] when purchased directly by the
13 user thereof solely for his own residential use [and charges for
14 telephone calls paid for by inserting money into a telephone
15 accepting direct deposits of money to operate].

16 * * *

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

23 * * *

24 (13) The sale at retail, or use of wrapping paper, wrapping
25 twine, bags, cartons, tape, rope, labels, nonreturnable
26 containers and all other wrapping supplies, unless returnable,
27 when such use is incidental to the delivery of any personal
28 property, except that any charge for wrapping or packaging shall
29 be subject to tax at the rate imposed by section 202, unless the
30 property wrapped or packaged will be [resold] gold by the.

1 purchaser of the wrapping or packaging service.

2 * * *

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

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

5 (B) prescription [or non-prescription medicines,] drugs

6 [or];

7 (C) medical supplies[,];

8 (D) crutches and wheelchairs for the use of [cripples and

9 invalids, artificial limbs, artificial eyes and artificial

10 hearing devices when designed to be worn on the person of the

11 purchaser or user, false teeth and materials used by a dentist

12 in dental treatment, eyeglasses when especially designed or

13 prescribed by an ophthalmologist, oculist or optometrist for the

14 personal use of the owner or purchaser and artificial braces and

15 supports designed solely for the use of crippled persons]

16 individuals with disabilities; or

17 (E) any [other] therapeutic, prosthetic or artificial device

18 designed for the use of a particular individual with a physical

19 incapacity, such as artificial limbs, eyes and hearing devices,

20 false teeth, prescription eyeglasses, braces and supports to

21 correct or alleviate a physical incapacity[, including but not

22 limited to hospital beds, iron lungs, and kidney machines].

23 * * *

24 (29) The sale at retail or use of food and beverages for

25 human consumption, except that this exclusion shall not apply

26 with respect to--

27 (i) Soft drinks;

28 (ii) Malt and brewed beverages and spirituous and vinous

29 liquors;

30 (iii) Food or beverages, whether sold for consumption on or

1 off the premises or on a "take-out" or "to go" basis or
2 delivered to the purchaser or consumer, when purchased (A) from
3 persons engaged in the business of catering; or (B) from persons
4 engaged in the business of operating establishments from which
5 ready-to-eat food and beverages are sold, including, but not
6 limited to, restaurants, cafes, lunch counters, private and
7 social clubs, taverns, dining cars, hotels, night clubs, fast
8 food operations, pizzerias, fairs, carnivals, lunch carts, ice
9 cream stands, snack bars, cafeterias, employe cafeterias,
10 theaters, stadiums, arenas, amusement parks, carryout shops,
11 coffee shops and other establishments whether mobile or
12 immobile. For purposes of this clause, a bakery, a pastry shop,
13 a donut shop, a delicatessen, a grocery store, a supermarket, a
14 farmer's market, a convenience store or a vending machine shall
15 not be considered an establishment from which food or beverages
16 ready to eat are sold except for the sale of meals, sandwiches,
17 food from salad bars, hand-dipped or hand-served iced based
18 products including ice cream and yogurt, hot soup, hot pizza and
19 other hot food items, brewed coffee and hot beverages. For
20 purposes of this subclause, beverages shall not include malt and
21 brewed beverages and spirituous and vinous liquors but shall
22 include soft drinks. The sale at retail of food and beverages at
23 or from a primary or secondary school or church in the ordinary
24 course of the activities of such organization is not subject to
25 tax. For purposes of this clause, the term "primary and
26 secondary school" is limited to a school with any of the grades
27 kinderqarten through twelve.
28 (iv) Candy and gum regardless of the location from which the
29 candy and gum are sold.
30 [(30) The sale at retail or use of newspapers. For purposes

1 of this section, the term "newspaper" shall mean a "legal
2 newspaper" or a publication containing matters of general
3 interest and reports of current events which qualifies as a
4 "newspaper of general circulation" qualified to carry a "legal
5 advertisement" as those terms are defined in 45 Pa.C.S. § 101
6 (relating to definitions), not including magazines. This
7 exclusion shall also include any printed advertising materials
8 circulated with such newspaper regardless of where or by whom
9 such printed advertising material was produced.

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

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

14 (33) The sale at retail or use of textbooks for use in
15 schools, colleges and universities, either public or private
16 when purchased in behalf of or through such schools, colleges or
17 universities provided such institutions of learning are
18 recognized by the Department of Education.

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

22 (35) The sale at retail or use of mail order catalogs and
23 direct mail advertising literature or materials, including
24 electoral literature or materials, such as envelopes, address
25 labels and a one-time license to use a list of names and mailing
26 addresses for each delivery of direct mail advertising
27 literature or materials, including electoral literature or
28 materials, through the United States Postal Service.]

29 (36) The sale at retail or use of rail [transportation
30 equipment] cars and locomotives used in the movement of

1 personalty.

2 [(37) The sale at retail of buses to be used under contract
3 with school districts that are replacements for buses destroyed
4 or lost in the flood of 1977 for a period ending December 31,
5 1977 in the counties of Armstrong, Bedford, Cambria, Indiana,
6 Jefferson, Somerset and Westmoreland, or the use of such buses.

7 (38) The sale at retail of horses, if at the time of
8 purchase, the seller is directed to ship or deliver the horse to
9 an out-of-State location, whether or not the charges for
10 shipment are paid for by the seller or the purchaser; the seller
11 shall obtain a bill of lading, either from the carrier or from
12 the purchaser, who, in turn has obtained the bill of lading from
13 the carrier, reflecting delivery to the out-of-State address to
14 which the horse has been shipped. The seller shall execute a
15 "Certificate of Delivery to Destination Outside of the
16 Commonwealth" for each bill of lading reflecting out-of-State
17 delivery. The seller shall be required to retain the certificate
18 of delivery form to justify the noncollection of sales tax with
19 respect to the transaction to which the form relates.

20 In transactions where a horse is sold by the seller and
21 delivered to a domiciled person, agent or corporation prior to
22 its being delivered to an out-of-State location, the
23 "Certificate of Delivery to Destination Outside of the
24 Commonwealth" form must have attached to it bills of lading both
25 for the transfer to the domiciled person, agent or corporation
26 and from the aforementioned to the out-of-State location.]

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

30 * * *

1 [(41) The sale at retail of supplies and materials to
2 tourist promotion agencies, which receive grants from the
3 Commonwealth, for distribution to the public as promotional
4 material or the use of such supplies and materials by said
5 agencies for said purposes.]

6 * * *

7 [(45) The sale at retail or use of materials used in the
8 construction and erection of objects purchased by not-for-profit
9 organizations for purposes of commemoration and memorialization
10 of historical events, provided that the object is erected upon
11 publicly owned property or property to be conveyed to a public
12 entity upon the commemoration or memorialization of the
13 historical event.]

14 * * *

15 [(50) The sale at retail or use of subscriptions for
16 magazines. The term "magazine" refers to a periodical published
17 at regular intervals not exceeding three months and which are
18 circulated among the general public, containing matters of
19 general interest and reports of current events published for the
20 purpose of disseminating information of a public character or
21 devoted to literature, the sciences, art or some special
22 industry. This exclusion shall also include any printed
23 advertising material circulated with the periodical or
24 publication regardless of where or by whom the printed
25 advertising material was produced.]

26 * * *

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

29 [(55) The sale at retail or use of horses to be used
30 exclusively for commercial racing activities and the sale at

1 retail and use of feed, bedding, grooming supplies, riding tack,
2 farrier services, portable stalls and sulkies for horses used
3 exclusively for commercial racing activities.]

4 * * *

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

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

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

17 [(58) The sale at retail or use of a personal computer, a
18 peripheral device or an Internet access device, or a service
19 contract or single-user licensed software purchased in
20 conjunction with a personal computer, peripheral device or
21 Internet access device, during the exclusion period by an
22 individual purchaser for nonbusiness use. The exclusion does not
23 include a sale at retail or use of, leasing, rental or repair of
24 a personal computer, peripheral device or Internet access
25 device; mainframe computers; network servers; local area network
26 hubs; routers and network cabling; network operating systems;
27 multiple-user licensed software; minicomputers; hand-held
28 computers; personal digital assistants without Internet access;
29 hardware word processors; graphical calculators; video game
30 consoles; telephones; digital cameras; pagers; compact discs

1 encoded with music or movies; and digital versatile discs
2 encoded with music or movies. For purposes of this clause, the
3 phrase "exclusion period" means the period of time from August
4 5, 2001, to and including August 12, 2001, and from February 17,
5 2002, to and including February 24, 2002. For purposes of this
6 clause, "purchaser" means an individual who places an order and
7 pays the purchase price by cash or credit during the exclusion
8 period even if delivery takes place after the exclusion period.]

9 * * *

10 [(61) The sale at retail to or use of food and nonalcoholic
11 beverages by an airline which will transfer the food or,
12 nonalcoholic beverages to passengers in connection with the
13 rendering of the airline service.]

