

ARTICLE II. SALES AND USE TAX

Chap.		Sec.
31.	IMPOSITION	31.1
32.	EXEMPTIONS	32.1
33.	COMPUTATION OF TAX.....	33.1
34.	REGISTRATION, RECORDKEEPING AND RETURNS	34.1
35.	TAX EXAMINATIONS AND ASSESSMENTS	35.1
36.	APPEALS	36.1
37.	[Reserved]	37.1
38.	HOTEL OCCUPANCY TAX	38.1
38a.	HOTEL OCCUPANCY TAX PRONOUNCEMENTS— STATEMENTS OF POLICY	38a.1
39.	TRANSIENT VENDORS	39.1
41.	MANUFACTURING; PROCESSING	41.1
42.	BROADCASTING	42.1
43.	WATER WELL DRILLERS	43.1
44.	FARMING AND DAIRYING	44.1
45.	PUBLIC UTILITIES	45.1
46.	CONSTRUCTION CONTRACTORS	46.1
47.	RENTALS	47.1
48.	EXEMPT ORGANIZATIONS	48.1
49.	FOOD AND BEVERAGES	49.1
50.	PURCHASES FOR RESALE	50.1
51.	MOTOR VEHICLES	51.1
52.	PHYSICIANS AND DENTISTS	52.1
53.	WEARING APPAREL	53.1
54.	PURCHASE PRICE	54.1
55.	SERVICES	55.1
56.	MULTISTATE SALES	56.1
57.	RETAIL SALES, RESTAURANTS, BARS AND CLUBS	57.1
58.	MISCELLANEOUS	58.1
60.	SALES AND USE TAX PRONOUNCEMENTS— STATEMENTS OF POLICY	60.1

Authority

The provisions of this Article II issued under the Tax Reform Code of 1971 (72 P. S. §§ 7201—7282), unless otherwise noted.

Source

The provisions of this Article II adopted September 8, 1972, effective September 9, 1972, 2 Pa.B. 1686, unless otherwise noted.

CHAPTER 31. IMPOSITION

GENERAL PROVISIONS

- Sec. 31.1. Persons and sales subject to tax.
- 31.2. Rates.
- 31.3. Exclusions.

- 31.4. Rentals or leases of tangible personal property.
- 31.5. Persons rendering taxable services.
- 31.6. Persons rendering nontaxable services.
- 31.7. Use tax.

CONSTRUCTION CONTRACTORS

- 31.11. Definitions.
- 31.12. Imposition of tax.
- 31.13. Claims for exemptions.
- 31.14. Taxes paid purchases resold (TPPR).
- 31.15. Reciprocal credit for taxes paid other states.
- 31.16. Contractors acting as agents for their exempt customers.

SPECIALIZED TYPES OF BUSINESS OR PROPERTY

- 31.21. Advertising agencies.
- 31.22. Duplicating.
- 31.23. Auctioneers.
- 31.24. Florists.
- 31.25. Licensing of club plan secretaries and other independent vendors.
- 31.26. Financial institutions.
- 31.27. Morticians and funeral directors.
- 31.28. Vending machines and automatic sales devices.
- 31.29. Books, printed matter and advertising materials.
- 31.30. [Reserved].
- 31.31. [Reserved].
- 31.32. [Reserved].
- 31.33. Prebuilt housing.

VEHICLES

- 31.41. Definitions.
- 31.41a. Scope.
- 31.42. Tax incidence.
- 31.43. Collection of tax.
- 31.44. Computation of tax.
- 31.45. Credit against tax.
- 31.46. Transfer of registrations which are not subject to tax.
- 31.47. Transfers of registrations which are presumed to be for a purchase price.
- 31.48. Transfers of registrations which are presumed not to be for a purchase price.
- 31.49. Limited exemption to certain businesses.
- 31.50. Taxable services rendered on vehicles.

GENERAL PROVISIONS**§ 31.1. Persons and sales subject to tax.**

An excise tax shall be imposed upon the sale at retail or the use within this Commonwealth of tangible personal property and certain services, unless otherwise exempted.

(1) Sale at retail includes a transfer for value of the ownership, custody or possession of tangible personal property. "Rentals or leases" of tangible personal property and the grant of a license to use or consume are sales at retail.

(2) Use includes the exercise of a right or power incidental to the ownership, custody or possession of tangible personal property and shall include, but not be limited to, transportation. Use also includes the obtaining of taxable services.

(3) The term tangible personal property includes, but is not limited to, the following:

(i) Goods, wares and merchandise, other than household supplies purchased from retail establishments for residential consumption.

(ii) Steam, electricity and fuel oil, when not purchased directly by the user solely for his own residential use.

(iii) Natural, manufactured or bottled gas when not purchased directly by the user solely for his own residential use.

(iv) Intrastate telephone and telegraph service for nonresidential use.

(v) Spirituous or vinous liquor.

(vi) Malt and brewed beverages.

(vii) Soft drinks.

(4) The following services are subject to tax:

(i) Cleaning, inspecting, lubricating, polishing, washing or waxing motor vehicles whether performed directly or by coin-operated equipment.

(ii) Wrapping or packaging tangible personal property.

(iii) Applying or installing tangible personal property as a repair or replacement part of personal property other than clothing or shoes.

(iv) Altering, cleaning, dry-cleaning, dyeing, fitting, laundering, mending, pressing or repairing tangible personal property other than clothing or shoes.

(v) The imprinting or printing of tangible personal property furnished by others.

(vi) The labor or services billed by the vendor for delivering, installing or applying tangible personal property sold by the vendor even if the services are contracted for separately.

Cross References

This section cited in 61 Pa. Code § 31.6 (relating to persons rendering nontaxable services).

§ 31.2. Rates.

The tax shall be imposed on the purchase price at a rate of 6%.

(1) The purchase price is the total value of anything paid or delivered, or promised to be paid or delivered, whether it is money or otherwise, in complete performance of a sale, lease or purchase. Deductions from this total value may not be made on account of: the cost or value of the property sold; the cost or value of transportation; the cost or value of labor or service; interest or discount paid or allowed after the sale is consummated; and any other taxes imposed by the Commonwealth. A separately stated deposit charge for returnable containers shall be excluded from the determination of the purchase price.

(2) The tax shall be imposed according to the following schedule:

<i>Purchase Price</i> (in cents)	<i>Tax</i> (in cents)
10 or less	No tax
11 but less than 18	1
18 but less than 35	2
35 but less than 51	3
51 but less than 68	4
68 but less than 85	5
85 but less than \$1.01	6
\$1.01 or more	6% of each dollar plus above bracket charges for fraction of a dollar.

(3) The tax imposed shall be paid on each separate sale at retail. It shall be computed and collected on the basis of the total amount of taxable items in the transactions without regard to the value or price of the separate items making up the total amount of a single sales transaction. A vendor may neither advertise nor otherwise state that the tax or any part thereof will be absorbed by the vendor or not be charged.

(4) When referred to in advertising or other price quotations, the tax shall be separately stated. For example, an article selling for 99¢ may not be advertised at "\$1.05" or "\$1.05 including tax" but shall be advertised at "99¢ plus tax," "99¢ plus 6¢ tax" or "99¢." Credit shall be allowed for taxes paid to another state on tangible personal property purchased for use therein and later brought into this Commonwealth if the other state allows similar credit to this Commonwealth residents.

(5) When a purchaser fails to pay the tax to the vendor, the Commonwealth may collect the tax from the purchaser or the vendor.

Source

The provisions of this § 31.2 adopted September 9, 1972, effective September 9, 1972, 2 Pa.B. 1686; renumbered August, 1979 at serial page (40181). Amended September, 1993, effective September 1993 at serial page (179188). Immediately preceding text appears at serial page (265160).

Cross References

This section cited in 61 Pa. Code § 31.6 (relating to persons rendering nontaxable services).

§ 31.3. Exclusions.

The tax does not apply to the following:

(1) Sales of tangible personal property or rendition of services for resale. Resale includes incorporation of property as an ingredient into other tangible personal property which is either sold in the regular course of business or transported in interstate commerce to out-of-State destinations for use outside of this Commonwealth.

(2) Isolated transactions other than: sales of inventory and stock in trade; and sales of motor vehicles, trailers and semitrailers, motor boats, aircraft or other similar tangible personal property required under either Federal law or the laws of the Commonwealth to be registered or licensed.

(3) Gasoline and other motor fuels subject to The Liquid Fuels Tax Act (72 P. S. §§ 2611a—2611c) and The Fuel Use Tax Act (72 P. S. §§ 2614.1—2614.24).

(4) Tangible personal property used but not consumed within this Commonwealth if it is purchased outside of this Commonwealth and then brought into this Commonwealth for the following purposes:

- (i) Temporary use not to exceed 7 days by a nonresident.
- (ii) A period by a nonresident vacationer or tourist.

(5) Wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, non-returnable containers and other wrapping supplies, when the use is incidental to the delivery of tangible personal property. Charges for wrapping or packaging are subject to tax.

(6) Prescription or nonprescription medicines, drugs or medical supplies; crutches and wheelchairs; artificial limbs; artificial hearing devices; false teeth, materials used by a dentist in dental treatment; prescription eyeglasses for the personal use of the owner or purchaser; artificial braces and supports designed solely for persons with disabilities.

(7) Coal.

(8) Sales of motor vehicles, trailers, and semitrailers or bodies attached to the chassis thereof to a nonresident of this Commonwealth, to be used outside of this Commonwealth and which are registered in a state other than this Commonwealth within 20 days after delivery to the vendee.

(9) Water.

(10) Wearing apparel and footwear, and other articles of clothing carried on or about the human body. This exclusion does not include the following:

- (i) Accessories.
- (ii) Ornamental wear.
- (iii) Formal wear.
- (iv) Sporting goods and clothing normally used or worn when engaged in sports.

(v) Real or imitation fur articles if the fur is more than three times the value of the next most valuable component material.

(11) Charges for repairing, altering or cleaning clothing or shoes. Charges for cleaning household goods remain taxable except when performed by coin-operated, self-service laundry equipment.

(12) Food and nonalcoholic beverages for human consumption. This exemption does not apply to purchases from caterers or eating places when the purchase price of the total transaction exceeds 10¢. Spirituous and vinous liquors are subject to tax when purchased from a Pennsylvania Liquor store. Malt beverages are subject to tax when purchased from a brewer or distributor. Soft drinks are subject to tax when sold at the retail level by anyone for a price more than 10¢. Food and beverages purchased at or from a school or church in the ordinary course of its activities are exempt from tax.

(13) Caskets, burial vaults, markers and tombstones for human graves.

(14) The sale at retail or use of textbooks for use in schools, colleges and universities when the following are met:

(i) The textbooks are used in public or private schools, colleges and universities.

(ii) The textbooks are purchased on behalf of or through these schools, colleges and universities.

(iii) The schools, colleges and universities are recognized by the Department of Education.

(15) Vessels designed for commercial use of registered tonnage of 50 tons or more when produced on special order of the purchaser and property or services used or consumed in building, rebuilding and repairing these vessels.

(16) Sales or use of property or services to be used for ship cleaning, maintenance, fuel supplies, ships' equipment, ships' or sea stores, to be used or consumed by vessels to be operated principally outside of this Commonwealth.

(17) Motion picture film rented or licensed from a distributor for commercial exhibition.

(18) The sale at retail or use of mail order catalogs and direct mail advertising materials.

(19) Property upon which work or services are performed for the sole purpose of transporting the property in interstate commerce to a destination outside of this Commonwealth for exclusive use outside of this Commonwealth.

(20) Tangible personal property purchased outside of this Commonwealth by a nonresident and brought into this Commonwealth in connection with the establishment of a permanent business or residence herein, if the property was purchased more than 6 months prior to the date it was brought into this Commonwealth or more than 6 months prior to the establishment of the business or residence, whichever is earlier. This paragraph is not applicable to property temporarily in this Commonwealth for the performance of real estate construction or maintenance contracts.

(21) Sales to or use of tangible personal property or services by: charitable organizations; volunteer firemen's organizations; nonprofit educational institutions; or religious organizations for religious purposes.

(i) This exclusion does not apply to property or services used in an unrelated trade or business carried on by this type of organization or institution. This exclusion does not apply to materials, supplies and equipment used in the construction, reconstruction, remodeling, repair and maintenance of real estate, other than materials and supplies used in routine maintenance and repairs of real estate.

(ii) Equipment used in the routine maintenance and repair of real estate is subject to tax.

(22) Property or services purchased by the United States, the Commonwealth or its political subdivisions, or instrumentalities thereof.

(23) Flags of the United States and the Commonwealth.

(24) The sale at retail or use of rail transportation equipment used in the movement of personalty.

(25) The sale at retail of horses, if at the time of purchase, the seller is directed to ship or deliver the horse to an out-of-State location. The seller shall obtain a bill of lading from the carrier or purchaser, reflecting the out-of-State destination. The seller shall execute and retain a "Certificate of Delivery to Destination Outside of the Commonwealth" to justify the noncollection of sales tax. If a horse is sold and delivered to a domiciled person prior to out-of-State delivery the "Certificate of Delivery to Destination Outside of the Commonwealth" shall have both bills of lading attached.

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

(27) The sale at retail or use of supplies and materials to tourist promotion agencies, which receive grants from the Commonwealth, for distribution to the public as promotional material.

(28) The sale or use of brook trout, brown trout or rainbow trout.

(29) The sale at retail or use of buses to be used exclusively for the transportation of children for school purposes.

