
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1036 Session of
2020

INTRODUCED BY MASTRIANO, SCARNATI, MENSCH, PHILLIPS-HILL, VOGEL
AND J. WARD, FEBRUARY 19, 2020

REFERRED TO FINANCE, FEBRUARY 19, 2020

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) and (o) (4) (B) of the act of
15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
16 1971, are amended to read:

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

21 * * *

22 (k) "Sale at retail."

1 * * *

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

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

14 (A) The manufacture of tangible personal property.

15 (B) Farming, dairying, agriculture, timbering, horticulture
16 or floriculture when engaged in as a business enterprise. The
17 term "farming" shall include the propagation and raising of
18 ranch raised fur-bearing animals, swine and exotic animals and
19 the propagation of game birds for commercial purposes by holders
20 of propagation permits issued under 34 Pa.C.S. (relating to
21 game) and the propagation and raising of horses to be used
22 exclusively for commercial racing activities. The term "farming"
23 shall further include (i) the commercial propagation and raising
24 of cervids by a cervidae livestock operation, as defined in 3
25 Pa.C.S. § 2380.1 (relating to definitions), regardless of
26 whether the cervids are marketed for use as game, other
27 recreational purposes, animal parts or products or human
28 consumption, and (ii) the propagation and raising in captivity
29 of cervids, game animals, game birds and other nondomesticated
30 animals by a person engaged commercially in the operation of a

1 controlled hunting enterprise for use in that enterprise.

2 The term "timbering" shall include:

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

8 (2) All operations prior to the transport of the harvested
9 product necessary for the removal of timber or forest products
10 from the site, in-field processing of trees into logs or chips,
11 complying with environmental protection and safety requirements
12 applicable to the harvesting of forest products, loading of
13 forest products onto highway vehicles for transport to storage
14 or processing facilities and postharvesting site reclamation,
15 including those activities necessary to improve timber growth or
16 ensure natural or direct reforestation of the site. The term
17 shall not include the harvesting of trees for clearing land for
18 access roads.

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

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

24 The exclusions provided in paragraphs (A), (B), (C) and (D)
25 shall not apply to any vehicle required to be registered under
26 The Vehicle Code, except those vehicles used directly by a
27 public utility engaged in business as a common carrier; to
28 maintenance facilities; or to materials, supplies or equipment
29 to be used or consumed in the construction, reconstruction,
30 remodeling, repair or maintenance of real estate other than

1 directly used machinery, equipment, parts or foundations
2 therefor that may be affixed to such real estate.

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

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

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

25 * * *

26 (o) "Use."

27 * * *

28 (4) The obtaining by a purchaser of the service of
29 repairing, altering, mending, pressing, fitting, dyeing,
30 laundering, drycleaning or cleaning tangible personal property

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

16 * * *

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

22 (i) The manufacture of tangible personal property.

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

1 shall further include (i) the commercial propagation and raising
2 of cervids by a cervidae livestock operation, as defined in 3
3 Pa.C.S. § 2380.1, regardless of whether the cervids are marketed
4 for use as game, other recreational purposes, animal parts or
5 products or human consumption, and (ii) the propagation and
6 raising in captivity of cervids, game animals, game birds and
7 other nondomesticated animals by a person engaged commercially
8 in the operation of a controlled hunting enterprise for use in
9 that enterprise.

10 The term "timbering" shall include:

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

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

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

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

18 The exclusion provided in subparagraph (iii) shall not apply
19 to (A) construction materials, supplies or equipment used to
20 construct, reconstruct, remodel, repair or maintain facilities
21 not used directly by the purchaser in the production, delivering
22 or rendition of public utility service or (B) tools and
23 equipment used but not installed in the maintenance of
24 facilities used directly in the production, delivering or
25 rendition of a public utility service.

26 The exclusion provided in subparagraphs (i), (ii), (iii) and
27 (iv) shall not apply to the services enumerated in clauses (o)
28 (9) through (16) and (w) through (kk), except that the exclusion
29 provided in subparagraph (ii) for farming, dairying and
30 agriculture shall apply to the service enumerated in clause (z).

1 * * *

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