14 * * *

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

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

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

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

29 (65) The sale at retail or use of investment metal bullion
30 and investment coins. "Investment metal bullion" means any

1 elementary precious metal which has been put through a process
2 of smelting or refining, including, but not limited to, gold,
3 silver, platinum and palladium, and which is in such state or
4 condition that its value depends upon its content and not its
5 form. "Investment metal bullion" does not include precious metal
6 which has been assembled, fabricated, manufactured or processed
7 in one or more specific and customary industrial, professional,
8 aesthetic or artistic uses. "Investment coins" means numismatic
9 coins or other forms of money and legal tender manufactured of
10 gold, silver, platinum, palladium or other metal and of the
11 United States or any foreign nation with a fair market value
12 greater than any nominal value of such coins. "Investment coins"
13 does not include jewelry or works of art made of coins, nor does
14 it include commemorative medallions.]

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

19 (i) "court" includes:

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

22 (B) a "court of common pleas" as defined in 42 Pa.C.S. §
23 102;

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

25 (ii) "government agency" means an "agency" as defined in

26 section [1 of the act of June 21, 1957 (P.L.390, No.212),

27 referred to as the "Right-to-Know Law"] 102 of the act of

28 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law;

29 (iii) "official document" means a "record" as defined in

30 section 1 of the "Right-to-Know Law." The term shall include

1 notes of court testimony, deposition transcripts, driving
2 records, accident reports, birth and death certificates, deeds,
3 divorce decrees and other similar documents.

4 * * *

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

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

10 (i) Legal services.

11 (ii) Architectural, engineering and related services.

12 (iii) Accounting, auditing and bookkeeping services.

13 (iv) Specialized design services.

14 (v) Advertising, public relations and related services.

15 (vi) Services to buildings and dwellings.

16 (vii) Scientific, environmental and technical consulting

17 services.

18 (viii) Scientific research and development services.

19 (ix) Information services.

20 (x) Administrative services.

21 (xi) Custom programming, design and data processing

22 services.

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

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

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

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

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

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

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

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

30 Section 5. Sections 206 and 208 of the act, amended July 9,

1 2013 (P.L.270, No.52), are amended to read:

2 Section 206. Credit Against Tax.--(a) A credit against the
3 tax imposed by section 202 shall be granted with respect to
4 tangible personal property or services purchased for use outside
5 the Commonwealth equal to the tax paid to another state by
6 reason of the imposition by such other state of a tax similar to
7 the tax imposed by this article: Provided, however, That no such
8 credit shall be granted unless such other state grants
9 substantially similar tax relief by reason of the payment of tax
10 under this article [or under the Tax Act of 1963 for Education].

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

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

1 established by the department. Thereafter, any Any license
2 issued shall be valid for a period of five years.

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

27 (c) A person that maintains a place of business in this
28 Commonwealth for the purpose of selling or leasing services or
29 tangible personal property, the sale or use of which is subject
30 to tax, without having a valid license at the time of the sale

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

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

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

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

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

30 (2) "Occupant." A person (other than a "permanent resident,"

1 as defined herein,) who, for a consideration, uses, possesses or
2 has a right to use or possess any room or rooms in a hotel under
3 any lease, concession, permit, right of access, license or
4 agreement.

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

11 (4) "Operator." Any person operating a hotel or any online
12 hotel reservation service through which one may obtain a hotel
13 occupancy.

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

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

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

29 (i) "Maintaining a place of business in this Commonwealth,"
30 being the operator of a hotel in this Commonwealth.

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

2 (3) "Purchase price," rent.

3 (4) "Purchaser," occupant.

4 (5) "Sale at retail," the providing of occupancy to an
5 occupant by an operator.

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

7 (7) "Vendor," operator.

8 (8) "Services," occupancy.

9 (9) "Use," occupancy.

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

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

16 Section 8. Section 217 of the act, amended July 2, 2012

17 (P.L.751, No.85), is amended to read:

18 Section 217. Time for Filing Returns.--(a) Quarterly and
19 Monthly Returns:

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

25 (2) For the year in which this article becomes effective,
26 and in each year thereafter, a return shall be filed monthly
27 with respect to each month by every licensee whose actual tax
28 liability for the third calendar quarter of the preceding year
29 equals or exceeds six hundred dollars (\$600) and is less than
30 twenty-five thousand dollars (\$25,000). Such returns shall be

1 filed on or before the twentieth day of the next succeeding
2 month with respect to which the return is made. Any licensee
3 required to file monthly returns hereunder shall be relieved
4 from filing quarterly returns.

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

11 (i) Either of the following:

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

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

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

1 (4) With respect to each month by every licensee whose
2 actual tax liability for the third calendar quarter of the
3 preceding year equals or exceeds one hundred thousand dollars
4 (\$100,000), the licensee shall, on or before the twentieth day
5 of each month, file a single return consisting of the amounts
6 under clause (3) (i) (A) and (ii).

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

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

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

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

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

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

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

4 (c) Other Returns. Any person, other than a licensee, liable
5 to pay to the department any tax under this article, shall file
6 a return on or before the twentieth day of the month succeeding
7 the month in which such person becomes liable for the tax.

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

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

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

1 person, other than a taxpayer, against whom the department makes
2 any claim under this section shall have the same right to
3 petition and appeal as is given taxpayers by any provisions of
4 this part.

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

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

17 (2) as follows:

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

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

20 or

21 (iii) one hundred and fifty dollars per return for a
22 semiannual filer.

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

1 Section 10. Section 247.1(b) of the act, amended July 25,
2 2007 (P.L.373, No.55), is amended to read:

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

4 * * *

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

14 * * *

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

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

1 herein shall be deemed to prohibit a taxpayer who has filed a
2 timely petition for reassessment from amending it to a petition
3 for refund where the petitioner has paid the tax assessed.

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

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

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

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

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

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

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

1 of the date of the refund.

2 Section 13. (Reserved).

3 Section 14. Section 268(b) of the act, amended June 29, 2002
4 (P.L.559, No.89), is amended and the section is amended by
5 adding a subsection to read:

6 Section 268. Crimes.---* * *

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

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

21 [(2) The penalties imposed by this section shall be in
22 addition to any other penalties imposed by any provision of this
23 article.]

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

29 (i) Any person who, for commercial gain, sells, purchases,
30 installs, transfers or possesses in this Commonwealth an

1 automated sales suppression device or zapper or phantom-ware
2 with the knowledge that the sole purpose of the device is to
3 defeat or evade the determination of an amount due under this
4 part commits an offense which shall be punishable by a fine
5 specified under subparagraph (ii) or by imprisonment for not
6 more than one year, or by both. A person who uses an automated
7 sales suppression device or zapper or phantomware shall be
8 liable for all taxes, interest and penalties due as a result of
9 the use of that device.

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

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

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

25 (3) For purposes of this subsection:

26 "Automated sales suppression device" or "zapper" means a
27 software program carried on a memory stick or removable compact
28 disc, accessed through an Internet link or through any other
29 means, that falsifies the electronic records of electronic cash
30 registers and other point-of-sale systems, including, but not

1 limited to, transaction data and transaction reports.

2 "Electronic cash register" means a device that keeps a
3 register or supporting document through the means of an
4 electronic device or computer system designed to record
5 transaction data for the purpose of computing, compiling or
6 processing retail sales transaction data in whatever manner.

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

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

22 (d) This section shall not preclude prosecution under any
23 other law.

24 (e) The penalties imposed by this section shall be in
25 addition to any other penalties imposed by any provision of this
26 article.

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

28 Section 271. Keeping of Records.--* * *

29 (d) Keeping of Separate Records. Any [person doing business
30 as a retail dealer] vendor who at the same time is engaged in

1 another business or businesses which do not involve the making
2 of sales taxable under this article, shall keep separate books
3 and records of his businesses so as to show the sales taxable
4 under this article separately from his sales not taxable
5 hereunder. If any such person fails to keep such separate books
6 and records, he shall be liable for tax at the rate designated
7 in section 202 of this article upon the entire purchase price of
8 sales from both or all of his businesses.

9 * * *

10 Section 16. The act is amended by adding a section to read:

11 Section 281.3. Transfers.--Beginning February 1, 2016, the
12 department shall make equal monthly transfers from revenues
13 collected under this article to a restricted revenue account in
14 the General Fund. Revenue from the restricted revenue account
15 shall be transferred to the Public School Employees' Retirement
16 Fund. The Secretary of the Budget shall annually certify the
17 amount that the department is to transfer to the Public School
18 Employees' Retirement Fund for each fiscal year.

19 Section 17. Section 302 of the act, amended December 23,
20 2003 (P.L.250, No.46), is amended to read:

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

28 (b) Every nonresident individual, estate or trust shall be
29 subject to, and shall pay for the privilege of receiving each of
30 the classes of income hereinafter enumerated in section 303 from

1 sources within this Commonwealth, a tax upon each dollar of
2 income received by that nonresident during that nonresident's
3 taxable year at the rate of [three and seven hundredths] three
4 and seven tenths per cent.