(30) The sale at retail or use of firewood cut into proper lengths for burning and used for fuel for cooking, hot water production or to heat residential dwellings.

Authority

The provisions of this § 31.3 amended under section 270 of the Tax Reform Code of 1971 (72 P. S. § 7270).

Source

The provisions of this § 31.3 amended January 20, 1984, effective January 21, 1984, 14 Pa.B. 222; amended September 14, 1984, effective September 15, 1984, 14 Pa.B. 3366; amended March 19, 1993, effective March 20, 1993, 23 Pa.B. 1322; amended March 24, 2000, effective March 25, 2000, 30 Pa.B. 1654. Immediately preceding text appears at serial pages (179189) to (179192).

Cross References

This section cited in 61 Pa. Code § 31.6 (relating to persons rendering nontaxable services).

§ 31.4. Rentals or leases of tangible personal property.

(a) *Imposition.* Transfers of possession or of custody of tangible personal property for consideration, by whatever means effected and irrespective of the terms employed by the parties to describe the transaction, are taxable. The rental, lease or license to use or consume tangible personal property is subject to tax. For example, when a machine shop grants to another the right to use its machinery on weekends for a fee, the transaction is taxable. Similarly, the grant of a right to use an electronic computer for a fee is subject to tax. If a transferee fails to pay the tax to the transferor in connection with a taxable transaction, the Commonwealth may collect the tax from the transferor or transferee.

(1) If the equipment is furnished with the services of an operator, it shall be presumed that the transaction involves a transfer of the right to use or direct the use of the equipment. This presumption may be rebutted by establishing that the work to be accomplished is exclusively under the control of the person who furnished the equipment and operator.

(2) If the equipment furnished with an operator consists of tools of the operator's trade and the value of the use of the tools is insignificant in relation to the operator's services performed, a taxable transfer will not be presumed or deemed to have occurred. For example, if a neighborhood gardener cuts lawns and provides other gardening services, the rakes, shears and other hand tools used will not be deemed to be transferred.

(b) *Exemptions.* Persons who purchase tangible personal property for the predominant purpose of renting or leasing it to others are entitled to claim the resale exemption. Purchases of repair parts or otherwise taxable services for the property are similarly entitled to exemption. Purchases of equipment or supplies used in conjunction with the service or care of rental property are subject to tax since the materials are not considered to be resold.

(1) If a purchaser uses or consumes property purchased for resale or disposes of property purchased for resale in a manner other than for resale, the purchaser becomes the ultimate consumer or user of the property and shall pay use tax with respect to the taxable use. When the property is used or consumed in a manner other than for resale, the purchaser shall also pay use tax on otherwise taxable services which were performed on the property if the purchaser purchased the services exempt from tax by claiming the resale exemption.

(2) The TRC grants certain purchasers an exemption from tax not only on tangible personal property purchased for use in exempt activities, but also on rentals of the tangible personal property. Persons engaged in activities such as farming, dairying, manufacturing and mining, may, on renting or leasing tangible personal property, use an Exemption Certificate applicable to their particular activity.

Source

The provisions of this § 31.4 amended October 24, 1975, effective October 25, 1975, 5 Pa.B. 2843; amended March 19, 1993, effective March 20, 1993, 23 Pa.B. 1322. Immediately preceding text appears at serial pages (94350) to (94351) and (40191).

Cross References

This section cited in 61 Pa. Code § 31.27 (relating to morticians and funeral directors); 61 Pa. Code § 33.1 (relating to definitions); and 61 Pa. Code § 47.1 (relating to coin-operated amusement devices).

§ 31.5. Persons rendering taxable services.

(a) *Imposition.* The following services rendered upon tangible personal property are “taxable services” whether or not tangible personal property is transferred in conjunction with the rendition of the services:

(1) Repairing, altering, mending, pressing, fitting, dyeing, laundering, dry-cleaning or cleaning tangible personal property other than clothing or footwear. Effective July 1, 1971, charges for repairing, altering, mending, pressing, fitting, dyeing, laundering, drycleaning or cleaning clothing or footwear are exempt from tax. For example, if a bookcase is taken to a carpenter to have a defective shelf repaired, the charge for the repair is subject to tax. However, if a shoe is taken to a shoe repairperson to have a heel fixed, the charge for the repair is not subject to tax.

(2) Applying or installing tangible personal property as a repair or replacement part of other tangible personal property. For example, if a garage employe replaces a tire on an automobile with a new one, the installation charge plus the price of the new tire is subject to tax. If the garage employe merely replaces the old tire with a spare belonging to the car owner, the installation charge is nevertheless subject to tax.

(3) Labor or services billed by the vendor for delivering, installing or applying tangible personal property sold by the vendor even if the services are contracted for separately. The taxability of these services is effective March 4, 1971. For example, if a dealer delivers and installs a gas range which the dealer has sold, the charges for delivery and installation, as well as the price of the range, are taxable. The delivery and installation charges are taxable whether or not they are invoiced separately from the price of the range.

(4) Inspecting, altering, cleaning, lubricating, polishing, repairing or waxing motor vehicles.

(5) Printing or imprinting tangible personal property for persons furnishing the materials used in the operations. The services shall be taxable whether the person for whom they are rendered or the person's agent supplies the materials. When the person for whom taxable services are rendered fails to pay the tax to the person rendering the taxable services, the Commonwealth may collect tax from either party.

(b) *Services when performed by coin-operated self-service laundry equipment.* Effective July 1, 1971, charges for the services of repairing, altering, mending, pressing, fitting, dyeing, laundering, drycleaning or cleaning of clothing and household goods by means of coin-operated self-service laundry equipment shall be exempt from tax. Laundry equipment includes washing and drycleaning machines. Included within this exemption are services performed on the following types of property: clothing, sheets, towels, rugs, drapes or other household goods. Charges for similar equipment for use in conjunction with motor vehicles are subject to tax. Charges by a laundry for the services in the subsection performed upon household goods are subject to tax.

(c) *Tangible personal property subsequently affixed to real estate.* The vendor shall collect and remit tax on the vendor's rendition of services even though the tangible personal property upon which the taxable services are performed will later be affixed to the real estate so as to become a permanent part thereof. For example, when a lighting fixture is temporarily removed from a home and taken to a silversmith to be electroplated, tax shall be collected on the entire charge for the electroplating.

(d) *Tangible personal property belonging to a third person.* The vendor shall collect tax from persons paying the purchase price for taxable services even though the tangible personal property on which the services are performed belongs to another. For example, when an insurance company has a car repaired for an insured person the person rendering the service shall collect tax from the insurance company on the total charge.

(e) *Application of tax to service or maintenance agreement.* Persons who enter into "service" agreements to render a taxable service are making "sales at retail" and shall collect sales tax on the entire charge made under the agreement. The fact that the agreement may be designated "Inspection," "Maintenance" or by any other name does not change this rule if, under the terms of the agreement, the persons shall be obligated to render taxable service upon the tangible personal property of their customers. For example, when a firm enters into agreements with a serviceman to have its office equipment inspected, repaired and cleaned, the entire charge, without any deduction for separately stated items, is subject to tax.

(f) *Taxable services performed outside Pennsylvania on tangible personal property used in this Commonwealth.* When taxable services are performed outside of this Commonwealth on tangible personal property brought into this Commonwealth for use in this Commonwealth, the services shall be subject to the use

tax, based upon the entire charge made by the vendor. If the tax is not collected by the vendor, the purchaser of the services shall report and pay use tax directly to the Commonwealth. For example, when a resident of this Commonwealth has his automobile repaired outside of this Commonwealth, tax shall be paid directly to the Commonwealth by the person for whom the services were rendered, or alternatively to the person rendering the services if the person is “maintaining a place of business within the Commonwealth.” A tax credit shall be permitted for taxes paid to most other states. See § 31.7 (relating to use tax).

(g) *Services performed in this Commonwealth on tangible personal property to be used by nonresidents outside of this Commonwealth.* Services performed in this Commonwealth on tangible personal property to be used by nonresidents outside of this Commonwealth shall conform with the following:

(1) The vendor shall collect tax on services if the tangible personal property on which the services have been performed is delivered to the purchaser or the purchaser’s agent in this Commonwealth, even though the purchaser will subsequently use the services and tangible personal property outside of this Commonwealth. The fact that the purchaser is a nonresident and the services will be used outside of this Commonwealth does not in itself make the transaction exempt. For example, when a nonresident of this Commonwealth has his car repaired in this Commonwealth while vacationing, the garage employe shall collect tax on the entire charge. A person rendering a taxable service need not collect sales tax on the rendition of services for a nonresident when the agreement between the vendor and the purchaser requires the vendor to deliver or provide delivery of the tangible personal property at a destination outside of this Commonwealth for use outside of this Commonwealth, and when the delivery is in fact made. For example, when a laundry in this Commonwealth picks up soiled drapes from a Maryland customer and delivers the clean laundry in Maryland to the customer, the laundry is not required to collect tax. Similarly, when a nonresident has his car repaired while on vacation in this Commonwealth and directs the garage employe to deliver his car to his out-of-State residence, the garage employe is not required to collect tax.

(h) *Exemptions.* The TRC grants certain purchasers an exemption from tax not only on tangible personal property purchased for use in exempt activities but also on services which may be performed on the exempt tangible personal property. Therefore, the fact that the TRC now imposes tax upon the full charge for taxable services rendered does not affect the use of the Exemption Certificate by purchasers who are entitled to an exemption from tax under the act. Thus, persons engaged in activities such as farming, dairying, manufacturing and mining may, upon their purchases of services on exempt tangible personal property, use an exemption certificate applicable to their particular activity. For example, when a manufacturing firm has a machine repaired which is directly used in its manufacturing operations, the charge for the rendition of such service is not subject to

tax. When the same firm has a filing cabinet repaired, the charge for the repairs is subject to tax, since the filing cabinet is not directly used in manufacturing.

(i) *Purchase of equipment and materials used in taxable services.* Persons rendering taxable services shall be considered the consumers of all tangible personal property which they use but do not transfer to their customers. Therefore, all machinery, equipment, tools, supplies, materials or other tangible personal property, or services performed thereon, purchased for this type of use is subject to tax. They are entitled to use the “resale” exemption with respect to purchases of tangible personal property or services which they will transfer to their customers. The following examples illustrate these rules:

(1) A furniture repair shop purchases sand paper and paint brushes to be used in refinishing the furniture. The shop cannot claim a “resale” exemption for the purchases but shall pay tax thereon. When a furniture repair shop purchases finishing nails and varnish to be incorporated into its customer’s furniture in connection with the rendition of repair services, the shop may give a “resale” exemption certificate on its purchases of such materials.

(2) An auto repair shop shall pay tax on purchases of brushes, sandpaper, masking tape and other equipment and supplies used in rendering its repair services but not transferred to its customers. On paint, parts and other property which is transferred to the customer as part of the repair service, the shop may give a resale exemption to its suppliers.

Source

The provisions of this § 31.5 amended March 19, 1993, effective March 20, 1993, 23 Pa.B. 1322. Immediately preceding text appears at serial pages (40191) to (40194) and (54477).

Cross References

This section cited in 61 Pa. Code § 31.6 (relating to persons rendering nontaxable services); 61 Pa. Code § 31.12 (relating to imposition of tax); and 61 Pa. Code § 52.4 (relating to sellers and repairers of eyeglasses).

§ 31.6. Persons rendering nontaxable services.

(a) *Application of tax.* Under the TRC, taxable services include services constituting a “sale at retail,” and services made taxable because of the broad definition of “purchase price” contained in the TRC. See section 201(g) and (k)(4) of the TRC (72 P. S. § 7201(g) and (k)(4)). See also §§ 31.1—31.3, 31.5 and 33.2. Persons rendering nontaxable services are consumers of the taxable personal property and services used in their business, and shall pay tax upon their purchase or use thereof. Following are examples of services upon which the person rendering the service does not collect tax but is liable for payment of tax on the purchase of taxable personal property and services used in the person’s business:

(1) Services rendered by the learned professions.

- (2) Barber-beautician services. Services performed on wigs, falls or other hair-pieces are subject to tax.
- (3) Funeral director services.
- (4) Stenographic services.
- (5) Construction or repair services to realty.
- (6) Hauling and transportation services.

(b) *Sales at retail of tangible personal property or services subject to tax.* If, in addition to the rendition of the nontaxable services, the person rendering the service regularly sells, rents or otherwise transfers or grants the customer a license to use or consume taxable personal property or performs taxable service the person is, with regard thereto, a vendor and shall register for a license and collect and remit sales tax thereon to the Department.

Source

The provisions of this § 31.6 amended March 19, 1993, effective March 20, 1993, 23 Pa.B. 1322. Immediately preceding text appears at serial pages (54477) to (54478).

Notes of Decisions

Although creation of art work necessarily entails services by skilled professionals, purchase of tangible products of their efforts, such as material prepared for reproduction into printed manuals, is not the purchase of a nontaxable service, *Westinghouse Electric Corp. v. Board of Finance and Revenue*, 417 A.2d 800, 802 (Pa. Commw. 1980).

Cross References

This section cited in 61 Pa. Code § 34.3 (relating to tax returns).

§ 31.7. Use tax.

