
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 269 Session of
2013

INTRODUCED BY GREENLEAF, BROWNE, VULAKOVICH, BREWSTER,
TARTAGLIONE, SCHWANK, KASUNIC, TOMLINSON, HUGHES, ERICKSON,
RAFFERTY AND SCARNATI, JANUARY 18, 2013

REFERRED TO FINANCE, JANUARY 18, 2013

AN ACT

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

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

14 Section 1. Section 201(k) (8) of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
16 April 23, 1998 (P.L.239, No.45), is amended and the section is
17 amended by adding clauses to read:

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

22 * * *

1 (k) "Sale at retail."

2 * * *

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

8 The term "sale at retail" shall not include (i) any such
9 transfer of tangible personal property or rendition of services
10 for the purpose of resale, including resale of items purchased
11 for resale by schools, school-related organizations and
12 nonprofit associations supporting or sponsoring sports programs,
13 or (ii) such rendition of services or the transfer of tangible
14 personal property including, but not limited to, machinery and
15 equipment and parts therefor and supplies to be used or consumed
16 by the purchaser directly in the operations of--

17 (A) The manufacture of tangible personal property.

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

26 (C) The producing, delivering or rendering of a public
27 utility service, or in constructing, reconstructing, remodeling,
28 repairing or maintaining the facilities which are directly used
29 in producing, delivering or rendering such service.

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

1 The exclusions provided in paragraphs (A), (B), (C) and (D)
2 shall not apply to any vehicle required to be registered under
3 The Vehicle Code, except those vehicles used directly by a
4 public utility engaged in business as a common carrier; to
5 maintenance facilities; or to materials, supplies or equipment
6 to be used or consumed in the construction, reconstruction,
7 remodeling, repair or maintenance of real estate other than
8 directly used machinery, equipment, parts or foundations
9 therefor that may be affixed to such real estate.

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

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

27 The exclusions provided in paragraphs (A), (B), (C) and (D)
28 shall not apply to the services enumerated in clauses (k) (11)
29 through (18) and (w) through (kk), except that the exclusion
30 provided in this subclause for farming, dairying and agriculture

1 shall apply to the service enumerated in clause (z).

2 * * *

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

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

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