5 Section 18. Section 303(a)(7) of the act, amended July 21,
6 1983 (P.L.63, No.29), is amended to read:

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

9 * * *

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

12 * * *

13 Section 19. Section 304 of the act, amended December 13,
14 1991 (P.L.373, No.40) and December 23, 2003 (P.L.250, No.46), is
15 amended to read:

16 Section 304. Special Tax Provisions for Poverty.--(a) The
17 General Assembly, in recognition of the powers contained in
18 section 2(b)(ii) of Article VIII of the Constitution of the
19 Commonwealth of Pennsylvania which provides therein for the
20 establishing as a class or classes of subjects of taxation the
21 property or privileges of persons who, because of poverty are
22 determined to be in need of special tax provisions hereby
23 declares as its legislative intent and purpose to implement such
24 power under such constitutional provision by establishing
25 special tax provisions as hereinafter provided in this act.

26 (b) The General Assembly having determined that there are
27 persons within this Commonwealth whose incomes are such that
28 imposition of a tax thereon would deprive them and their
29 dependents of the bare necessities of life and having further
30 determined that poverty is a relative concept inextricably

1 joined with actual income and the number of people dependent
2 upon such income deems it to be a matter of public policy to
3 provide special tax provisions for that class of persons
4 hereinafter designated to relieve their economic burden.

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

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

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

26 (i) The claimant and the claimant's spouse file separate
27 returns; and

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

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

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

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

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

16 (iv) Sixty per cent if not in excess of one thousand dollars
17 (\$1,000).

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

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

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

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

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

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

1 Section 20. The act is amended by adding a section to read:
2 Section 360. Restricted account and transfers to the
3 Property Tax Relief Fund.--There is established in the General
4 Fund a restricted account to be known as the Property Tax and
5 Rent Relief Account that shall be for property tax and rent
6 relief. Beginning January 2016, the Department of Revenue shall
7 make equal monthly transfers from revenue collected under this
8 article to the restricted account under this section. Beginning
9 October 2016 and each October thereafter, the revenue in the
10 restricted account under this section shall be transferred to
11 the Property Tax Relief Fund. The Secretary of the Budget shall
12 annually certify the amount that the department is to transfer
13 to the fund for each calendar year.

14 Section 21. Section 401(3)1(a) and (t), 2(a)(16.1) and 4(c)
15 (1)(A) and (5) of the act, amended or added May 12, 1999
16 (P.L.26, No.4), October 9, 2009 (P.L.451, No.48) and July 9,
17 2013 (P.L.270, No.52), are amended, clause (3) is amended by
18 adding subclauses, clause (3)4(c)(2)(B) is amended by adding a
19 subparagraph, clause (3)4(c) is amended by adding paragraphs and
20 the section is amended by adding clauses to read:

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

25 * * *

26 (3) "Taxable income." 1. (a) In case the entire business
27 of the corporation is transacted within this Commonwealth, for
28 any taxable year which begins on or after January 1, 1971,
29 taxable income for the calendar year or fiscal year as returned
30 to and ascertained by the Federal Government or that is not

1. required to file a return with the Federal Government, or in the
2 case of a corporation participating in the filing of
3 consolidated returns to the Federal Government, the taxable
4 income which would have been returned to and ascertained by the
5 Federal Government if separate returns had been made to the
6 Federal Government for the current and prior taxable years,
7 subject, however, to any correction thereof, for fraud, evasion,
8 or error as finally ascertained by the Federal Government.

9 * * *

10 (t) (1) Except as provided in paragraph (2), (3) or (4) for
11 taxable years beginning after December 31, 2014, and in addition
12 to any authority the department has on the effective date of
13 this paragraph to deny a deduction related to a fraudulent or
14 sham transaction, no deduction shall be allowed for an
15 intangible expense or cost, or an interest expense or cost,
16 paid, accrued or incurred directly or indirectly in connection
17 with one or more transactions with an affiliated entity. In
18 calculating taxable income under this paragraph, when the
19 taxpayer is engaged in one or more transactions with an
20 affiliated entity that was subject to tax in this Commonwealth
21 or another state or possession of the United States on a tax
22 base that included the intangible expense or cost, or the
23 interest expense or cost, paid, accrued or incurred by the
24 taxpayer, the taxpayer shall receive a credit against tax due in
25 this Commonwealth in an amount equal to the apportionment factor
26 of the taxpayer in this Commonwealth multiplied by the greater
27 of the following:
28 (A) the tax liability of the affiliated entity with respect
29 to the portion of its income representing the intangible expense
30 or cost, or the interest expense or cost, paid, accrued or

1 incurred by the taxpayer; or

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

5 The credit issued under this paragraph shall not exceed the
6 taxpayer's liability in this Commonwealth attributable to the
7 net income taxed as a result of the adjustment required by this
8 paragraph.

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

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

21 (4) The adjustment required by paragraph (1) shall not apply
22 to a transaction where an affiliated entity directly or
23 indirectly paid, accrued or incurred a payment to a person who
24 is not an affiliated entity, if the payment is paid, accrued or
25 incurred on the intangible expense or cost, or interest expense
26 or cost, and is equal to or less than the taxpayer's
27 proportional share of the transaction. The taxpayer's
28 proportional share shall be based on relative sales, assets,
29 liabilities or another reasonable method.

30 (5) The adjustment required under paragraph (1) shall not

1 apply to a transaction between the taxpayer and an affiliated
2 entity if the taxpayer and the affiliated entity file a combined
3 report in this State and the intangible expense or cost or
4 interest expense or cost are eliminated pursuant to the
5 definition of "combined business income" in section 401(15).

6 2. In case the entire business of any corporation, other
7 than a corporation engaged in doing business as a regulated
8 investment company as defined by the Internal Revenue Code of
9 1986, is not transacted within this Commonwealth, the tax
10 imposed by this article shall be based upon such portion of the
11 taxable income of such corporation for the fiscal or calendar
12 year, as defined in subclause 1 hereof, and may be determined as
13 follows:

14 (a) Division of Income.

15 * * *

16 (16.1) (A) Sales from the sale, lease, rental or other use
17 of real property, if the real property is located in this State.
18 If a single parcel of real property is located both in and
19 outside this State, the sale is in this State based upon the
20 percentage of original cost of the real property located in this
21 State.

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

25 (II) If the tangible personal property is subsequently taken
26 out of this State, the taxpayer may use a reasonably determined
27 estimate of usage in this State to determine the extent of sale
28 in this State.

29 (C) (I) Sales from the sale of service, if the service is
30 delivered to a location in this State. If the service is :

1 delivered both to a location in and outside this State, the sale
2 is in this State based upon the percentage of total value of the
3 service delivered to a location in this State.

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

8 (III) If the state or states of assignment under unit (I)
9 cannot be determined for a customer, except for a customer under
10 unit (II), a service is deemed to be delivered at the location
11 from which the services were ordered in the customer's regular
12 course of operations. If the location from which the services
13 were ordered in the customer's regular course of operations
14 cannot be determined, a service is deemed to be delivered at the
15 customer's billing address.

16 (D) Sales from the licensing of intangible property are in
17 this State if a licensee utilized the property in this State. If
18 the property was used both inside and outside this State, the
19 sale is in this State in proportion to the utilization of the
20 intangible property in this State to the utilization of the
21 intangible property everywhere.

22 * * *

23 4. * * *

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

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

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

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

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

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

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

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

21 * * *

22 (2) * * *

23 (B) The earliest net loss shall be carried over to the
24 earliest taxable year to which it may be carried under this
25 schedule. The total net loss deduction allowed in any taxable
26 year shall not exceed:

27 * * *

28 (VII) The greater of twelve and one-half per cent of the
29 taxable income as determined under subclause 1 or, if
30 applicable, subclause 2 or three million dollars (\$3,000,000)

1 for taxable years beginning after December 31, 2015.

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

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

13 * * *

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

19 (b) Each member of a unitary business shall apportion the
20 combined business income of the unitary business by multiplying
21 the combined business income of the unitary business by the
22 member's sales factor, the numerator of which shall be the
23 member's sales attributable to this State and denominator of
24 which shall be the combined sales of all members of the unitary
25 business. In computing the sales of each member for purposes of
26 apportionment, the following are excluded from the numerator and
27 denominator:

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

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

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

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

10 (d) Nonbusiness income of each member of a unitary business
11 shall be allocated as provided in paragraphs (5), (6), (7) and
12 (8) of phrase (a) of subclause 2 of the definition of "taxable
13 income."

14 (e) The taxable income of a member of a unitary business
15 shall include the member's apportioned share of the combined
16 business income of the unitary business plus the member's
17 nonbusiness income or loss allocated to this State, minus the
18 member's net loss deduction.

19 (f) The Secretary of Revenue shall make adjustments to
20 insure that a corporation does not incur an unfair penalty nor
21 realize an unfair benefit because the corporation is required to
22 compute the corporation's combined business income as provided
23 in this subclause. Fairness shall be measured by whether the
24 corporation's income allocated and apportioned to this state
25 fairly reflects the corporation's share of the unitary business
26 conducted in this State in the taxable year.

27 6. (a) In any case of two or more organizations, trades or
28 businesses, regardless of whether they are incorporated,
29 organized in the United States or affiliated, owned or
30 controlled, directly or indirectly, by the same interests, the

1 Secretary of Revenue may distribute, apportion or allocate gross
2 income, deductions, credits or allowances between or among the
3 organizations, trades or businesses, if the Secretary of Revenue
4 determines that the distribution, apportionment or allocation is
5 necessary to prevent evasion of taxes or clearly to reflect the
6 income of any of the organizations, trades or businesses.