- (a) *Imposition.* Imposition of use tax shall conform with the following:
- (1) A person who purchases taxable tangible personal property or services outside of this Commonwealth incurs a use tax liability at the rate of 6% of the purchase price if the property or services are subsequently used or consumed in this Commonwealth and Commonwealth tax is not paid to the vendor. The use tax is also incurred by a purchaser of taxable tangible personal property or services within this Commonwealth if tax is not paid to the vendor.
 - (2) Licensees shall report and pay use tax at the time their regular sales tax return is due. Nonlicensees shall report and pay use tax on or before the end of the month following the month during which the tax was incurred.
 - (3) Purchasers who are licensed by the Bureau of Sales and Use Tax (Bureau) or who reside outside of this Commonwealth shall pay the tax directly to the Bureau. Purchasers who reside in this Commonwealth, except those who reside in Philadelphia County, shall be given the option under the law of paying the tax either directly to the Bureau or to the treasurer of the county in which they reside. The following are illustrations of transactions which give

rise to tax liability. It is assumed in each example that the vendor has not collected sales tax from his purchaser:

Example 1. A resident of this Commonwealth purchases a radio from a New York supply house. The purchaser incurs use tax liability whether the purchaser brings it into the Commonwealth himself or has it shipped to him.

Example 2. A resident of this Commonwealth purchases a radio from a Commonwealth vendor who fails to collect tax on the transaction. The purchaser is liable for use tax.

Example 3. A company has offices in New York and this Commonwealth. It sends office equipment purchased in New York to its offices in this Commonwealth. The company incurs use tax liability on the equipment.

Example 4. A New York firm has salespersons soliciting orders in this Commonwealth. It purchases advertising displays in New York which it uses for promotional purposes in this Commonwealth. The company incurs use tax liability on the displays.

Example 5. A furniture manufacturer purchases lumber tax-exempt under a resale exemption certificate. It uses some of the lumber to repair its own office flooring. It incurs use tax liability on the lumber.

Example 6. A resident of this Commonwealth has his truck repaired in New Jersey. The resident incurs use tax liability on the repair charges when he brings his repaired truck into the Commonwealth.

Example 7. A contractor of this Commonwealth purchases plumbing materials from a New York manufacturer to install in houses the contractor is building in this Commonwealth. He incurs use tax liability on the materials.

Example 8. An Ohio contractor brings equipment and materials into this Commonwealth to use or consume in constructing an office building. He incurs use tax liability on the equipment and materials.

(b) *Credit against tax.* A credit against use tax shall be granted with respect to tangible personal property purchased for use outside of this Commonwealth equal to the tax paid to another state by reason of the imposition, by the other state, of a tax similar to the tax imposed by the TRC, if credit will not be granted unless the other state grants substantially similar tax relief by reason of payment of the tax under the act. A current listing of the states can be obtained upon request from the Bureau.

(c) *Alternate imposition.* Use tax is generally imposed upon the original purchase price of tangible personal property. Exceptions to this general rule are as follows:

(1) *Purchases made 6 months or longer prior to first taxable use—fair market value.* For property purchased 6 months or more prior to its first taxable use in this Commonwealth, the taxpayer may elect to pay the tax on the fair market value of the property at the time of its first use in the Commonwealth rather than on its original purchase price. The fair market value is the prevailing market price of similar personal property at the time and place of its

first taxable use. The election to use this alternative base shall be made within 1 year from the date the return for the taxable use is due by filing notice with the Bureau on Form PA-3 and by paying tax together with any accrued penalties and interest due.

(2) *Vehicle dealer temporarily using inventory vehicle.* An election may be made to pay an alternate use tax of 6% of the fair rental value on motor vehicles, trailers or semitrailers, other than wreckers, parts trucks, delivery trucks or courtesy cars, purchased by a dealer for resale and used for a period not exceeding 1 year. See §§ 31.41—31.50 (relating to vehicles).

(d) *Exemptions.* The provisions of this section are applicable, with the following exceptions:

(1) *General exemptions.* The resale and isolated sale exemptions and limited exemptions applicable with respect to tangible personal property or services purchased by exempt business entities such as manufacturers, farmers, dairymen or other persons, organizations or institutions entitled to exemption under the TRC are applicable. Reference should be made to individual sections applicable to each particular exemption. Generally, if a purchaser is not subject to tax on the “sale at retail” to him of property or services, he is not subject to tax on their use. This general rule is not applicable to property or services purchased without payment of tax by a nonexempt purchaser from an out-of-State vendor or when an exempt purchaser makes a use inconsistent with his exemption.

(2) *Establishment of permanent business or residence in this Commonwealth.* When a nonresident natural person or business entity not actually doing business in this Commonwealth brings property into this Commonwealth in connection with the establishment of a permanent business or residence, tax is not due provided the property was purchased more than 6 months prior to the date it was brought into this Commonwealth or more than 6 months prior to the establishment of the business or residence whichever first occurs. This paragraph is not applicable to tangible personal property temporarily brought into this Commonwealth for the performance of contracts for the construction, reconstruction, remodeling, repairing or maintenance of real estate.

(3) *Property brought into this Commonwealth by tourists, vacationers for less than 7 days.* The use of tangible personal property purchased by a nonresident person outside of this Commonwealth and then brought into this Commonwealth for use herein for a period not to exceed 7 days or for any period of time when the nonresident is a tourist or vacationer is not subject to tax if the property is not consumed within this Commonwealth. This 7-day period is calculated on a cumulative basis within any 12 consecutive months.

Cross References

This section cited in 61 Pa. Code § 31.5 (relating to persons rendering taxable services); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

CONSTRUCTION CONTRACTORS**§ 31.11. Definitions.**

The following words and terms, when used in this section and §§ 31.12—31.16, have the following meanings, unless the context clearly indicates otherwise:

Construction contract—A contract, whether lump sum, cost plus, unit price or time and materials under which a person agrees to perform construction activities.

Construction activities—An activity resulting from an agreement or contract under which a contractor attaches or affixes tangible personal property to real estate so as to become a permanent part thereof. Construction activities also include the service of repairing real estate even though tangible personal property is not transferred by a contractor in conjunction with the repairs which he makes. In the absence of satisfactory evidence to the contrary, the following items are presumed to become a permanent part of real estate:

Air, chiller

Air conditioner, wall including filters, diffusers, grilles, registers

Air conditioning system, central including filters, diffusers, grilles, registers

Air, handler

Alarm systems (smoke, fire, burglar, security)

Asphalt

Awnings (other than cloth)

Ballast, light

Backboxes, electrical

Blacktop (installed-contract Form No. MS-944)

Boilers (including related accessories)

Bricklaying

Bridge (construction)

Building (moving a building)

Building (prefabricated, precut log, steel)

Burglar alarm systems

Cabinets (attached by screws or fasteners and the like)

Can and bottle crusher (built-in)

Car wash equipment

Carpets (attached by tacking, adhesive, hooks, tape or other methods)

Carpports

Ceiling (drop)
Ceiling, molding trim
Chalkboard attached by bolts, nails or screws
Chimney cover
Chimney damper
Circuit breaker
Circulating pump
Computer rooms, wall and flooring
Condenser, heating and air conditioning
Conduit
Control center (motor)
Cooler, display (center cooling system)
Dehumidifier (installed in hot air system)
Dishwasher (built-in)
Disposal, garbage
Dock leveling equipment
Doors, folding fabric
Doors, overhead, garage
Electrical fixtures and outlets
Elevators
Elevators (home stair model)
Emergency lighting (built-in)
Escalators
Excavating (cellars)
Fans, exhaust (built-in)
Fencing
Fire alarm system
Fireplaces
Fire protection system
Flagpole
Floor covering (tile, linoleum, and the like)
Fuel saving units (installed in heating units)
Furnaces (electric, gas, oil) including accessories and filters
Freezer, walk-in
Garage door opener, mechanical, electronic, and the like
Glass (window)
Glass tint material
Guard rails (see also "medial barriers" this listing)
Heaters, baseboard, electrical
Heating fan, coil
Heating systems, central (including distribution system, exchanger)
Hospital equipment Nurses aid stations
Housing, prefabricated

- Insulation (building)
- Ironwork (ornamental)
- Joists
- Laboratory tables (with plumbing, utilities)
- Landscaping
- Lavatories (partition, soap dispenser, toilet tissue dispenser, towel dispenser, dryer, urinal, mirror)
- Lifts (hydraulic vehicular)
- Lighting fixtures, wires and switches (see also “Backbox” this listing)
- Lighting system foundation material (example: concrete, stud and anchor bolts, and the like)
- Lighting systems (exterior) embedded in concrete
- Lighting, traffic, foundation materials (example: concrete, stud and anchor bolts, and the like)
- Lightning rods
- Locks, door
- Mantels, fireplace
- Mausoleums
- Medial barriers, highway (embedded in ground or concrete)
- Mirrors (attached by screws or bolts)
- Oil burners
- Ovens (built-in)
- Painting (a building or construction)
- Parking facility control equipment foundation material
- Partitions (attached by means of bolts or screws)
- Patio covers (other than cloth)
- Playground equipment foundation material (example: concrete, bolts, and the like)
- Pumps, water (above ground and submersible)
- Railing (porch)
- Range, cooking (wood or coal)
- Refrigerator, walk-in
- Restaurant equipment
 - Bins, storage
 - Bun steamer, connected to water system
 - Electrical systems
 - Exhaust ventilators
 - Faucets
 - Plumbing systems
 - Refrigerator, walk-in
 - Scullery sink
 - Shelving, built-in
 - Sinks, vegetable and scullery

Steamer, high speed, connected to water system
Road (construction)
Roofing (repairs)
Saunas
Scales, pit
Scotchint
Sealant, driveway
Security alarm system
Security systems (burglar, smoke and fire alarm, and the like)
Septic tank and pipes
Shrubbery
Shutters
Siding (aluminum, metal or vinyl)
Sink
Solar energy system
Smoke alarm system
Spouting
Sprinkler system
Stair lift
Swimming pool accessories (installed or attached to an in-ground swimming pool)
Swimming pools (installed in-ground)
Tank, storage
Television, cable distribution system including equipment mounted on the home owner's TV set
Temperature controls (installed as part of heating or air conditioning system)
Tennis courts
Tile
Toilets
Traffic control equipment foundation material (example: concrete, stud and anchor bolts)
Trees
Vacuum systems, central
Vanities
Ventilating systems
Wall paper
Washer, dish (built-in)
Water chillers
Water heaters
Windows, storm
Wires, electrical
Woodburning stoves

Contractor—A person engaged in performing a construction contract or construction activities. The term includes prime contractors and subcontractors.

Sales activities—An activity resulting from an agreement or contract under which a contractor transfers tangible personal property or performs services upon tangible personal property belonging to another person and installs the property so as not to become a permanent part of the real estate. In the absence of satisfactory evidence to the contrary, the following items are presumed not to become a permanent part of real estate:

- Air conditioner, window including filters
- Amplifiers, all (Beck Electric)
- Antenna, television
- Appliances (not built-in)
- Auditorium type seating
- Awnings (cloth)
- Backboxes, clock (Beck Electric)
- Baseboard, trane (plug-in)
- Basketball backstop (bolted)
- Blacktop (materials contract Form No. MS-963)
- Bleachers
- Blinds (venetian)
- Bowling alleys and pin setting equipment
- Bulb, lamp
- Buss duct
- Cabinets (free standing)
- Can and bottle crusher
- Carpets (unattached room size)
- Chalkboard (attached by hooks)
- Church pews
- Clock, master clock and program relay equipment (Beck Electric)
- Clock system, clock backbox, wiring (Beck Electric)
- Communication equipment
- Conveyors
- Cooler, display (unit self-contained)
- Dehumidifier (free standing)
- Dental chairs and accessories
- Dishwasher (free standing)

Dispensing equipment, soda and liquor
Drapes
Dryer, clothes (free-standing)
Emergency lighting (portable battery operated)
File cabinets
Fire extinguishers
Fixtures, shelving, islands, (store)
Freezers (home)
Furniture
Fuses
Generators, electrical
Grave marker foundations
Grill, cooking
Gymnasium equipment (portable)
Hospital equipment
 Doctor paging system
 Nurse calling system
 Operating room lights
 Oxygen and gas systems
 Patient wall unit
 TV calling system
 TV monitoring system
Hydro therapy equipment and accessories
Laboratory tables (without plumbing, utilities)
Lamps, portable
Library shelving
Lighting, emergency (portable battery)
Lighting, stage, including power tracks
Lighting, traffic (not foundation material)
Lighting systems street and parking in which fixtures are attached to prepared foundations by bolt (not including foundation material or under ground wiring and conduit)
Linoleum (not attached to floor; see § 58.13 (relating to carpeting and other floor coverings))
Loud speakers, assemblies (Beck Electric)

Medial barriers, highway (pre-cast cement free standing)
Microphones
Mirrors (attached by hooks)
Modulars, room dividers, not attached
Parking facility control equipment (not including foundations)
Playground equipment (freestanding)
Poles traffic light and luminaries when attached to concrete bases by means
of bolts not including foundation material
Racks, bicycle
Radio sets
Railroad signal equipment
Range, cooking (gas, electric)
Rectifier, electrical (Beck Electric)
Refrigerators (home)
Restaurant equipment
Board, cutting
Cabinet, warming, portable
Can opener
Cutter/mixer, vertical
Cutting boards
French fryers
Gas grill
Mixer
Peeler, potato
Rack, oven
Rack, pan
Shelving, portable
Slicer
Truck, dish
Truck, food
Truck, tray and silverware
Truck, utility
Scales, portable
Screen, projection

Seating (auditorium, stadium, and the like)
Signal head, traffic
Signs (electric, neon, wood, metal or plastic attached by bolts or screws)
Sound equipment (including amplifiers, transformers and microphones)
(Beck Electric)
Stone, sand, gravel, and the like, delivered on pile or spread but not involving a contract of installation
Swimming pool accessories (freestanding or installed on an aboveground swimming pool)
Swimming pools (installed aboveground)
Switchgear, electric (Beck Electric)
Telephone communication equipment
Television sets, wiring and antennas
Television transmission or receiving facility
Traffic control equipment (not foundation material)
Transformers (Beck Electric)
Venetian blinds
Washer (clothes—freestanding)
Washer, dish
Water cooler, drinking
Water softener and filtration equipment
Wired music equipment
X-ray Equipment
X-ray Illuminator

Source

The provisions of this § 31.11 adopted April 14, 1972, effective April 14, 1972, 2 Pa.B. 667; amended September 26, 1975, effective September 27, 1975, 5 Pa.B. 2538 through August 19, 1983, effective August 20, 1983, 13 Pa.B. 2554. Immediately preceding text appears at serial pages (40199) and (40200).