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

12 (c) In making distributions, apportionment and allocations
13 under this section, the Secretary of Revenue shall generally
14 follow the rules, regulations and procedures of the Internal
15 Revenue Service in making audits under section 482 of the
16 Internal Revenue Code (26 U.S.C. § 482) consistent with this act
17 and 61 Pa. Code (relating to revenue).

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

24 * * *

25 (5) "Taxable year." [The] 1. Except as set forth in
26 subclause 2, the taxable year which the corporation, or any
27 consolidated group with which the corporation participates in
28 the filing of consolidated returns, actually uses in reporting
29 taxable income to the Federal Government[.], or which the
30 corporation would have used in reporting taxable income to the

1 Federal Government had it been required to report its taxable
2 income to the Federal Government. With regard to the tax imposed
3 by Article IV of this act (relating to the Corporate Net Income
4 Tax), the terms "annual year," "fiscal year," "annual or fiscal
5 year," "tax year" and "tax period" shall be the same as the
6 corporation's taxable year, as defined in this [paragraph]
7 subclause or subclause 2.

8 2. Each member of a unitary business shall have a common
9 taxable year for purposes of computing tax due under this
10 article. The taxable year for the purposes shall be the common
11 taxable year adopted, in a manner prescribed by the department,
12 by all members of a unitary business. The common taxable year
13 must be used by each member of the unitary business in the year
14 of adoption and each future year unless otherwise permitted by
15 the department.

16 * * *

17 (11) "Tax haven." Means:

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

21 2. Bermuda.

22 3. The Cayman Islands.

23 4. The Bailiwick of Jersey.

24 5. The Grand Duchy of Luxembourg.

25 (12) "Unitary business." A single economic enterprise that
26 is made up of separate parts of a single corporation, of a
27 commonly controlled group of corporations, or both, that are
28 sufficiently interdependent, integrated and interrelated through
29 their activities so as to provide a synergy and mutual benefit
30 that produces a sharing or exchange of value among them and a

1 significant flow of value to the separate parts. A unitary
2 business shall include only those parts and corporations which
3 may be included as a unitary business under the Constitution of
4 the United States.

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

8 1. The business income and apportionment factors of any
9 member incorporated in the United States or formed under the
10 laws of any state of the United States, the District of
11 Columbia, any territory or possession of the United States or
12 the Commonwealth of Puerto Rico.

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

17 3. The business income and apportionment factor of any
18 member which is a domestic international sales corporation as
19 described in sections 991, 992, 993 and 994 of the Internal
20 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 991, 992,
21 993 and 994); a foreign sales corporation as described in former
22 sections 921, 922, 923, 924, 925, 926 and 927 of the Internal
23 Revenue Code of 1986 (formerly 26 U.S.C. §§ 921, 922, 923, 924,
24 925, 926 and 927); or any member which is an export trade
25 corporation, as described in sections 970 and 971 of the
26 Internal Revenue Code of 1986 (26 U.S.C. §§ 970 and 971).

27 4. Any member not described in subclauses 1, 2 and 3 shall
28 include the portion of the member's business income derived from
29 or attributable to sources within the United States, as
30 determined under the Internal Revenue Code of 1986 without

1 regard to Federal treaties, and the member's apportionment
2 factors related to the business income.

3 5. Any member that is a "controlled foreign corporation" as
4 defined in section 957 of the Internal Revenue Code of 1986 (26
5 U.S.C. § 957), to the extent the business income of that member
6 is income defined in section 952 of the Internal Revenue Code of
7 1986 (26 U.S.C. § 952), Subpart F income, not excluding lower-
8 tier subsidiaries' distributions of the income which were
9 previously taxed, determined without regard to Federal treaties,
10 and the apportionment factors related to that income; any item
11 of income received by a controlled foreign corporation and the
12 apportionment factors related to the income shall be excluded if
13 the corporation establishes to the satisfaction of the Secretary
14 of Revenue that such income was subject to an effective rate of
15 income tax imposed by a foreign country greater than ninety per
16 cent of the maximum rate of tax specified in section 11 of the
17 Internal Revenue Code of 1986 (26 U.S.C. § 11). The effective
18 rate of income tax determination shall be based upon the
19 methodology set forth under 26 CFR 1.954-1 (relating to foreign
20 base company income).

21 6. The business income and apportionment factors of any
22 member that is not described in subclause 1, 2, 3, 4 and 5 and
23 that is doing business in a tax haven. The business income and
24 apportionment factors of a corporation doing business in a tax
25 haven shall be excluded if the corporation establishes to the
26 satisfaction of the Secretary of Revenue that its income was
27 subject to an effective rate of income tax imposed by a country
28 greater than ninety per cent of the maximum rate of tax
29 specified in section 11 of the Internal Revenue Code of 1986 (26
30 U.S.C. § 11).

1 (14) "Commonly controlled group." For a corporation, the
2 corporation is a member of a group of two or more corporations
3 and more than fifty per cent of the voting stock, or controlling
4 interest, of each member of the group is directly or indirectly
5 owned by a common owner or by common owners, either corporate or
6 noncorporate, or by one or more of the member corporations of
7 the group.

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

11 1. Income from an intercompany transaction between members
12 of a unitary business shall be deferred in a manner similar to
13 26 CFR 1.1502-13.

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

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

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

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

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

28 (d) any entity specified as an insurance company,
29 association or exchange in Article IX that would be subject to
30 taxation under Article IX were it transacting insurance business

1 in this State;

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

5 or

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

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

11 Section 22. Section 402(b) of the act, amended June 29, 2002
12 (P.L.559, No.89), is amended to read:

13 Section 402. Imposition of Tax.--* * *

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

Taxable Year	Tax Rate
(January 1, 1995, and each	
taxable year thereafter	9.99%]
<u>January 1, 1995, through taxable</u>	
<u>years ending December 31,</u>	
<u>2015</u>	<u>9.99%</u>
<u>January 1, 2016, to December 31,</u>	
<u>2016</u>	<u>5.99%</u>
<u>January 1, 2017, to December 31,</u>	
<u>2017</u>	<u>5.49%</u>
<u>January 1, 2018, to December 31,</u>	
<u>2018, and each taxable year</u>	
<u>thereafter</u>	<u>4.99%</u>

1 * * *

2 Section 23. Section 403 of the act is amended by adding
3 subsections to read:

4 Section 403. Reports and Payment of Tax.--* * *

5 (a.1) The following apply:

6 (1) Each corporation that is a member of a unitary business
7 that consists of two or more corporations, unless excluded by
8 the provisions of this article, shall file as part of a combined
9 annual report. The corporations of the unitary business shall
10 designate one member that is subject to tax under this article
11 to file the combined annual report and to act as agent on behalf
12 of all other members of the unitary business. Each corporation
13 that is a member of a unitary business shall be liable for its
14 tax liability under this article. The agent shall be liable for
15 the aggregate amount of the unitary business' tax liability
16 pursuant to this article.

17 (2) The oath or affirmation of the designated member's
18 president, vice president or other principal officer, and of its
19 treasurer or assistant treasurer shall constitute the oath or
20 affirmation of each corporation that is a member of that unitary
21 business.

22 (3) The designated member shall transmit to the department
23 upon a form prescribed by the department, an annual combined
24 report under oath or affirmation of the designated member's
25 president, vice president or other principal officer, and of the
26 designated treasurer or assistant treasurer.

27 (4) In addition to the information required in subsection

28 (a), the report shall include:

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

30 (ii) Necessary data, both in the aggregate and for each

1 corporation of the unitary business, that includes the
2 computation of tax liability for each corporation of the unitary
3 business.

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

5 (a.2) A corporation that is a member of a unitary business
6 of two or more corporations must compute the corporation's
7 business income and apportionment factors on a water's-edge
8 basis.

9 * * *

10 Section 24. Section 404 of the act is amended to read:

11 Section 404. Consolidated Reports.--The department shall not
12 permit any corporation owning or controlling, directly or
13 indirectly, any of the voting capital stock of another
14 corporation or of other corporations, subject to the provisions
15 of this article, to make a consolidated report[, showing the
16 combined net income].

17 Section 25. Sections 701, 701.1 and 701.4(3)(xiii) of the
18 act, amended July 9, 2013 (P.L.270, No.52), are amended to read:

19 Section 701. Imposition of Tax.--(a) Every institution
20 doing business in this Commonwealth shall, on or before March 15
21 in each and every year, make to the Department of Revenue a
22 report in writing, verified as required by law, setting forth
23 the full number of shares of the capital stock subscribed for or
24 issued, as of the preceding January 1, by such institution, and
25 the taxable amount of such shares of capital stock determined
26 pursuant to section 701.1.

27 (b) It shall be the duty of the Department of Revenue to
28 assess such shares for the calendar years beginning January 1,
29 1971 through January 1, 1983, at the rate of fifteen mills and
30 for the calendar years beginning January 1, 1984 through January

1 1, 1988, at the rate of one and seventy-five one thousandths per
2 cent and for the calendar year beginning January 1, 1989, at the
3 rate of 10.77 per cent and for the calendar years beginning
4 January 1, 1990, [through January 1, 2013,] and each year
5 thereafter at the rate of 1.25 per cent [and for the calendar
6 year beginning January 1, 2014, and each calendar year
7 thereafter at the rate of 0.89 per cent] upon each dollar of
8 taxable amount thereof, the taxable amount of each share of
9 stock to be ascertained and fixed pursuant to section 701.1, and
10 dividing this amount by the number of shares.

11 (c) It shall be the duty of every institution doing business
12 in this Commonwealth, at the time of making every report
13 required by this section, to compute the tax and to pay the
14 amount of said tax to the State Treasurer, through the
15 Department of Revenue either from its general fund, or from the
16 amount of said tax collected from its shareholders. Provided,
17 That in case any institution shall collect, annually, from the
18 shareholders thereof said tax, according to the provisions of
19 this article, that have been subscribed for or issued, and pay
20 the same into the State Treasury, through the Department of
21 Revenue, the shares, and so much of the capital and profits of
22 such institution as shall not be invested in real estate, shall
23 be exempt from local taxation under the laws of this
24 Commonwealth; and such institution shall not be required to make
25 any report to the local assessor or county commissioners of its
26 personal property owned by it in its own right for purposes of
27 taxation and shall not be required to pay any tax thereon.

28 Section 701.1. Ascertainment of Taxable Amount; Exclusion of
29 United States Obligations.--(a) The taxable amount of shares
30 shall be ascertained and fixed by the book value of total bank

1 equity capital as determined by the Reports of Condition at the
2 end of the preceding calendar year in accordance with the
3 requirements of the Board of Governors of the Federal Reserve
4 System, the Comptroller of the Currency, the Federal Deposit
5 Insurance Corporation or other applicable regulatory authority.
6 If an institution does not file the Reports of Condition, book
7 values shall be determined by generally accepted accounting
8 principles as of the end of the preceding calendar year.

9 (b) A deduction for the value of United States obligations
10 shall be provided from the taxable amount of shares in an amount
11 equal to the same percentage of total bank equity capital as the
12 book value of obligations of the United States bears to the book
13 value of the total assets[, except that, for the value of shares
14 reported on tax returns due on March 15, 2008, and thereafter].
15 In computing the deduction for United States obligations, any
16 goodwill recorded as a result of the use of purchase accounting
17 for an acquisition or combination as described in this section
18 and occurring after June 30, 2001, [may] shall be subtracted
19 from the book value of total bank equity capital and disregarded
20 in determining the deduction provided for obligations of the
21 United States. For purposes of this article, United States
22 obligations shall be obligations coming within the scope of 31
23 U.S.C. § 3124 (relating to exemption from taxation). [In the
24 case of institutions which do not file such Reports of
25 Condition, book values shall be determined by generally accepted
26 accounting principles as of the end of the preceding calendar
27 year.]

28 (b.1) A deduction for goodwill shall be provided from the
29 taxable amount of shares in an amount equal to the value of
30 goodwill recorded as a result of the use of purchase accounting

1 for an acquisition or combination as described in this section
2 and occurring after June 30, 2001.

3 (c) For purposes of this section:

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

8 (2) if there is a combination of two or more institutions
9 into one, the book values and deductions for United States
10 obligations from the Reports of Condition of the constituent
11 institutions shall be combined. For purposes of this section, a
12 combination shall include any acquisition required to be
13 accounted for by using the purchase method in accordance with
14 generally accepted accounting principles or a statutory merger
15 or consolidation.

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

23 * * *

24 (3) The receipts factor is a fraction, the numerator of
25 which is total receipts located in this Commonwealth and the
26 denominator of which is the total receipts located in all
27 states. The method of calculating receipts for purposes of the
28 denominator shall be the same as the method used in determining
29 receipts for purposes of the numerator. The location of receipts
30 shall be determined as follows:

1 * * *

2 (xiii) The following shall apply to receipts from an
3 institution's investment assets and activity and trading assets
4 and activity:

5 (A) Interest, dividends, net gains equal to zero or above,
6 and other income from investment assets and activities and from
7 trading assets and activities shall be included in the receipts
8 factor. Investment assets and activities and trading assets and
9 activities shall include investment securities, trading account
10 assets, Federal funds, securities purchased and sold under
11 agreements to resell or repurchase, options, futures contracts,
12 forward contracts and notional principal contracts such as
13 swaps, equities and foreign currency transactions. For the
14 investment and trading assets and activities under subclauses
15 (I) and (II), the receipts factor shall include the amounts
16 under subclauses (I) and (II). The following shall apply:

17 (I) The receipts factor shall include the amount by which
18 interest from Federal funds sold and securities purchased under
19 resale agreements exceeds interest expense on Federal funds
20 purchased and securities sold under repurchase agreements.

21 (II) The receipts factor shall include the amount by which
22 interest, dividends, gains and other income from trading assets
23 and activities, including assets and activities in the matched
24 book, in the arbitrage book and foreign currency transactions,
25 exceed amounts paid in lieu of interest, amounts paid in lieu of
26 dividends and losses from the assets and activities.

27 (B) The numerator of the receipts factor shall include
28 [interest, dividends, net gains, equal to zero or above, and
29 other income from investment assets and activities and from
30 trading assets and activities] the receipts under clause (A)

1 that are attributable to this Commonwealth using one of the
2 following alternative methods:

3 (I) Method 1. The numerator shall be determined by
4 multiplying the total amount of receipts [from trading assets
5 and activities] under clause (A) by a fraction, the numerator of
6 which is the total amount of all other receipts attributable to
7 this Commonwealth and the denominator of which is the total
8 amount of all other receipts.

9 (II) Method 2. The numerator shall be determined by
10 multiplying the total amount of receipts under clause (A) by a
11 fraction, the numerator of which is the average value of the
12 assets which generate the receipts which are properly assigned
13 to a regular place of business of the institution within this
14 Commonwealth and the denominator of which is the average value
15 of all such assets.

16 (C) Upon the election by the institution to use one of the
17 methods under clause (B), the institution shall use the method
18 on all subsequent returns unless the institution receives prior
19 permission from the Department of Revenue to use a different
20 method.

21 (D) The following shall apply:

22 (I) An institution electing to use Method 2 shall have the
23 burden of proving that an investment asset or activity or
24 trading asset or activity was properly assigned to a regular
25 place of business outside of this Commonwealth by demonstrating
26 that the day-to-day decisions regarding the asset or activity
27 occurred at a regular place of business outside this
28 Commonwealth.

29 (II) If the day-to-day decisions regarding an investment
30 asset or activity or trading asset or activity occur at more

1 than one regular place of business and one regular place of
2 business is in this Commonwealth and one regular place of
3 business is outside this Commonwealth, the asset or activity
4 shall be considered to be located at the regular place of
5 business of the institution where the investment or trading
6 policies or guidelines with respect to the asset or activity are
7 established.

8 (III) Unless the institution demonstrates to the contrary,
9 the investment or trading policies and guidelines under
10 subclause (II) shall be presumed to be established at the
11 commercial domicile of the institution.

12 [(E) Receipts apportioned under this subparagraph shall be
13 separately apportioned for:

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

16 (II) interest from Federal funds sold and purchased and from
17 securities purchased under resale agreements and securities sold
18 under repurchase agreements; and

19 (III) interest, dividends, gains and other income from
20 trading assets and activities, including assets and activities
21 in the matched book, in the arbitrage book and foreign currency
22 transactions.]

23 * * *

24 Section 26. The definitions of "doing business in this
25 Commonwealth" and "receipts" in section 701.5 of the act,
26 amended July 9, 2013 (P.L.270, No.52), are amended to read:

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

1 * * *

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

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

8 (i) The institution has an office or branch in this
9 Commonwealth.

10 (ii) One or more employees, representatives, independent
11 contractors or agents of the institution conduct business
12 activities of the institution in this Commonwealth.

13 (iii) A person, including an employee, representative,
14 independent contractor, agent or affiliate of the institution,
15 or an employee, representative, independent contractor or agent
16 of an affiliate of the institution, directly or indirectly
17 solicits business in this Commonwealth by or for the benefit of
18 the institution, through:

19 (A) person-to-person contact, mail, telephone or other
20 electronic means; or

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

23 (iv) The institution owns, leases or uses real or personal
24 property in this Commonwealth to conduct its business
25 activities.

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

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

30 (vii) The institution has a physical presence in this

1 Commonwealth for a period of more than one day during the tax
2 year or conducts an activity sufficient to create a nexus in
3 this Commonwealth for tax purposes under the Constitution of the
4 United States.

5 (2) The term shall not include:

6 (i) The use by the institution of a professional performing
7 a service on behalf of the institution in this Commonwealth if
8 the services are not significantly associated with the
9 institution's ability to establish and maintain a market in this
10 Commonwealth.

11 (ii) The mere use of financial intermediaries in this
12 Commonwealth by an institution for the processing or transfer of
13 checks, credit card receivables, commercial paper and similar
14 items.