Notes of Decisions

A property that is installed or attached so as to not become a permanent part of the real estate is subject to a sales tax because it falls under the definition of “sales activities” in § 31.11. Regarding medical equipment, § 31.11 only uses the example of nurses’ aid stations as presumed to be a permanent part of the property and thus subject to a sales tax. *Northeastern Pennsylvania Imaging Center v. Commonwealth*, 35 A.3d 752 (Pa. 2011).

Cross References

This section cited in 61 Pa. Code § 31.13 (relating to claims for exemptions); 61 Pa. Code § 46.3 (relating to construction contractor installing stained glass windows); 61 Pa. Code § 46.7 (relating to nonresident contractors); and 61 Pa. Code § 46.8 (relating to industrialized housing).

§ 31.12. Imposition of tax.

(a) *Construction activities.* Imposition of tax on construction activities shall conform with the following:

(1) A contractor shall pay tax upon the purchase price, as defined by the TRC, of all property, including materials, equipment, components and supplies, which he furnishes and installs in the performance of his construction activities.

Example 1: As part of a contract for the construction of a house “X” Contractor has agreed to install a built-in dishwasher for his customer. “X” Contractor pays his supplier \$150 for the purchase of the dishwasher. “X” Contractor pays \$9 sales tax to his supplier and subsequently installs the dishwasher in the kitchen of the house he is building. The dishwasher becomes a part of the realty and is included in the overall price of the house to the customer. “X” Contractor does not charge sales tax on this transaction to his customer. The contractor may include the tax he must pay in his bid proposal but not as a separately stated item.

(2) A contractor whose activities are confined to construction activities is required to pay tax directly to his supplier at the time he purchases the materials, equipment, components or supplies which he furnishes and installs. A use tax license number shall be available to a construction contractor from the Department to permit him to remit tax directly to the Department upon the purchases from vendors who are not required or are not licensed with the Department for the collection and remission of tax.

Example 1: “X” Contractor purchases lumber in Baltimore, Maryland, which is delivered in Pennsylvania. The lumber supplier is not registered with this Commonwealth to collect sales tax of this Commonwealth. “X” Contractor shall be required to remit use tax on his “purchase price” (including shipping charges) of the lumber directly to the Department under his use tax number. See § 33.2 (relating to purchase price).

Example 2: “X” Contractor purchases and takes possession of lumber in Baltimore, Maryland. At the time of purchase the Maryland rate of tax is 4%. “X” Contractor pays to his supplier 4% tax. Maryland and the Commonwealth have enacted reciprocal tax statutes. Because of this reciprocity, “X” Contractor may take a 4% tax credit against the use tax of the Commonwealth which he owes. “X” Contractor shall be required to remit 2% use tax on his “purchase price” of the lumber directly to the Department under his use tax number.

(3) A construction contractor shall pay tax upon all tools and equipment, such as backhoes, cranes, saws, drills, motor vehicles, and the like, which are used but not transferred in conjunction with his construction activities. Effective March 4, 1971, a construction contractor performing contracts for public utilities may no longer claim the exemption of the utility upon the purchase or rental of such items.

(4) A contractor who performs both construction activities and sales activities shall be required to be licensed with the Department for the collection and remission of sales tax and shall be issued a sales tax license number. As to

property which he knows he will resell, he may use a resale exemption certificate upon his purchase from his supplier. He shall collect and remit tax upon the sales. As to all other purchases which he may make, he shall pay tax to his supplier at the time of purchase.

(b) *Sales activities.* Imposition of tax on sales activities shall conform with the following:

(1) A contractor who, in addition to performing construction activities, makes sales at retail, as defined by the TRC, of tangible personal property is deemed to be a vendor and is required to register with the Department for the collection and remission of tax upon the sales which he makes.

(2) A contractor who performs taxable services in repairing and altering tangible property or applying or installing tangible personal property as a repair or replacement part of other personal property is also deemed to be a vendor and is required to collect and remit tax. See § 31.5 (relating to persons rendering taxable service).

(3) Effective March 4, 1971, charges for labor or transportation in conjunction with the sale at retail and installation of tangible personal property are subject to tax even though the labor or delivery charges are separately stated on the billing.

Example 1: “X” Contractor, who has been issued a sales tax number, purchases a portable dishwasher which is delivered to the house “X” Contractor is building for “Y” Customer. “X” Contractor purchases the dishwasher for \$150 from his supplier and gives him a resale exemption certificate. “X” Contractor then charges “Y” Customer \$200 for the dishwasher, including delivery, unpacking and installation charges. “X” Contractor shall collect \$12 sales tax from “Y” Customer based upon the total sales price of \$200.

(c) *Contractors producing the property they consume, as part of the same business operation.* Contractors who, as part of the same business operation, produce the property they consume shall conform with the following:

(1) A contractor, in addition to performing construction activities, may also manufacture, mine, process or grow the materials, supplies or equipment which he consumes in the performance of his construction activities. With respect to his manufacturing, mining, processing, and the like, operations, the contractor is entitled to the exemption provided by the law for the operations.

(2) With respect to construction activities, the contractor’s use tax base is the acquisition cost of the raw material purchased to produce the property which he consumes.

Example: A contractor purchases seedlings for \$2 which he grows and later transfers to his customer in conjunction with his construction activities. At the time of transfer, the seedlings have a market value of \$50. The contractor, however, is required to pay tax upon the \$2 cost of the seedlings which he paid at the time of their acquisition.

Source

The provisions of this § 31.12 adopted April 14, 1972, effective April 14, 1972, 2 Pa.B. 667.

Notes of Decisions*Exemption*

The manufacturing exclusion of subsection (c)(1) does not apply to materials used in construction and affixed to real estate. That is consistent with the statutory definition of “manufacture.” *Golden Eagle Construction Co. v. Commonwealth*, 813 A.2d 13 (Pa. Cmwlth. 2002); affirmed 834 A.2d 1103 (Pa. 2003).

“Use” of Materials

Where the taxpayer uses raw materials as part of its paving activities, the activity is not considered “sale at retail,” and, since the materials are incorporated into and made a part of real estate, the materials are considered “used” and not “sold.” *Golden Eagle Construction Co. v. Commonwealth*, 813 A.2d 13 (Pa. Cmwlth. 2002); affirmed 834 A.2d 1103 (Pa. 2003).

Cross References

This section cited in 61 Pa. Code § 31.11 (relating to definitions); 61 Pa. Code § 46.3 (relating to construction contractor installing stained glass windows); 61 Pa. Code § 46.7 (relating to nonresident contractors); and 61 Pa. Code § 46.8 (relating to industrialized housing).

§ 31.13. Claims for exemptions.

(a) With the exception of the limited exemption set forth under subsections (h)—(k), a contractor may not claim an exemption upon his purchase of materials, supplies, equipment or parts which he installs so as to become a part of the real estate in conjunction with his construction activities. Thus, a contractor erecting a building, repairing a roof, replacing a door for a governmental agency, manufacturer, processor, public utility, school district, charitable or religious organization, and the like, shall pay tax upon the property which he consumes and is not entitled to use the exemption of the ultimate customer for whom he is performing the contract.

(b) Effective March 4, 1971, the exemption which a contractor has with respect to contracts with public utilities, manufacturers, and the like, has been limited. The exemption is limited to the purchase of property constituting equipment, machinery and parts thereof which the contractor, in conjunction with his contract, transfers to and is subsequently used directly by the public utility, manufacturer, processor, and the like. To qualify for exemption the equipment, machinery or parts thereof shall be used directly in the rendition of a public utility service, manufacturing operation, and the like, upon installation. The exemption applies whether or not the equipment, machinery or part thereof is affixed to the real estate. The following are examples of equipment to which the limited exemption applies:

(1) Coal conveyor systems, pulverizers, boilers, cooling towers, electrostatic precipitators, utility poles, transmission wire, transmission wire poles, transmission and substation equipment installed for public utilities or electric cooperatives.

(2) Sanitary sewer, not storm sewers, or water mains, manholes and covers, sewage treatment equipment, pumping equipment installed for public utilities, municipalities or municipal authorities.

(3) Machinery and equipment which act upon or convey the manufactured or processed product between the first and last production operation installed for manufacturers or processors. Machinery and equipment which act upon or convey dairy products between the point where raw milk enters the clarifier to the point the dairy product is bottled or capped, installed for a dairy.

(4) Silos which produce ensilage, hay and grain conveyor systems, irrigation pumps, pipe and fittings, water pumps and piping used to convey water to farm animals installed for a farmer.

(c) Notwithstanding any other procedure established by this section, a contractor, whether or not licensed with the Department for the collection and remission of sales tax, shall obtain a "Certification" from the exempt public utility, manufacturer or similar customer certifying that:

(1) The property will be resold or transferred to the exempt public utility, manufacturer, or the like.

(2) It constitutes machinery, equipment or parts thereof.

(3) Upon installation it will be directly used by the exempt customer in its public utility facilities, manufacturing operations, or the like. Attached to the "Certification" shall be a listing of the specific items of equipment, machinery or parts upon which the exempt customer claims an exemption.

(4) A sample copy of the required form for this "Certification" is as follows:

CERTIFICATION

Sample Form No. 4

CERTIFICATION

Executed pursuant to the provisions of Regulation 150
Pennsylvania Sales and Use Tax

Name of Exempt Purchaser Franklin Manufacturing Company
Address 111 Derry Street, Johnstown, Pennsylvania
Contract (Job) No. P-256
Job Site 111 Derry Street, Johnstown, Pennsylvania
Description of Facility Electrostatic Precipitator
Function of Facility Remove pollutants from open hearth furnaces
Prime Contractor A. R. Jones, Inc.
Address 8th Avenue, Warren, Ohio
Subcontractor (If any) Knovel's Construction Company
Address 100 Bush Street, Johnstown, Pennsylvania
Subcontract No. (If any) P-256-1

I certify that the item or items of property set forth on the attached sheet or sheets to this Certification will be transferred to the above exempt purchaser by the prime contractor or subcontractor in conjunction with his prime or subcontract, both of which are identified above, and that these items of property are exempt from tax because:

(Check the appropriate block and insert the appropriate wording)

[X] The items of property constitute equipment, machinery and parts which upon installation will be directly used by the exempt purchaser in his
* Manufacturing operations

[] The items of property will upon installation remain tangible personal property and qualify for exemption upon the basis that the purchaser is a
**

* Public Utility Facilities—Manufacturing Operation—Processing Operation— Farming Operation—Dairying Operation.

** Federal instrumentality—Instrumentality of the Commonwealth—Political Subdivision of the Commonwealth— Charitable Organization—Religious Organization—Nonprofit Educational Institution—Volunteer Fire Company— Municipal Authority¹ created under the Municipal Authorities Act of 1935 or 1945.
(Any purchaser not falling within the above must obtain Department approval prior to the completion of this Form)

¹ A municipal authority or governmental agency rendering public utility services may also claim the public utility exemption.

/s/ James K. Knob Purchasing Agent 11/27/71
Signature of Representative of Exempt Purchaser Signers Title Date
Name of Seller XYZ Corporation
Address 18 Center Street, Doetown, Pennsylvania
Date Certification Filed With Seller December 26, 1971

CERTIFICATION OF EXEMPT PURCHASER
Contract with a Public Utility, Manufacturer,
Processor, Farmer or Dairy

(d) At the time the contractor makes purchase of the items for resale, he is required to tender a copy of the "Certification" to the supplier, upon which the supplier will mark the date filed, which the supplier will retain, together with a copy of the Department's "Blanket Exemption Certificate" (Form REV-345), completed by the contractor setting forth on the face thereof the following language: "Property and/or services will be resold to (Name of Exempt Customer) pursuant to the Certificate executed by them and filed with you on (Date of Filing)".

(1) A sample copy of the required format is as follows:

BLANKET EXEMPTION CERTIFICATE

REV-345 (6-68)
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
BUREAU OF TAXES FOR EDUCATION

BLANKET EXEMPTION CERTIFICATE
Form and Instructions



THIS CERTIFICATE IS SUBJECT TO ALL CONDITIONS AND LIMITATIONS SET FORTH HEREIN.
NOT VALID FOR THE PURCHASE OR LEASE OF ANY MOTOR VEHICLE, TRAILER, SEMI-TRAILER OR TRACTOR
TO BE REGISTERED BY PENNSYLVANIA BUREAU OF MOTOR VEHICLES.