15 * * *

16 "Receipts." [As follows:

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

20 (2) If consolidated returns are filed with the Federal
21 Government, an item that would be included in taxable income
22 returned to and ascertained by the Federal Government if a
23 separate return had been made to the Federal Government by the
24 institution, including the taxable income of a subsidiary of the
25 institution that are disregarded entities for purposes of
26 Federal taxation.] The total of all items of income reported on
27 the income statement of the institution's Reports of Condition
28 or, if the institution does not file a Reports of Condition, on
29 an income statement completed in accordance with generally
30 accepted accounting principles.

1 * * *

2 Section 27. Sections 1206 and 1206.1 of the act, amended
3 October 9, 2009 (P.L.451, No.48), are amended to read:

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

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

9 (1) A person who possesses cigarettes on which the tax
10 imposed by section 1206 has been paid as of the effective date
11 of this section shall pay an additional tax at a rate of [one
12 and twenty-five hundredths] five cents per cigarette. The tax
13 shall be paid and reported on a form prescribed by the
14 department within ninety days of the effective date of this
15 section.

16 (2) On or after the effective date of this paragraph, a
17 person that possesses little cigars in a package which is
18 similar to a package of cigarettes other than little cigars and
19 which contains twenty to twenty-five little cigars shall pay a
20 tax at the rate of [eight] five cents per little cigar. The tax
21 shall be paid and reported on a form prescribed by the
22 department within ninety days of the effective date of this
23 paragraph.

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

30 (b) If a cigarette dealer fails to file the report required

1 by subsection (a) or fails to pay the tax imposed by subsection
2 (a), the department may, in addition to the interest and
3 penalties provided in section 1278, do any of the following:

4 (1) Impose an administrative penalty equal to the amount of
5 tax evaded or not paid. The penalty shall be added to the tax
6 evaded or not paid and assessed and collected at the same time
7 and in the same manner as the tax.

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

9 (c) In addition to any penalty imposed under subsection (b),
10 a person who wilfully omits, neglects or refuses to comply with
11 a duty imposed under subsection (a) commits a misdemeanor and
12 shall, upon conviction, be sentenced to pay a fine of not less
13 than two thousand five hundred dollars (\$2,500) nor more than
14 five thousand dollars (\$5,000), to serve a term of imprisonment
15 not to exceed thirty days or both.

16 Section 28. The act is amended by adding an article to read:

17 ARTICLE XII-A

18 TOBACCO PRODUCTS TAX

19 Section 1201-A. Definitions.

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

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

24 "Cigarette." As defined in section 1201.

25 "Consumer." An individual who purchases tobacco products for
26 personal use and not for resale.

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

29 "Dealer." A wholesaler or retailer. Nothing in this article
30 shall preclude any person from being a wholesaler or retailer,

1 provided the person meets the requirements for a license in each
2 category of dealer.

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

4 "Electronic cigarettes." As follows:

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

9 (2) The term includes:

10 (i) A device as described in paragraph (1),
11 notwithstanding whether the device is manufactured,
12 distributed, marketed or sold as an e-cigarette, e-cigar
13 and e-pipe or under any other product, name or
14 description.

15 (ii) A liquid or substance placed in an electronic
16 cigarette.

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

18 "Person." An individual, unincorporated association,
19 company, corporation, joint stock company, group, agency,
20 syndicate, trust or trustee, receiver, fiduciary, partnership,
21 conservator, any political subdivision of the Commonwealth or
22 any other state. If used in any of the provisions of this
23 article prescribing or imposing penalties, the term "person" as
24 applied to a partnership, unincorporated association or other
25 joint venture, shall mean the partners or members of the
26 partnership, unincorporated association or other joint venture,
27 and as applied to a corporation, shall mean each officer and
28 director of the corporation.

29 "Purchase price." The total value of anything paid or
30 delivered, or promised to be paid or delivered, money or

1 otherwise, in complete performance of a sale or purchase,
2 without any deduction on account of the cost or value of the
3 property sold, cost or value of transportation, cost or value of
4 labor or service; interest or discount paid or allowed after the
5 sale is consummated, any other taxes imposed by the Commonwealth
6 or any other expense.

7 "Retailer." A person that purchases or receives tobacco
8 products from any source for the purpose of sale to a consumer,
9 or who owns, leases or otherwise operates one or more vending
10 machines for the purpose of sale of tobacco products to the
11 ultimate consumer. The term includes a vending machine operator
12 or a person that buys, sells, transfers or deals in tobacco
13 products and is not licensed as a tobacco products wholesaler
14 under this article.

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

19 "Sale." Any transfer of ownership, custody or possession of
20 tobacco products for consideration; any exchange, barter or
21 gift; or any offer to sell or transfer the ownership, custody or
22 possession of tobacco products for consideration.

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

24 "Tobacco products." Cigars, cigarillos, cheroots, stogies,
25 periques, granulated, plug cut, crimp cut, ready rubbed and
26 other smoking tobacco, roll-your-own tobacco, snuff, dry snuff,
27 snuff flour, cavendish, plug and twist tobacco, fine-cut and
28 other chewing tobaccos, shorts, refuse scraps, clippings,
29 cuttings and sweepings of tobacco and other kinds and forms of
30 tobacco, prepared in such manner as to be suitable for chewing

1 or ingesting or for smoking in a pipe or otherwise, or both for
2 chewing and smoking, including e-cigarettes. The term does not
3 include any item subject to the tax under section 1202.

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

11 "Vending machine operator." A person who places or services
12 one or more tobacco product vending machines whether owned,
13 leased or otherwise operated by the person at locations from
14 which tobacco products are sold to the consumer. The owner or
15 tenant of the premises upon which a vending machine is placed
16 shall not be considered a vending machine operator if the
17 owner's or tenant's sole remuneration therefrom is a flat rental
18 fee or commission based upon the number or value of tobacco
19 products sold from the machine, unless the owner or tenant
20 actually owns the vending machine or leases the vending machine
21 under an agreement whereby any profits from the sale of the
22 tobacco products directly inure to the owner's or tenant's
23 benefit.

24 "Wholesaler." A person engaged in the business of selling
25 tobacco products that receives, stores, sells, exchanges or
26 distributes tobacco products to retailers or other wholesalers
27 in this Commonwealth or retailers who purchase from a
28 manufacturer or from another wholesaler who has not paid the tax
29 imposed by this article.

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

1 (a) Imposition.--A tobacco products tax is hereby imposed on
2 the dealer, manufacturer or any person at the time the tobacco
3 product is first sold to a retailer in this Commonwealth at the
4 rate of 40% on the purchase price charged to the retailer for
5 the purchase of any tobacco product. The tax shall be collected
6 from the retailer by whomever sells the tobacco product to the
7 retailer and remitted to the department. Any person required to
8 collect this tax shall separately state the amount of tax on an
9 invoice or other sales document.

10 (b) Retailer.--If the tax is not collected by the seller
11 from the retailer, the tax is imposed on the retailer at the
12 time of purchase at the same rate as in subsection (a) based on
13 the retailer's purchase price of the tobacco products. The
14 retailer shall remit the tax to the department.

15 (c) Unclassified importer.--The tax is imposed on an
16 unclassified importer at the time of purchase at the same rate
17 as in subsection (a) based on the unclassified importer's
18 purchase price of the tobacco products. The unclassified
19 importer shall remit the tax to the department.

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

22 (1) are exported for sale outside this Commonwealth; or

23 (2) are not subject to taxation by the Commonwealth

24 pursuant to any laws of the United States.

25 Section 1203-A. Floor tax.

26 (a) Payment.--Any retailer that, as of the effective date of
27 this article, possesses tobacco products subject to the tax
28 imposed by section 1202-A, shall pay the tax on the tobacco
29 products in accordance with the rates specified in section 1202-
30 A. The tax shall be paid and reported on a form prescribed by

1 the department within 90 days of the effective date of this
2 section.

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

8 (1) Impose an administrative penalty equal to the amount
9 of tax evaded or not paid. The penalty shall be added to the
10 tax evaded or not paid and assessed and collected at the same
11 time and in the same manner as the tax.

12 (2) Suspend, revoke or refuse to issue the retailer's
13 license.

14 (c) Criminal penalty.--In addition to any penalty imposed
15 under subsection (b), a person that willfully omits, neglects or
16 refuses to comply with a duty imposed under subsection (a)
17 commits a misdemeanor and shall, if convicted, be sentenced to
18 pay a fine of not less than \$2,500 nor more than \$5,000, to
19 serve a term of imprisonment not to exceed 30 days, or both.
20 Section 1204-A. Remittance of tax to department.

21 Wholesalers, retailers, unclassified importers and
22 manufacturers shall file monthly reports on a form prescribed by
23 the department by the 20th day of the month following the sale
24 or purchase of tobacco products from any other source on which
25 the tax levied by this article has not been paid. The tax is due
26 at the time the report is due. The department may required the
27 filing of reports and payment of tax on a less frequent basis at
28 its discretion.

29 Section 1205-A. (Reserved).

30 Section 1206-A. Procedures for claiming refund.

1 A claim for a refund of tax imposed by this article under
2 section 3003.1 and Article XXVII shall be in the form and
3 contain the information prescribed by the department by
4 regulation.