PENNSYLVANIA SALES TAX BLANKET EXEMPTION CERTIFICATE

NAME OF SELLER OR LESSOR XYZ Corporation

ADDRESS 18 Center Street, Doctown, Pennsylvania

I CERTIFY that, unless I advise you to the contrary in writing, all property and services (purchased) (leased) hereunder is exempt
because: (Insert applicable Exemption Reason from list on reverse side, and supply all required information and numbers, or
Certificate is void.)

Property and/or services will be resold to Franklin Manufacturing Company pursuant to the certification executed by them and
filed with you on 12/1/71.

The provisions of this Certificate are a part of every transaction between the parties herein. I am authorized to execute this
Certificate and claim this exemption. Misuse of this Certificate by seller, lessor, buyer, lessee or their representatives, is punishable
by fine and imprisonment.

Knovel's Construction Company 100 Bush Street Johnstown, Pennsylvania
Purchaser's Name Address
/s/ James R. James Purchasing Agent 1/1/72
Signature Signer's Title Date

INSTRUCTIONS - READ CAREFULLY

1. USE OF FORM

(a) This Blanket Exemption Certificate form is for use in a series of transactions. It may not be used for the purchase or lease of
any motor vehicle, trailer, semi-trailer or tractor required by law to be registered with the Pennsylvania Bureau of Motor Vehicles.
For such transactions, use Form RTE-632

(b) SELLER OR LESSOR MUST file and retain this Certificate, together with his copies of all invoices or other documents
relating to transactions hereunder, for at least three years from the end of the year in which the last sale or lease hereunder takes
place, unless the Department grants written permission to dispose of them earlier.

2. REPRODUCTION OF FORM

This form may be reproduced without prior permission of the Department. Only that portion of the form which appears in the
box above is required. Exemption Reasons from the list on the reverse side may be pre-inserted in the proper space. Only that part
between quotation marks need be shown. No other substantial alteration or omission is permitted.

3. DATE OF ACCEPTANCE AND VALIDITY

This Certificate is void as to any sale or lease which takes place more than sixty days prior to the date on which the seller or
lessor obtains the Certificate. In such case, the seller or lessor is required to establish, by satisfactory evidence other than this
Certificate, that the sale or lease was in fact exempt, and the burden of proof is upon the seller or lessor.

4. ADDITIONAL INFORMATION may be obtained from any District Office or from: Bureau of Taxes for Education, 1846
Brookwood Street, Harrisburg, Pennsylvania.

EXEMPTION CERTIFICATE OF CONTRACTOR WITH A
Public Utility, Manufacturer,
Processor, Farmer or Dairy

(2) The supplier shall retain the Blanket Exemption Certificate together with the "Certification" in his exemption certificate file to justify the tax free sale of the list of items filed with the certification. Contractors failing to follow this procedure may not make tax free purchases and are liable for tax upon the materials used in conjunction with their contracts.

(e) A contractor may make tax free purchases of property which he resells to exempt entities in conjunction with his construction activities. This exemption applies only to property furnished by the contractor which, upon installation, does not become a permanent part of the real estate. Examples of property which, upon installation, do not become part of the real estate are set forth in the definition of "sales activities" in § 31.11 (relating to definitions).

(f) A contractor who is licensed with the Department to collect and remit sales tax; that is, holds a sales tax license, may make tax free purchases of property which he will sell by tendering to his supplier a completed copy of a Blanket Exemption Certificate (Form REV-345). To qualify as a valid exemption certificate, the face side of the certificate must reflect the following language: "Property and/or services will be resold in the ordinary course of the purchaser's business conducted under Pennsylvania Sales Tax License Number (Insert Number)."

(1) A sample copy of the required format is as follows:

BLANKET EXEMPTION CERTIFICATE

REV-345 (6-68)
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
BUREAU OF TAXES FOR EDUCATION

BLANKET EXEMPTION CERTIFICATE
Form and Instructions



THIS CERTIFICATE IS SUBJECT TO ALL CONDITIONS AND LIMITATIONS SET FORTH HEREIN.
NOT VALID FOR THE PURCHASE OR LEASE OF ANY MOTOR VEHICLE, TRAILER, SEMI-TRAILER OR TRACTOR TO BE
REGISTERED BY PENNSYLVANIA BUREAU OF MOTOR VEHICLES.

PENNSYLVANIA SALES TAX BLANKET EXEMPTION CERTIFICATE

NAME OF SELLER OR LESSOR XYZ Corporation

ADDRESS 18 Center Street, Doctown, Pennsylvania

I CERTIFY that, unless I advise you to the contrary in writing, all property and services (purchased) (leased) hereunder is exempt
because: (Insert applicable Exemption Reason from list on reverse side, and supply all required information and numbers, or
Certificate is void.)

Property and/or services will be resold to St. Paul's Lutheran Church pursuant to the certification executed by them and filed with
you on 12/1/71.

The provisions of this Certificate are a part of every transaction between the parties herein. I am authorized to execute this
Certificate and claim this exemption. Misuse of this Certificate by seller, lessor, buyer, lessee or their representatives, is punishable
by fine and imprisonment.

Kennys Construction Company 999 Tree Street Guysburg, Pennsylvania
Purchaser's Name Address
/s/ Joseph S. Smith Purchasing Agent 1/1/72
Signature Signer's Title Date

INSTRUCTIONS - READ CAREFULLY

1. USE OF FORM

(a) This Blanket Exemption Certificate form is for use in a series of transactions. It may not be used for the purchase or lease of
any motor vehicle, trailer, semi-trailer or tractor required by law to be registered with the Pennsylvania Bureau of Motor Vehicles.
For such transactions, use Form RTE-632

(b) SELLER OR LESSOR MUST file and retain this Certificate, together with his copies of all invoices or other documents
relating to transactions hereunder, for at least three years from the end of the year in which the last sale or lease hereunder takes
place, unless the Department grants written permission to dispose of them earlier.

2. REPRODUCTION OF FORM

This form may be reproduced without prior permission of the Department. Only that portion of the form which appears in the
box above is required. Exemption Reasons from the list on the reverse side may be pre-inserted in the proper space. Only that part
between quotation marks need be shown. No other substantial alteration or omission is permitted.

3. DATE OF ACCEPTANCE AND VALIDITY

This Certificate is void as to any sale or lease which takes place more than sixty days prior to the date on which the seller or
lessor obtains the Certificate. In such case, the seller or lessor is required to establish, by satisfactory evidence other than this
Certificate, that the sale or lease was in fact exempt, and the burden of proof is upon the seller or lessor.

4. ADDITIONAL INFORMATION may be obtained from any District Office or from: Bureau of Taxes for Education, 1846
Brookwood Street, Harrisburg, Pennsylvania.

EXEMPTION CERTIFICATE OF CONTRACTOR NOT HOLDING A SALES TAX LICENSE
Contract with exempt customer other than a Public Utility,
Manufacturer, Processor, Farmer or Dairy

(2) If the exempt customer to whom the property will be transferred holds a valid exemption; that is, a governmental agency, school district, and the like, applying to the property being transferred, the contractor shall obtain a completed copy of a Blanket Exemption Certificate (Form REV-345) from the exempt entity in lieu of the collection of tax. If the ultimate consumer does not hold an exemption, the contractor shall collect and remit the tax upon the contract price of the item or items including charges for delivering or installing the item under the contract.

(g) A contractor who is not licensed with the Department to collect and remit sales tax is not authorized to follow the normal procedure outlined in subsection (f) in making tax free purchases of property he will resell in conjunction with his construction activities. A contractor may not use a Use Tax License Number in making tax free purchases for resale. A Use Tax License Number is that number issued by the Department prefixed with the digits "89."

(h) When the ultimate customer is a governmental agency, school district, religious organization, or the like, the contractor not holding a sales tax license shall obtain a "Certification" from the exempt customer certifying the following:

- (1) The property will be resold to the exempt customer.
- (2) The basis for the exemptions.
- (3) The property, upon installation, will not constitute an improvement to real estate but remain tangible personal property.

(i) Attached to the "Certification" shall be a listing of the specific items upon which the exempt customer claims an exemption.

- (1) A sample copy of the required format for this "Certification" is as follows:

CERTIFICATION

Sample Form No. 2

CERTIFICATION

Executed pursuant to the provisions of Regulation 150
Pennsylvania Sales and Use Tax

Name of Exempt Purchaser: St. Pauls Lutheran Church
Address: 888 Tenth Street, Guysburg, Pennsylvania
Contract (Job) No.: None
Job Site: 888 Tenth Street, Guysburg, Pennsylvania
Description of Facility: Install drapes in church auditorium
Function of Facility: Worship facilities
Prime Contractor: Big Construction Company
Address: 222 Fifth Street, Centertown, Pennsylvania
Subcontractor (If any): Kennys Construction Company
Address: 999 Tree Street, Guysburg, Pennsylvania
Subcontract No. (If any): None

I certify that the item or items of property set forth on the attached sheet or sheets to this Certification will be transferred to the above exempt purchaser by the prime contractor or subcontractor in conjunction with his prime or subcontract, both of which are identified above, and that these items of property are exempt from tax because:

(Check the appropriate block and insert the appropriate wording)

[] The items of property constitute equipment, machinery and parts which upon installation will be directly used by the exempt purchaser in his

[x] The items of property will upon installation remain tangible personal property and qualify for exemption upon the basis that the purchaser is a

Religious organization

* Public Utility Facilities—Manufacturing Operation—Processing Operation—Farming Operation—Dairying Operation

** Federal instrumentality—Instrumentality of the Commonwealth—Political Subdivision of the Commonwealth—Charitable Organization—Religious Organization—Nonprofit Educational Institution—Volunteer Fire Company—Municipal Authority¹ created under the Municipal Authorities Act of 1935 or 1945.

(Any purchaser not falling within the above must obtain Department approval prior to the completion of this Form)

¹ A municipal authority or governmental agency rendering public utility services may also claim the public utility exemption.

/s/ George R. Doe Treasurer 11/10/71
Signature of Representative of Exempt Purchaser Signers Title Date
Name of Seller XYZ Corporation
Address 18 Center Street, Doetown, Pennsylvania
Date Certification filed with seller December 1, 1971

CERTIFICATION OF EXEMPT PURCHASER
Contract with exempt customer other than a Public Utility,
Manufacturer, Processor, Farmer or Dairy

(2) At the time the contractor purchases the items for resale, he shall tender a copy of the "Certification" to the supplier, upon which the supplier shall mark the date filed, which the supplier shall retain together with a copy of the Department's "Blanket Exemption Certificate" (Form REV-345), completed by the contractor, setting forth on the face thereof the following language: "Property and/or services will be resold to (Name of Exempt Customer) pursuant to the Certification executed by them and filed with you on (Date of Filing)." A sample copy of the required format is as follows:

BLANKET EXEMPTION CERTIFICATE

REV-345 (6-88)
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
BUREAU OF TAXES FOR EDUCATION

BLANKET EXEMPTION CERTIFICATE
Form and Instructions



THIS CERTIFICATE IS SUBJECT TO ALL CONDITIONS AND LIMITATIONS SET FORTH HEREIN.
NOT VALID FOR THE PURCHASE OR LEASE OF ANY MOTOR VEHICLE, TRAILER, SEMI-TRAILER OR TRACTOR TO BE
REGISTERED BY PENNSYLVANIA BUREAU OF MOTOR VEHICLES.

PENNSYLVANIA SALES TAX BLANKET EXEMPTION CERTIFICATE

NAME OF SELLER OR LESSOR XYZ Corporation

ADDRESS 18 Center Street, Doctown, Pennsylvania

I CERTIFY that, unless I advise you to the contrary in writing, all property and services (purchased) (leased) hereunder is exempt
because: (Insert applicable Exemption Reason from list on reverse side, and supply all required information and numbers, of
Certificate is void.)

Property and/or services will be resold in the ordinary course of purchaser's business conducted under Sales Tax License

22-99999.

The provisions of this Certificate are a part of every transaction between the parties herein. I am authorized to execute this
Certificate and claim this exemption. Misuse of this Certificate by seller, lessor, buyer, lessee or their representatives, is punishable
by fine and imprisonment.

Kennys Construction Company 999 Tree Street Guysburg, Pennsylvania
Purchaser's Name Address

/s/ Joseph S. Smith Purchasing Agent 1/1/72
Signature Signer's Title Date

INSTRUCTIONS - READ CAREFULLY

- 1. USE OF FORM
(a) This Blanket Exemption Certificate form is for use in a series of transactions. It may not be used for the purchase or lease of any motor
vehicle, trailer, semi-trailer or tractor required by law to be registered with the Pennsylvania Bureau of Motor Vehicles. For such transactions,
use Form RTE-632
(b) SELLER OR LESSOR MUST file and retain this Certificate, together with his copies of all invoices or other documents relating to
transactions hereunder, for at least three years from the end of the year in which the last sale or lease hereunder takes place, unless the
Department grants written permission to dispose of them earlier.
2. REPRODUCTION OF FORM
This form may be reproduced without prior permission of the Department. Only that portion of the form which appears in the box above
is required. Exemption Reasons from the list on the reverse side may be pre-inserted in the proper space. Only that part between quotation
marks need be shown. No other substantial alteration or omission is permitted.
3. DATE OF ACCEPTANCE AND VALIDITY
This Certificate is void as to any sale or lease which takes place more than sixty days prior to the date on which the seller or lessor
obtains the Certificate. In such case, the seller or lessor is required to establish, by satisfactory evidence other than this Certificate, that the
sale or lease was in fact exempt, and the burden of proof is upon the seller or lessor.
4. ADDITIONAL INFORMATION may be obtained from any District Office or from: Bureau of Taxes for Education, 1846
Brookwood Street, Harrisburg, Pennsylvania.