5 Section 1207-A. Sales or possession of tobacco product when tax
6 not paid.

7 (a) Sales or possession.--Any person who sells or possesses
8 any tobacco product for which the proper tax has not been paid
9 commits a summary offense and shall, upon conviction, be
10 sentenced to pay costs of prosecution and a fine of not less
11 than \$100 not more than \$1,000 or to imprisonment for not more
12 than 60 days, or both, at the discretion of the court. Any
13 tobacco products purchased from a wholesaler properly licensed
14 under this article shall be presumed to have the proper taxes
15 paid.

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

24 Section 1208-A. Assessment.

25 The department is authorized to make the inquiries,
26 determinations and assessments of the tax, including interest,
27 additions and penalties, imposed by this article.

28 Section 1209-A. (Reserved).

29 Section 1210-A. (Reserved).

30 Section 1211-A. Failure to file return.

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

4 Section 1212-A. False or fraudulent return.

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

8 Section 1213-A. Extension of limitation period.

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

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

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

25 (b) Examination.--The department is authorized to examine
26 the books and records, the stock of tobacco products and the
27 premises and equipment of any taxpayer in order to verify the
28 accuracy of the payment of the tax imposed by this article. The
29 person subject to an examination shall give to the department or
30 its duly authorized representative, the means, facilities and

1 opportunity for the examination. Willful refusal to cooperate
2 with or permit an examination to the satisfaction of the
3 department shall be sufficient grounds for the suspension or
4 revocation of a taxpayer's license. In addition, a person who
5 willfully refuses to cooperate with or permit an examination to
6 the satisfaction of the department commits a misdemeanor and
7 shall, upon conviction, be sentenced to pay costs of prosecution
8 and a fine of \$500 or to imprisonment for not more than one
9 year, or both, at the discretion of the court.

10 (c) Records; dealer or manufacturer.--A dealer or
11 manufacturer shall keep and maintain for a period of four years
12 records in the form prescribed by the department. The records
13 shall be maintained at the location for which the license is
14 issued.

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

17 (e) Records; manufacturer or wholesaler.--A manufacturer or
18 wholesaler located or doing business in this Commonwealth who
19 sells tobacco products to a wholesale license holder in this
20 Commonwealth shall keep records showing:

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

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

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

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

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

28 (6) The name of the common carrier.

29 (f) Manufacturer or wholesaler.--A manufacturer or
30 wholesaler shall file with the department, on or before the 20th

1 of each month, a report showing the information listed in
2 subsection (e) for the previous month.

3 Section 1215-A. Other violations; peace officers; fines,
4 Sections 1278, 1279, 1280 and 1291 are incorporated by
5 reference into and shall apply to the tax imposed by this
6 article.

7 Section 1216-A. Sales reporting.

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

12 Section 1217-A. (Reserved).

13 Section 1218-A. (Reserved).

14 Section 1219-A. Records of shipments and receipts of tobacco
15 products required.

16 The department may, in its discretion, require reports from
17 any common or contract carrier who transports tobacco products
18 to any point or points within this Commonwealth, and from any
19 bonded warehouseman or bailee who has in the possession of the
20 warehouseman or bailee any tobacco products. The reports shall
21 contain the information concerning shipments of tobacco products
22 that the department determines to be necessary for the
23 administration of this article. All common and contract
24 carriers, bailees and warehousemen shall permit the examination
25 by the department or its authorized agents of any records
26 relating to the shipment or receipt of tobacco products.

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

28 (a) Prohibition.--No person, unless all sales of tobacco
29 products are exempt from Pennsylvania tobacco products tax,
30 shall sell, transfer or deliver any tobacco products in this

1 Commonwealth without first obtaining the proper license provided
2 for in this article.

3 (b) Application.--An applicant for a dealer's or
4 manufacturer's license shall complete and file an application
5 with the department. The application shall be in the form and
6 contain information prescribed by the department and shall set
7 forth truthfully and accurately the information desired by the
8 department. If the application is approved, the department shall
9 license the dealer or manufacturer for a period of one year and
10 the license may be renewed annually thereafter.

11 Section 1221-A. Licensing of manufacturers.

12 Any manufacturer doing business within this Commonwealth
13 shall first obtain a license to sell tobacco products by
14 submitting an application to the department containing the
15 information requested by the department and designating a
16 process agent. If a manufacturer designates no process agent,
17 the manufacturer shall be deemed to have made the Secretary of
18 State its agent for the service of process in this Commonwealth.

19 Section 1222-A. Licensing of wholesalers.

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

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

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

26 (3) The applicant, or any shareholder controlling more
27 than 10% of the stock if the applicant is a corporation or
28 any officer or director if the applicant is a corporation,
29 shall not have been convicted of any crime involving moral
30 turpitude.

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

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

7 (6) The applicant shall not have violated any provision
8 of this article.

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

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

16 Section 1223-A. Licensing of retailers.

17 Applicants for retail license or renewal of that license
18 shall meet the following requirements:

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

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

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

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

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

1 Section 1224-A. License for tobacco products vending machines.

2 Each tobacco products vending machine shall have a current
3 retail license which shall be conspicuously and visibly placed
4 on the machine. There shall be conspicuously and visibly placed
5 on every tobacco products vending machine the name and address
6 of the owner and the name and address of the operator.

7 Section 1225-A. License fees and issuance and display of
8 license.

9 (a) At the time of making any application or license renewal
10 application:

11 (1) An applicant for a tobacco products manufacturers
12 license shall pay the department a license fee of \$1,500.

13 (2) An applicant for a wholesale tobacco products
14 dealer's license shall pay to the department a license fee of
15 \$1,500.

16 (3) An applicant for a retail tobacco products dealer's
17 license shall pay to the department a license fee of \$25.

18 (4) An applicant for a vending machine tobacco products
19 dealer's license shall pay to the department a license fee of
20 \$25.

21 (b) Proration.--Fees shall not be prorated.

22 (c) Issuance and display.--On approval of the application
23 and payment of the fees, the department shall issue the proper
24 license which must be conspicuously displayed at the location
25 for which it has been issued.

26 Section 1226-A. Electronic filing.

27 The department may at its discretion require that any or all
28 returns, reports or registrations that are required to be filed
29 under this article be filed electronically. Failure to
30 electronically file any return, report, registration or other

1 information the department may direct to be filed electronically
2 shall subject the taxpayer to a penalty of 5% of the tax due on
3 the return, up to a maximum of \$1,000, but not less than \$10.
4 This penalty shall be assessed at any time and collected in the
5 manner provided in this article. This penalty shall be in
6 addition to any civil penalty imposed in this article for
7 failure to furnish information or file a return. The criminal
8 penalty for failure to file a return electronically shall be the
9 same as the criminal penalty for failure to furnish information
10 or file a return under this article.

11 Section 1227-A. Expiration of license.

12 (a) Expiration.--A license shall expire on the last day of
13 June next succeeding the date upon which it was issued unless
14 the department at an earlier date suspends, surrenders or
15 revokes the license.

16 (b) Violation.--After the expiration date of the license or
17 sooner if the license is suspended, surrendered or revoked, it
18 shall be illegal for any dealer to engage directly or indirectly
19 in the business heretofore conducted by the dealer for which the
20 license was issued. Any licensee who shall, after the expiration
21 date of the license, engage in the business theretofore
22 conducted by the licensee either by way of purchase, sale,
23 distribution or in any other manner directly or indirectly
24 engaged in the business of dealing with tobacco products for
25 profit shall be in violation of this article and be subject to
26 the penalties provided in this article.

27 Section 1228-A. Administration powers and duties.

28 (a) Department.--The administration of this article is
29 hereby vested in the department. The department shall adopt
30 rules and regulations for the enforcement of this article. The

1 department may impose fees as may be necessary to cover the
2 costs incurred in administering this section.

3 (b) Joint administration.--The department is authorized to
4 jointly administer this article with other provisions of this
5 act, including joint reporting of information, forms, returns,
6 statements, documents or other information submitted to the
7 department.

8 Section 1229-A. Sales without license.

9 (a) Penalty.--Any person who shall, without being the holder
10 of a proper unexpired dealer's license, engage in purchasing,
11 selling, distributing or in any other manner directly or
12 indirectly engaging in the business of dealing with tobacco
13 products for profit commits a summary offense and shall, upon
14 conviction, be sentenced to pay costs of prosecution and a fine
15 of not less than \$250 nor more than \$1,000, or to imprisonment
16 for not more than 30 days, or both, at the discretion of the
17 court.

18 (b) Prima facie evidence.--Open display of tobacco products
19 in any manner shall be prima facie evidence that the person
20 displaying such tobacco products is directly or indirectly
21 engaging in the business of dealing with tobacco products for
22 profit.

23 Section 1230-A. Violations and penalties.

24 (a) Suspension.--The license of any person who violates this
25 article may be suspended after due notice and opportunity for a
26 hearing for a period of not less than five days or more than 30
27 days for a first violation and shall be revoked or suspended for
28 any subsequent violation.

29 (b) Fine.--In addition to the provisions of subsection (a),
30 upon adjudication of a first violation, the person shall be

1 fined not less than \$2,500 nor more than \$5,000. For subsequent
2 violations, the person shall, upon adjudication thereof, be
3 fined not less than \$5,000 nor more than \$15,000.

4 (c) Civil penalty.--A person who violates section 1214-A
5 (b), (c), or (d), or 1225-A(c), shall be subject to a civil
6 penalty not to exceed \$300 per violation but shall not be
7 subject to subsections (a) and (b).

8 Section 1231-A. Property rights.

9 (a) Incorporation.--Subject to subsection (b), section 1285
10 is incorporated by reference into and shall apply to this
11 article.

12 (b) Alterations.--

13 (1) References in section 1285 to cigarettes shall apply
14 to tobacco products in this article.

15 (2) References in section 1285 to 2,000 or more
16 unstamped cigarettes shall apply to tobacco products worth at
17 least \$500 in this article.

18 (3) References in section 1285 to more than 200
19 unstamped cigarettes shall apply to tobacco products worth at
20 least \$50 in this article.

21 Section 1232-A. Sample of tobacco products.

22 (a) Samples.--The department shall, by regulation, govern
23 the receipt, distribution of and payment of tax on sample
24 tobacco products issued for free distribution.

25 (b) Construction.--Nothing in this article or the
26 regulations promulgated under this article shall prohibit the
27 bringing into this Commonwealth by a manufacturer samples of
28 tobacco products to be delivered and distributed only through
29 licensed dealers or the manufacturers or their sales
30 representatives. The tax shall be paid by the manufacturer

1 provided all such packs bear the legend "all applicable State
2 taxes have been paid." Under no circumstances shall any untaxed
3 tobacco products be sold within this Commonwealth.

4 Section 1233-A. Labeling and packaging.

5 It shall be unlawful to knowingly possess, sell, give,
6 transfer or deliver to any person, any tobacco product where the
7 packaging of which has been modified or altered by a person
8 other than the original manufacturer. Modification or alteration
9 shall include the placement of a sticker, writing or mark to
10 cover information on the packages. For purposes of this section,
11 a tobacco product package shall not be construed to have been
12 modified or altered by a person other than the manufacturer if
13 the most recent modification or alteration was made by the
14 manufacturer or person authorized by the manufacturer and
15 approved by the department.

16 Section 1234-A. Information exchange.

17 The department is authorized to exchange information with any
18 other Federal, State or local enforcement agency for purposes of
19 enforcing this article.

20 Section 29. Section 3003.3(d) of the act, amended October
21 18, 2006 (P.L.1149, No.119), is amended and the section is
22 amended by adding a subsection to read:

23 Section 3003.3. Underpayment of Estimated Tax.---* * *

24 (d) Notwithstanding the provisions of the preceding
25 subsections and except as provided under subsection (d.1),
26 interest with respect to any underpayment of any installment of
27 estimated tax shall not be imposed if the total amount of all
28 payments of estimated tax made on or before the last date
29 prescribed for the payment of such installment equals or exceeds
30 the amount which would have been required to be paid on or

1 before such date if the estimated tax were an amount equal to
2 the tax computed at the rates applicable to the taxable year,
3 including any minimum tax imposed, but otherwise on the basis of
4 the facts shown on the report of the taxpayer for, and the law
5 applicable to, the safe harbor base year, adjusted for any
6 changes to sections 401, 601, 602 and 1101 enacted for the
7 taxable year, if a report showing a liability for tax was filed
8 by the taxpayer for the safe harbor base year. If the total
9 amount of all payments of estimated tax made on or before the
10 last date prescribed for the payment of such installment does
11 not equal or exceed the amount required to be paid per the
12 preceding sentence, but such amount is paid after the date the
13 installment was required to be paid, then the period of
14 underpayment shall run from the date the installment was
15 required to be paid to the date the amount required to be paid
16 per the preceding sentence is paid. Provided, that if the total
17 tax for the safe harbor base year exceeds the tax shown on such
18 report by ten per cent or more, the total tax adjusted to
19 reflect the current tax rate shall be used for purposes of this
20 subsection. In the event that the total tax for the safe harbor
21 base year exceeds the tax shown on the report by ten per cent or
22 more, interest resulting from the utilization of such total tax
23 in the application of the provisions of this subsection shall
24 not be imposed if, within forty-five days of the mailing date of
25 each assessment, payments are made such that the total amount of
26 all payments of estimated tax equals or exceeds the amount which
27 would have been required to be paid on or before such date if
28 the estimated tax were an amount equal to the total tax adjusted
29 to reflect the current tax rate. In any case in which the
30 taxable year for which an underpayment of estimated tax may

1 exist is a short taxable year; in determining the tax shown on
2 the report or the total tax for the safe harbor base year, the
3 tax will be reduced by multiplying it by the ratio of the number
4 of installment payments made in the short taxable year to the
5 number of installment payments required to be made for the full
6 taxable year.

7 (d.1) With respect to any underpayment of an installment of
8 estimated corporate net income tax for any tax year that begins
9 in year 2016 or 2017 by a corporation required to file a
10 combined report under section 403(a.1)(1), interest shall not be
11 imposed if the total amount of each payment of estimated
12 corporate net income tax made on or before the last date
13 prescribed for the payment of the installment equals or exceeds
14 the amount which would have been required to be paid on or
15 before the date if the estimated tax were an amount equal to the
16 combined tax shown on the reports of all the members of the
17 unitary business for the safe harbor base year computed at the
18 rate applicable to the taxable year.

19 Section 30. Notwithstanding any other provision of law, any
20 additional revenue collected under the act of June 5, 1991
21 (P.L.9, No.6), known as the Pennsylvania Intergovernmental
22 Cooperation Authority Act for Cities of the First Class, that is
23 generated by the amendment of Article II of the act shall be
24 transferred to a city of the first class in accordance with the
25 act of December 18, 1984 (P.L.1005, No.205), known as the
26 Municipal Pension Plan Funding Standard and Recovery Act.

27 Section 31. For tax on services defined in section 201(dd),
28 (eee) and (fff) of the act, if contracts for the sale of the
29 services have been entered into prior to the effective date of
30 this section, the tax under Article II of the act shall be ..

1. prorated as follows:

2 (1) Determine the total value of the contract.

3 (2) Multiply the total value of the contract by the
4 ratio of:

5 (i) the remaining term of the contract on the
6 effective date of this section; to

7 (ii) the total term of the contract.

8 Section 32. Notwithstanding the provisions of the act of
9 December 31, 1965 (P.L.1257, No.511), known as The Local Tax
10 Enabling Act, the amendments to Article II contained in this act
11 shall not preempt any tax imposed by a unit of local government
12 as of the effective date of this act unless specifically
13 provided in this act.

14 Section 33. The amendment of the following provisions shall
15 apply to taxes imposed under Article VII of the act for calendar
16 years beginning after December 31, 2013:

17 (1). Section 701(b) of the act.

18 (2) Section 701.1 of the act.

19 (3) Section 701.4(3)(xiii) of the act.

20 (4) The definitions of "doing business in this
21 Commonwealth" and "receipts" in section 701.5 of the act.

22 Section 34. The amendment of section 304 of the act shall
23 apply to tax years beginning after December 31, 2014.

24 Section 35. The amendment or addition of the following
25 provisions shall apply to taxable years beginning after December
26 31, 2015:

27 (1) The following provisions of section 401 of the act:

28 (i) Clause (3):

29 (A) 1(a) and (t),

30 (B) 2(a)(16.1) and (f).

1 (C) 4(c) (1) (A), (2) (B) (VII), (3) and (4).

2 (ii) Clauses (5), (11), (12), (13), (14), (15) and
3 (16).

4 (2) Section 402(b) of the act.

5 (3) Section 403(a.1) and (a.2) of the act.

6 (4) Section 404 of the act.

7 (5) Section 3003.3(d) and (d.1) of the act.

8 Section 36. This act shall take effect as follows:

9 (1) The following provisions shall take effect
10 immediately:

11 (i) This section.

12 (ii) The amendment or addition of sections 302, 303,
13 304, 360, 701, 701.1 and 701.4(3) (xiii) and the
14 definitions of "doing business in this Commonwealth" and
15 "receipts" in section 701.5 of the act.

16 (2) The amendment of sections 302 and 303 of the act
17 shall take effect July 1, 2015.

18 (3) The following provisions shall take effect October
19 1, 2015, or immediately, whichever is later:

20 (i) Section 32 of this act.

21 (ii) The amendment or addition of sections 1206,
22 1206.1 and Article XII-A of the act.

23 (4) The following provisions shall take effect January
24 1, 2016, or immediately, whichever is later:

25 (i) Sections 30 and 31 of this act.

26 (ii) The amendment or addition of sections 201(a);
27 (b), (c), (f), (g), (i), (k), (m), (o), (w), (y), (dd),
28 (ll), (pp), (qq), (tt), (eee) and (fff), 202, 203, 204
29 heading, (4), (5), (11), (13), (17), (29), (30), (31),
30 (32), (33), (34), (35), (36), (37), (38), (39), (41),

1 (45), (50), (53), (55), (57), (58), (61), (63), (64),
2 (65), (66), (70), (71), (72) (73), (74), (75) and (76),
3 206, 208, 209, 210, 217, 225, 227, 233, 247.1(b), 252,
4 262, 265, 266(c), 268(b) and (c), 271(d) and 281.3 of the
5 act.

6 (5) The remainder of this act shall take effect July 1,
7 2015, or immediately, whichever is later.