EXEMPTION CERTIFICATE OF CONTRACTOR HOLDING A SALES TAX LICENSE
Contract with exempt customer other than Public Utility, Manufacturer, Processor, Farmer or Dairy

(3) The supplier shall retain the Blanket Exemption Certificate together with the “Certification” in his exemption certificate file to justify the tax free sale of the list of items filed with the “Certificate.” Contractors failing to follow this procedure may not make tax free purchases. If the contractor fails to obtain a “Certification” and does not pay tax at the time of purchase, he shall be deemed to be the ultimate consumer of the property which he transfers and shall pay the applicable tax. A contractor’s failure to register shall make him liable for tax upon the installed value, including delivery, labor and installation costs, of the property not incorporated as part of the real estate.

(j) When the ultimate customer is not entitled to an exemption, the contractor shall be licensed with the Department either temporarily or permanently for the collection and remission of tax. Upon receipt of a temporary or permanent sales tax license number, he may purchase property for resale utilizing the procedure outlined in subsection (f). A temporary sales tax license number may be used for 90 days after issue by the Department and may be obtained from a District Sales Tax Office.

(k) A contractor may not use a use tax license number in making exempt purchases for resale. A contractor may not collect sales tax from his customer unless he has been issued a sales tax license number by the Department. A contractor making taxable sales of property not incorporated as part of the real estate shall be liable for the collection of tax upon the installed value including delivery, labor and installation costs of the property not incorporated as part of the real estate.

Source

The provisions of this § 31.13 adopted April 14, 1972, effective April 14, 1972, 2 Pa.B. 667.

Notes of Decisions

This section recognizes sanitary sewer systems and water systems as public utility facilities for purposes of the statutory exemption for use sales tax purposes. *Ernest Renda Contracting Co., Inc. v. Commonwealth*, 532 A.2d 416, 419 (Pa. 1987).

For an exemption certificate to be valid on its face there must be “a listing of the specific items of equipment, machinery or parts upon which the exempt customer claims an exemption” attached to the certification. *Ernest Renda Contracting Co., Inc. v. Commonwealth*, 532 A.2d 416, 423 (Pa. 1987).

Cross References

This section cited in 61 Pa. Code § 31.11 (relating to definitions); 61 Pa. Code § 46.3 (relating to construction contractor installing stained glass windows); 61 Pa. Code § 46.7 (relating to nonresident contractors); and 61 Pa. Code § 46.8 (relating to industrialized housing).

§ 31.14. Taxes paid purchases resold (TPPR).

(a) If a contractor later resells a particular item to a nonexempt customer with respect to which he has paid sales tax at the time of purchase, he shall nonetheless collect the full sales tax upon his retail price from his customer, and he shall report the tax collected to the Department. He may, at the time he reports the tax,

take a credit on account of “Taxes Paid—Purchases Resold” (TPPR) against the tax which he has collected equal in amount to the tax which he paid to his supplier, provided that he paid the tax to his supplier within 3 years of the date of resale. He shall indicate upon his return the amount of tax which he has paid to his suppliers upon items sold which he is crediting against the tax collected from his customer on account of TPPR. It is not sufficient merely to report and remit tax upon the “markup” without indicating to the Department upon his return the amount of credit which he has taken.

Example: “X” Company purchases 100 sinks during the month of August at \$70 per sink. “X” pays tax to its supplier upon all of the sinks, since “X” does not know or have good reason to know that all or any specified number of them will be sold. Later “X” uses 60 of the sinks in construction activities, and sells 40 of them over-the-counter at a retail price of \$100 per sink. “X” collects sales tax of \$240 upon the sale of these sinks.

(b) In reporting the tax upon its return, “X” Company shall show the following with respect to these transactions:

(1) Total Gross Sales		\$4,000.00	
(2) Total Nontaxable Sales		—	
(3) Net Taxable Sales		4,000.00	
(4) Total Amount of Tax Collected		240.00	
(5) Less 1% Commission		2.40	
(6) Net Amount of Tax Collected		237.60	
(7) Amount of Use Tax Incurred		—	
(8) Total Tax Due	\$237.60		
Less TPPR	168.00	69.60	

The TPPR figure represents the amount of tax paid to “X” Company’s supplier upon the sinks which “X” resold (40 X \$70 X 6%). Item (8) shall be inserted upon the return form on the “Total Tax Due” line, the TPPR amount being inserted in front of the total amount in the rules column, thus:

(8) TOTAL TAX DUE (line 6 plus line 7)—TPPR \$168.00	\$69.60
--	---------

Source

The provisions of this § 31.14 adopted April 14, 1972, effective April 14, 1972, 2 Pa.B. 667.

Cross References

This section cited in 61 Pa. Code § 31.11 (relating to definitions); 61 Pa. Code § 31.15 (relating to reciprocal credit for taxes paid other states); 61 Pa. Code § 46.3 (relating to construction contractor installing stained glass windows); 61 Pa. Code § 46.7 (relating to nonresident contractors); and 61 Pa. Code § 46.8 (relating to industrialized housing).

§ 31.15. Reciprocal credit for taxes paid other states.

(a) A contractor may be entitled to a tax credit against tax owed to the Commonwealth upon property used or consumed in this state. To be entitled to such credit, the following conditions shall be met:

- (1) Purchase and possession of the property shall be made in a state other than this Commonwealth; and
- (2) Sales tax shall have been legally paid upon the property to the other state; and
- (3) The sales tax law of the other state must grant substantially the same tax credit for sales tax paid to the Commonwealth. A list of states granting tax credit is available from the Department, attention Legal Bureau.

(b) A contractor who is entitled to tax credit against sales tax owed to the Commonwealth may do so at the time he files his sales or use tax return. He shall indicate upon the return the amount of tax which he owes and the amount of tax credit he is taking in a similar manner to the taking of TPPR credit outlined in § 31.14 (relating to taxes paid purchases resold (TPPR)). A contractor taking reciprocal tax credit shall maintain supporting records as justification for tax credit taken on his tax return.

Source

The provisions of this § 31.15 adopted April 14, 1972, effective April 14, 1972, 2 Pa.B. 667.

Cross References

This section cited in 61 Pa. Code § 31.11 (relating to definitions); 61 Pa. Code § 46.3 (relating to construction contractor installing stained glass windows); 61 Pa. Code § 46.7 (relating to nonresident contractors); and 61 Pa. Code § 46.8 (relating to industrialized housing).

§ 31.16. Contractors acting as agents for their exempt customers.

A contractor who, under a binding agreement with his customer, acts in the capacity as an agent is subject to this chapter in the same manner as he would if the agency relationship did not exist.

Example: “X” Contractor and “Y” Public Utility enter an agency contract for the construction of an electrical generation station. The agency contract provides that “X” Contractor shall purchase all equipment, materials and supplies as agent for “Y” Public Utility. The exemption available to “X” Contractor is limited to the purchase of machinery, equipment and parts thereof which upon installation are directly used in generating and transmission of electricity. “X” Contractor is not entitled to the same exemption as that of “Y” Public Utility.

Source

The provisions of this § 31.16 adopted April 14, 1972, effective April 14, 1972, 2 Pa.B. 667.

Cross References

This section cited in 61 Pa. Code § 31.11 (relating to definitions); 61 Pa. Code § 46.3 (relating to construction contractor installing stained glass windows); 61 Pa. Code § 46.7 (relating to nonresident contractors); 61 Pa. Code § 46.8 (relating to industrialized housing); and 61 Pa. Code § 58.13 (relating to carpeting and other floor coverings).

SPECIALIZED TYPES OF BUSINESS OR PROPERTY**§ 31.21. Advertising agencies.**

(a) *Purchases.* Purchases by advertising agencies shall be taxed in accordance with the following:

(1) *Materials used or consumed in rendering professional services.* Advertising agencies that provide professional services are the ultimate consumers of tangible personal property used or consumed by them in the preparation and placing of advertising in magazines, newspapers, and on radio and television when no tangible personal property is transferred to the purchaser other than proofs or samples for his approval, comment, criticism, information or other similar purposes. Purchases of office supplies, paper, ink, paint, art work from independent artists, engraver's charges for metal plates, mats and other materials used or consumed in this type of work is subject to tax. For example, an advertising agency is the ultimate consumer of the mats and all other tangible personal property it uses or consumes in the preparation of the mats.

(2) *Tangible personal property purchased on behalf of specific clients.* Advertising agencies rendering professional services, (that is, market and public relations counseling, copy writing, art or creative direction, placement and supervision of media and graphic arts purchases on behalf of specific clients) shall pay sales tax on all purchases of tangible personal property for specific client accounts to the exact degree that the respective client would be liable if purchasing the materials directly from primary suppliers. Certification that the authorized purchase of specific tangible property falls within any exempt category can originate only with the client and shall be furnished to the agency in writing stating the basis on which exemption is claimed. The agency may then inform the pertinent supplier or suppliers on the client's behalf, providing a duly executed exemption certificate indicating the basis for the exemption.

(3) *Materials purchased for resale.* Advertising agencies are entitled to claim the resale exemption on purchases of tangible personal property which they directly resell or incorporate into products which they resell. Circulars, signs, mats, show cards, posters and other similar tangible personal property are deemed to be resold by advertising agencies. For example, when an advertising agency prepares and sells signs to a client, it shall collect tax on the purchase price, but is entitled to claim a resale exemption on materials which become part of the signs. Similarly, when an advertising agency contracts to

provide mats to a client who in turn will forward the mats to its dealers throughout the country, the advertising agency shall collect tax on the price charged for the mats, but is entitled to claim a resale exemption on the purchase of the mats from the mat maker. The exemption does not apply to the purchase of the art work, paper and ink, which is used by the agency in preparing the mock-up of the mat for the mat maker since the materials used in preparing the mock-up are not resold to the client.

(4) *Limited application of printing exemption.* Printing engaged in as a business is included in the definition of manufacturing. See section 201 of the TRC (72 P. S. § 7201) and § 32.32 (relating to manufacturing; processing). The sale of taxable property to an advertising agency is not subject to a claim of exemption on the theory that the purchased property is to be directly used in printing operations unless the agency itself is actually engaged in the business of printing. The exemption is not applicable to purchases by advertising agencies of tangible personal property such as paper, ink, mats, plates and similar property which are used in the preparation of or form a part of mock-ups or similar items which are transferred to printers or other persons for use in reproduction.

(b) *Sales.* Sales by advertising agencies shall be taxed in accordance with the following:

(1) Advertising agencies shall collect tax from their customers on sales of circulars, signs, mats, show cards, posters and similar tangible personal property. If the sale of the property includes a charge for services such as consultant fees or market research fees, and the charge for such services is not separately stated, tax shall be charged on the total purchase price. For example, if an advertising agency contracts to conduct a market research program for a client and supply him with 1,000 advertising displays based on the findings of the research, the charge for the market research program is subject to tax if it is not separately stated from the charge for the displays. Similarly, advertising agencies are not required to collect the tax on services performed in preparing and placing advertising in magazines, newspapers, or on radio and television when no tangible personal property is transferred to the purchaser other than samples for his approval.

(2) Professional services do not include labor, even though it be skilled, which is performed in the preparation of tangible personal property which is sold at retail by the advertising agency. For example, when an advertising agency prepares signs for its clients, a deduction is not permitted for the salary paid to its painter. Similarly, when an advertising agency employs a commercial artist, a deduction for his salary is not permitted from the purchase price charged for his art work which is sold at retail to another advertising agency or person.

(3) Sales of direct mail advertising materials are exempt from tax. See § 31.29 (relating to books, printed matter and advertising materials). Property

used or consumed in production of direct mail advertising is subject to tax unless it qualifies for the printing or resale exemption.

(4) The sale at retail of advertising items to persons who distribute them free of charge is subject to tax since the persons are considered the ultimate consumers of the advertising items. For example, when an advertising agency contracts to prepare counters and window displays for a client who distributes the displays free of charge to persons marketing its products, the advertising agency shall collect tax from its client.

§ 31.22. Duplicating.

(a) *Sale at retail of taxable property.* Persons engaged in the process of accurately duplicating, reproducing or forming a durable medium for the reproduction of an original document are vendors of copies purchased by their customers, whether or not produced to the special order of the customer. Duplicating includes, but is not limited to, the production of photostatic copies or blueprints. Sales tax applies to all charges for the products sold at retail, including charges for the making of copies out of materials furnished by the customer. The purchase price may not be reduced on account of expenses incurred, such as rentals of equipment, or salaries or wages paid to assistants whether or not such expenses are itemized in billings to customers.

(b) *Purchase of supplies and equipment.* The purchase of items, such as chemicals, film, proof paper or other supplies used or consumed in the process of duplicating, reproducing or forming a durable medium for the reproduction of an original is subject to tax. Vendors may claim the resale exemption on purchases of tangible personal property which they directly resell or incorporate into products which they resell.

Source

The provisions of this § 31.22 amended January 18, 1974, effective January 19, 1974, 4 Pa.B. 92.

§ 31.23. Auctioneers.

(a) *Sales by auctioneer.* An auctioneer selling his own tangible personal property shall collect and remit the tax. When he is engaged by another to sell tangible personal property and the sale at auction takes place on premises of the auctioneer, the tax shall also be collected and remitted to the Commonwealth by the auctioneer.

(b) *Sales on premises other than auctioneer's.* When the owner of tangible personal property sold at auction, other than on auctioneer's premises, is regularly engaged in selling the property, the auctioneer shall be deemed to be the agent of the owner and the owner is responsible for the collection of the tax on the transaction. If the owner is not regularly engaged in selling property, the transactions are not taxable.

(c) *Sales for out-of-State owners.* An auctioneer selling tangible personal property within this Commonwealth shall collect the tax notwithstanding the fact that the property belongs to an out-of-State owner.

(d) *Computation of tax.* The tax shall be computed upon the total purchase price of each transaction without deduction for the auctioneer's commission.

Cross References

This section cited in 61 Pa. Code § 32.4 (relating to isolated sales).

§ 31.24. Florists.

(a) *Sale or rental of floral products.* Florists shall collect the tax upon sale or rental of flowers, wreaths, bouquets, potted plants and property of a like nature.

(b) *Telephone or telegraphic orders.* On all telephone or telegraph orders to be transmitted by one florist located within this Commonwealth to another florist who shall make delivery, either within or without this Commonwealth, the florist taking the order shall collect and report the tax on the gross amount of the order. Effective March 4, 1971, the tax applies to telegraph or telephone charges whether or not they are separately stated. A florist receiving telephone or telegraph orders from another florist may not collect tax on the orders.

§ 31.25. Licensing of club plan secretaries and other independent vendors.

(a) Every person operating a club or similar merchandising plan, or operating as an independent vendor representing a particular supplier selling taxable property shall obtain a license from the Department and collect tax on merchandise sold by him, unless the one supplying the merchandise has been authorized by the Department to register and precollect tax from the club secretaries or independent vendors based upon the purchase price of the merchandise to the ultimate consumer. When the person supplying the merchandise registers to collect the tax, the club secretaries or vendors shall reimburse themselves for the tax paid to the supplier by adding the tax, as such, to the purchase price and collecting it from their customer.

(b) For a supplier to collect tax on behalf of club secretaries or independent vendors, he shall make application to and receive authorization from the Department.

§ 31.26. Financial institutions.

(a) *Purchases by financial institutions.* A financial institution shall pay the tax at the time of purchase of all tangible personal property to be used by it in the conduct of its business. This includes all tangible personal property gratuitously furnished by the financial institutions to its customers, such as passbooks, check books, deposit slip books or similar items.

(b) *Sales by financial institutions.* A financial institution selling personalized check books, coin banks or other items of tangible personal property subject to tax may do one of the following:

- (1) Obtain a license, collect the tax from its customers and remit the tax collected along with its monthly returns.
- (2) Elect not to register and file returns, if in the latter case it pays tax to its suppliers based upon the price at which the merchandise is to be sold by the financial institution to its customers and reimburse itself for the tax so paid by collecting the tax from its customers.

§ 31.27. Morticians and funeral directors.

(a) *Taxable sales to funeral directors.* Sales to morticians and funeral directors of tangible personal property to be used or dispensed in the operation of their business are sales at retail and subject to the tax imposed by the act. Taxable equipment, materials and supplies include, but are not limited to: hearses, limousines and flower cars; shrouds; clothing specially designed and only usable for burial purposes; chairs; gloves; cosmetics; embalming supplies; embalming equipment; flowers and floral decoration.

(b) *Exemption.* The sale or use of caskets, movable burial vaults, and markers and tombstones for human graves shall be exempt from tax.

(c) *Rentals of property to funeral directors.* Rentals of property such as limousines, hearses and flower cars to morticians and funeral directors to be used by them in rendering of services in conjunction with a funeral shall be taxable and the funeral director shall pay a sales tax on the rentals in the manner provided in § 31.4 (relating to rentals or leases of tangible personal property).

(d) *Rentals of property by funeral directors.* Morticians and funeral directors who rent property to others shall register and collect tax with respect to such rentals. Use of property in conjunction with a funeral service performed by the person owning the property shall not be deemed to be a rental. If a separate charge is made for rental of specific items, the tax applies.

Example: A funeral director who on occasion rents a hearse or other equipment to another funeral director shall register and collect tax upon the rental. The funeral director shall also pay tax when he purchased the hearse since it was not purchased for use predominantly in a rental business.

§ 31.28. Vending machines.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Juice beverage—A liquid beverage containing at least 25% by volume natural fruit or vegetable juice.

Meal—A variety of foods prepared for immediate consumption and sold as a single item.

Operator—A person who makes sales of tangible personal property, including food or beverages, primarily through a vending machine.

Selected food and beverage items—Soft drinks; meals; hot or cold sandwiches, including cold meat sandwiches, cheese sandwiches, hoagies, hot dogs, hamburgers and similar sandwiches; brewed coffee; hot beverages such as hot chocolate, hot tea and similar items; food from salad bars; pizza, soup and other food items dispensed from the vending machine in a heated form or which are served in cold form and normally heated in an oven or microwave provided by the operator.

Soft drink—

(i) All nonalcoholic beverages, whether carbonated or not, such as soda water; ginger ale; Coca Cola; lime cola; Pepsi Cola; Dr. Pepper; fruit juice when plain or carbonated water, flavoring or syrup is added; carbonated water; orangeade; lemonade; root beer or all preparations, commonly referred to as “soft drinks” of whatsoever kind, and are further designated as including all beverages, commonly referred to as “soft drinks,” which are made with or without the use of any syrup.

(ii) The term does not include a juice beverage.

Vending machine—A device which mechanically dispenses tangible personal property, including food and beverages, for a purchase price.

(b) *Registration.* An operator who sells taxable tangible personal property or selected food and beverage items through a vending machine is required to obtain a Sales, Use and Hotel Occupancy Tax License for the purpose of collecting and remitting tax to the Department. One license is sufficient for any number of machines operated by the same operator.

(c) *Identification requirement.* A sign or a sticker setting forth the name and address of the operator shall be conspicuously displayed on the vending machine.

(d) *Scope.*

(1) *General.* The sale of food or beverages from a vending machine may be taxable or exempt depending upon the type of food or beverage or upon the basis of the location from which the food or beverage is sold. Since a vending machine does not qualify as an eating establishment, only the sale of selected food and beverage items as defined in subsection (a), is taxable when sold from a vending machine. Taxable tangible personal property, other than food and beverages, is also subject to tax when sold from a vending machine.

(2) *Sales of taxable tangible personal property, other than selected food and beverage items.*

(i) *Imposition.* The sale of taxable tangible personal property, such as cigarettes, combs, toys, pencils and similar items is subject to tax upon the purchase price of each individual item.

(ii) *Collection of tax.* The vending machine operator is required to collect tax upon the purchase price of each individual taxable item of property. The amount to be inserted in the machine is presumed to include the amount

of tax to be collected for each item. If, however, the Department determines upon audit that the vending machine operator has not reported and remitted tax in accordance with this section and the TRC, the presumption will not apply, and the Department will assess the vending machine operator as though the amount inserted into the machine was the purchase price without the tax.

Example 1: “A” operates a vending machine from which pencils may be purchased. To obtain a pencil, the purchaser is required to insert 35¢ into the machine. The tax is properly reported and remitted as follows: the purchase price is 33¢ and tax is 2¢.

Example 2: “A” operates a vending machine from which pencils may be purchased. To obtain a pencil, the purchaser is required to insert 35¢ into the machine. “A” reports and remits no Sales Tax. When “A” is audited by the Department, he is assessed as follows: purchase price 35¢, tax 3¢.

(3) *Sales of selected food and beverage items.*

(i) *Imposition.* The sale of selected food and beverage items, as defined in subsection (a), from a vending machine is subject to tax upon the total receipts from the sale of the items.

(ii) *Collection of tax.* An operator of a vending machine from which selected food and beverage items are sold is required to collect and remit Sales Tax at the rate of 6% upon the sale of the selected food and beverage items. Sales Tax shall be computed by the following formula: $(\text{Total receipts from the sale of selected food and beverage items} \div 1.06) \times .06 = \text{Sales Tax due}$.

Example:

“A” operates a vending machine from which milk, coffee and crackers are sold. “A” removes \$100 from the machine representing the following sales: milk—\$50, coffee—\$25 and crackers—\$25. Coffee is a selected food and beverage item. Milk and crackers are not. “A” remits tax in the amount of \$1.42 calculated as follows: $(\$25 \div 1.06) \times .06 = \1.42 .

(4) *Sales of food and beverages other than selected food and beverage items.*

(i) The sales of food and beverages of the type described in this paragraph are not subject to Sales Tax when sold from a vending machine.

(ii) Examples of exempt food and beverages include:

- (A) Baked goods, such as cakes, pies, cookies.
- (B) Potato chips.
- (C) Corn chips.
- (D) Cheese balls.
- (E) Pretzels.
- (F) Crackers.

- (G) Milk products, such as plain milk, chocolate milk, malted milk.
 - (H) Ice tea and iced coffee.
 - (I) Juice beverages.
 - (J) Unflavored water.
 - (K) Prepackaged ice cream products, such as ice cream cakes and pies, popsicles, sundaes and novelties.
 - (L) Prepackaged frozen water-based products, such as ice pops, fudge pops, fruit ice, bomb pops and similar items.
 - (M) Candy and gum.
 - (N) Other food and beverages not defined as a selected food and beverage item, including cold food for which heating facilities are not provided.
- (e) *Vending machine sales on school or church property.*
- (1) Sales of selected food and beverage items dispensed by means of a vending machine located on the premises of a school or church are exempt from tax.
 - (2) Sales of tangible personal property, other than food or beverages, which are dispensed by means of a vending machine located on the premises of a school or church, are subject to tax.
- (f) *Remitting tax to the Department.* Sales Tax collected by the operator upon the sale of taxable tangible personal property, including selected food and beverage items, shall be reported and remitted to the Department.
- (g) *Purchase or lease of vending equipment and supplies.*
- (1) The purchase or lease of vending equipment, including parts, accessories, such as tables, chairs, microwaves, straw and napkin dispensers and other similar items, and supplies, such as straws, napkins, stirrers, eating utensils and similar items, is subject to tax.
 - (2) Wrapping supplies, such as plastic, paper and styrofoam cups, bowls or similar containers used to wrap property which is sold, are exempt from tax.

Authority

The provisions of this § 31.28 amended under section 270 of the Tax Reform Code of 1971 (72 P. S. § 7270).

Source

The provisions of this § 31.28 amended September 14, 1984, effective September 15, 1984, 14 Pa.B. 3366; amended March 1, 2002, effective March 2, 2002, 32 Pa.B. 1213. Immediately preceding text appears at serial pages (265200) to (265201).

§ 31.29. Books, publications and advertising materials.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Advertising insert—Printed advertising material that is circulated with another publication.

Advertising literature or materials—Tangible personal property that is intended to promote business interest, create goodwill or engage the attention or interest of a recipient.

(i) The term includes printed matter, brochures, matchbooks, calendars, price lists, video and audio tapes, computer disks, investment prospectuses, financial and corporate annual reports, electoral literature or materials, playing cards, envelopes, address labels, reply envelopes, application forms, pens and similar promotional materials.

(ii) The term does not include proxy materials.

Circulated among the general public—Made available for purchase from a retail outlet, such as a newsstand or bookstore, or made available for purchase by subscription. In the case of an organizational publication, the publication will be considered to be circulated among the general public only if there are regular sales of the publication to purchasers other than members of the organization.

Direct mail advertising literature or materials—Advertising literature or materials that are distributed directly to intended recipients through the United States Postal Service. The term does not include advertising literature or materials that are distributed in a manner other than by the United States Postal Service.

Magazine—A publication that is published at regular intervals not exceeding 3 months, that is circulated among the general public, and contains matters of general interest and reports of current events that are published for the purpose of disseminating information of a public character or is devoted to literature, the sciences, art or some special industry. The term does not include loose leaf information services.

Mail order catalogue—A publication that contains a listing of items with descriptive details and includes a mail order form and is distributed through the United States Postal Service.

Newspaper—A “legal newspaper” or a publication containing matters of general interest and reports of current events that qualifies as a “newspaper of general circulation” authorized to carry a “legal advertisement” as those terms are defined in 45 Pa.C.S. § 101 (relating to legal notices). The term does not include magazines.

Publication—Information transferred by means of tangible media.

(i) Examples include printed material, such as books; financial and corporate annual reports; investment prospectuses; proxy materials; shopping guides; magazines; tabloid newspapers; and printed material that may supplement, explain, amend, revise or otherwise alter, expand or render current a looseleaf information service, or a book or bound volumes of books previously issued, including a supplement or pocket part, whether the additional material is periodically distributed or purchased independently of the basic book to which it is applicable.

(ii) The term also includes video and audio tapes, computer disks and similar items.

Religious publication—Religious commentaries and other publications primarily devoted to religious instruction, promotion or information.

Shopping guide—A publication primarily devoted to consumer awareness, promotion or information and that is generally provided to a consumer free of charge.

Subscription—The advance purchase of a series of issues of a magazine delivered by the publisher to an address designated by the purchaser.

(i) The term includes a series of magazines provided by an organization to its members in consideration of the payment of membership dues, provided the magazine is also sold by subscription or by individual copy to the public.

(ii) The term does not include a purchase of an issue or series of issues of a magazine from a person other than the publisher.

Textbook—A new or used book that is required or approved for use in conjunction with an educational curriculum provided by an institution of learning recognized by the Department of Education.

(b) *Scope.*

(1) Except as otherwise provided in this subsection, the sale at retail or use of publications, advertising inserts, Bibles, religious publications, including religious publications sold by religious organizations and advertising literature or materials is subject to tax when delivered to a location within this Commonwealth.

(2) The sale at retail or use of the following items is exempt from tax:

- (i) Mail order catalogs.
- (ii) Direct mail advertising literature or materials. See § 32.36 (relating to printing and related businesses).
- (iii) Textbooks.
- (iv) Newspapers.
- (v) Magazines sold by subscription.
- (vi) Advertising inserts that become a part of a newspaper or magazine.
- (vii) One time license fees paid for the use of a listing of names and mailing addresses for each delivery of direct mail advertising literature or materials.

Authority

The provisions of this § 31.29 amended under section 270 of the Tax Reform Code of 1971 (72 P. S. § 7270).

Source

The provisions of this § 31.29 amended March 29, 1974, effective March 30, 1974, 4 Pa.B. 581; amended April 5, 1985, effective April 6, 1985, 15 Pa.B. 1260; amended March 19, 1993, effective March 20, 1993, 23 Pa.B. 1322; amended March 24, 2000, effective March 25, 2000, 30 Pa.B. 1654. Immediately preceding text appears at serial pages (179232) to (179233).

Cross References

This section cited in 61 Pa. Code § 31.21 (relating to advertising agencies); and 61 Pa. Code § 32.36 (relating to printing and related businesses).

§ 31.30. [Reserved].**Source**

The provisions of this § 31.30 adopted November 3, 1972, effective November 4, 1972, 2 Pa.B. 2127, amended April 12, 1974, effective April 13, 1974, 4 Pa.B. 691; amended April 24, 1987, effective April 25, 1987, 17 Pa.B. 1665; amended March 19, 1993, effective March 20, 1993, 23 Pa.B. 1322; reserved May 26, 2006, effective May 27, 2006, 36 Pa.B. 2525. Immediately preceding text appears at serial pages (265204) to (265210).

§ 31.31. [Reserved].**Source**

The provisions of this § 31.31 adopted November 3, 1972, effective November 4, 1972, 2 Pa.B. 2127; amended April 12, 1974, effective April 13, 1974, 4 Pa.B. 691; reserved April 24, 1987, effective April 25, 1987, 17 Pa.B. 1665. Immediately preceding text appears at serial pages (40232) to (40236) and (94359).

§ 31.32. [Reserved].**Source**

The provisions of this § 31.32 adopted March 29, 1974, effective March 30, 1974, 4 Pa.B. 582; amended September 7, 1984, effective September 8, 1984, 14 Pa.B. 3299; reserved March 19, 1993, effective March 20, 1993, 23 Pa.B. 1322. Immediately preceding text appears at serial pages (117820) to (117822), (98249) to (98250) and (94363) to (94364).

§ 31.33. Prebuilt housing.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Prebuilt housing—Housing which qualifies either as:

(i) Manufactured housing, including mobile homes, which bears the label required by and referred to in the Manufactured Housing Construction and Safety Standards Authorization Act (35 P. S. §§ 1656.1—1656.9).

(ii) Industrialized housing as defined in the Industrialized Housing Act (35 P. S. §§ 1651.1—1651.12).

(iii) The term includes all components or accessories transferred at the time of the sale of the prebuilt housing.

Prebuilt housing builder—A person, including a prebuilt housing manufacturer, that makes a prebuilt housing sale to a prebuilt housing purchaser.

Prebuilt housing manufacturer—A person who manufactures prebuilt housing for sale to a prebuilt housing builder or prebuilt housing purchaser.

Prebuilt housing manufacturer's selling price—

(i) The total value of anything paid or delivered or promised to be paid or delivered, whether it be money or otherwise, by a prebuilt housing builder to a prebuilt housing manufacturer, for prebuilt housing, add-ons, insurance, seals, deposits, dues, optional equipment and similar charges whether or not the charges are separately stated on one or more purchase agreements.

(ii) The prebuilt housing manufacturer's selling price does not include amounts representing delivery charges, erection charges or set-up fees.

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

Prebuilt housing sale—A sale of prebuilt housing to a prebuilt housing purchaser, including a sale to a landlord, without regard to whether the person making the sale is responsible for installing the prebuilt housing or whether the prebuilt housing becomes real estate on installation. Temporary installation by a prebuilt housing builder for display purposes of a unit held for resale will not be considered occupancy for residential purposes.

Purchase price—The purchase price of prebuilt housing shall be 60% of the prebuilt housing manufacturer's selling price. A prebuilt housing manufacturer of prebuilt housing that elects to precollect tax from the prebuilt housing builder shall have the option to collect tax on 60% of the prebuilt housing manufacturer's selling price or on 100% of the actual cost of the supplies and materials used in the manufacture of prebuilt housing.

Used prebuilt housing—Prebuilt housing that was previously subject to a prebuilt housing sale to a prebuilt housing purchaser.

(b) *Imposition of tax.*

(1) *Prebuilt housing builder sales.* A prebuilt housing builder is required to pay tax on his purchase price of prebuilt housing sold to a prebuilt housing purchaser within this Commonwealth, if the prebuilt housing builder has not paid the applicable tax to the prebuilt housing manufacturer. The prebuilt housing builder is required to pay tax without regard to whether the prebuilt housing is sold as tangible personal property or as real estate. The prebuilt housing builder's written contract with the prebuilt housing purchaser shall clearly indicate that the prebuilt housing builder paid applicable tax.

(2) *Trade-in.* The value of a trade-in by a prebuilt housing purchaser to a prebuilt housing builder in connection with the purchase of housing may not be used to reduce the purchase price on which the prebuilt housing builder is required to pay tax.

(3) *Used prebuilt housing.* Sales Tax is not imposed on the purchase price of used prebuilt housing.

(c) *Prebuilt housing manufacturer's election to collect tax.*

(1) Although section 202(f) of the TRC (72 P. S. § 7202(f)) requires the prebuilt housing builder to pay tax directly to the Department, this statute also provides that the prebuilt housing manufacturer has the option to collect tax from the prebuilt housing builder at the time of the purchase of the prebuilt housing by the prebuilt housing builder from the prebuilt housing manufacturer. If the prebuilt housing manufacturer elects to collect tax, the prebuilt housing manufacturer is required to use either of the following to establish the purchase price:

- (i) Sixty percent of the prebuilt housing manufacturer's selling price.
- (ii) One hundred percent of the actual cost of the supplies and materials used in the manufacture of prebuilt housing.

(2) If a prebuilt housing manufacturer is also acting as a prebuilt housing builder, the purchase price of the prebuilt housing shall be 60% of the prebuilt housing manufacturer's selling price.

(3) A prebuilt housing manufacturer is not permitted to alternate between these two methods of calculation without prior written notification to the Director of the Department's Bureau of Audits.

(d) *Exemptions.* No exemptions apply to the sale of prebuilt housing. Prebuilt housing manufacturers are therefore not required to obtain exemption certificates from prebuilt housing builders. Unless the prebuilt housing manufacturer elects to precollect the tax, the prebuilt housing builder is obligated to remit tax to the Commonwealth on its sale of prebuilt housing to a prebuilt housing purchaser.

(e) *Prefabricated buildings and components which do not qualify as prebuilt housing.* The sale and installation of prefabricated buildings, components and accessories which do not qualify as prebuilt housing are governed by § 31.12 (relating to imposition of tax). Sales of prefabricated buildings, components and accessories, which do not include installation, qualify as sales of tangible personal property. Examples include construction site trailers, travel trailers and modular space units.

(f) *Repair and maintenance of prebuilt housing.* This section relates only to prebuilt housing sales and does not apply to the repair and maintenance of prebuilt housing. The application of tax on charges made for the repair and maintenance of prebuilt housing is governed by of § 31.12.

Authority

The provisions of this § 31.33 issued under section 270 of the Tax Reform Code (72 P. S. § 7270).

Source

The provisions of this § 31.33 adopted May 26, 2006, effective May 27, 2006, 36 Pa.B. 2525.

VEHICLES

§ 31.41. Definitions.

The following words and terms, when used in this section and §§ 31.42—31.50, have the following meanings, unless the context clearly indicates otherwise:

Fair rental value—The amount which would be charged for the rental of a vehicle in the open market for a similar period of time and place. When the actual fair rental value is unknown, the Department will recognize 3% of the purchase price as a monthly fair rental value of a vehicle if the purchase price is the fair market value of the vehicle.

Motor vehicle—A vehicle which is self-propelled except one which is propelled solely by human power or by electric power obtained from overhead trolley wires but not operated upon rails.

Prevailing market price—The price which the vehicle will bring if offered for sale in the open market at the time and place of the taxable transfer or use of the vehicle.

Purchase price—The total value of anything paid or delivered or promised to be paid or delivered, whether in money or otherwise, including an encumbrance or other obligation assumed by the transferee.

Registered dealer—A person who has secured a license as a vehicle dealer with the State Board of Motor Vehicle Manufacturers, Dealers and Salesperson, or who is a dealer of motorcycles and is registered with the Bureau of Motor Vehicles, Department of Transportation.

Trailer or semitrailer—A vehicle which is designed to be towed by a motor vehicle and which does not exceed the maximum size and weight for operation on the highway as a licensed vehicle.

Transfer of registration—The procurement from the Bureau of Motor Vehicles, Department of Transportation of a certificate of title or license registration under 75 Pa.C.S. §§ 101—9821.

Vehicle—Every device in, upon, or by which a person or property is or may be transported or drawn upon a highway except devices used exclusively upon rails or tracks and mobile homes.

Source

The provisions of this § 31.41 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816; amended January 30, 1981, effective January 31, 1981, 11 Pa.B. 500. Immediately preceding text appears at serial pages (40240) and (40241).

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 33.2 (relating to scope); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.41a. Scope.

Sections 31.41, 31.42—31.50 and this section apply to the sale or use of vehicles. Transactions involving the rental or lease of motor vehicles are governed by § 47.17 (relating to lease or rental of vehicles and rolling stock) and not by §§ 31.41, 31.42—31.50 and this section.

Source

The provisions of this § 31.41a adopted January 30, 1981, effective January 31, 1981, 11 Pa.B. 500.

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.42. Tax incidence.

Generally, any sale at retail or use of a vehicle within this Commonwealth is subject to tax. This shall include the isolated sale or use of a vehicle required to be licensed or registered under either Federal or State law.

Source

The provisions of this § 31.42 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816.

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.43. Collection of tax.

(a) *Transfers for which a Certificate of Title is obtained.* When there has been a taxable transfer or use of a vehicle and a Certificate of Title is obtained from the Bureau of Motor Vehicles (Bureau) of the Department of Transportation, the applicable tax shall be paid as a prerequisite to the obtaining of a Certificate of Title. When the purchaser permits another person or firm to pay the tax and that person's or firm's check is uncollectible, the purchaser shall remain personally liable for the tax. All transfers for registration shall be accompanied by a Form MV-4ST "Vehicle Sales and Use Tax Return," whether or not the transfer is subject to tax.

(b) *Transfers by registered dealers for which a Certificate of Title is not obtained.* When there has been a taxable transfer of a vehicle, by a registered dealer, and the dealer knows or has reason to know that a Certificate of Title will not be obtained or required from the Bureau, the dealer shall be registered with the Bureau and collect and remit the applicable tax upon the purchase price of the vehicle. The failure of a dealer to have evidence which establishes the securing

of a Certificate of Title for or by the customer presumptively shall make the dealer liable for any tax applicable to the transfer. When the Registered Dealer collects the applicable tax from his customer, he shall insert upon the customer's purchase invoice the amount of tax which he has collected.

Source

The provisions of this § 31.43 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816.

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.44. Computation of tax.

(a) *Purchase price.* The tax is computed upon the full amount of the purchase price of a vehicle less the trade-in deduction. A deduction from the purchase price shall be permitted for an amount equal to the amount of a trade-in allowed on the purchase, if the trade-in occurs at the same time of the sale. A separate or independent sale of a vehicle is not considered a trade-in, even if the proceeds of the sale are immediately applied by the seller to a purchase of a vehicle from the buyer. The following items are included in the amount of the purchase price:

- (1) Federal Excise Tax, since it is not a tax at the retail level.
- (2) Financing and insurance charges, unless the charges are separately stated as a separate item upon the customer's invoice.
- (3) Delivery or freight charges for delivery of a vehicle from a manufacturer or distributor to a dealer whether or not they are separately stated upon the customer's invoice. Delivery charges from the dealer to the customer whether or not they are separately stated upon the customer's invoice.
- (4) Warranty or "service" charges.
- (5) Charges for preparation of or additional work upon a vehicle.
- (6) Additional accessories or equipment placed in or upon the vehicle by the dealer even though the charge may be separately stated upon the customer's invoice.

(b) *Transactions not at arm's length.* When because of affiliation of interests between the seller and purchaser, or for another reason, the purchase price stated is not indicative of the true value of the vehicle, the purchase price shall, for purpose of the imposition of this tax, be determined as the prevailing market price of the vehicle.

(c) *Alternate imposition of tax.* Alternate imposition of tax shall conform with the following:

- (1) *Registered dealers of motor vehicles, trailers or semitrailers.* A person may elect to pay tax equal to 6% of the fair rental value of a new or used vehicle, if the following exist:

(i) The person is registered as a Registered Dealer with the Bureau of Motor Vehicles.

(ii) The person acquires the motor vehicle, trailer or semitrailer for the purpose of resale.

(iii) The person uses the motor vehicle, trailer or semitrailer for a taxable use during a period not exceeding 1 year from the date of acquisition to the date of resale.

(iv) The motor vehicle is not used as a wrecker, parts truck, delivery truck, or courtesy car.

(2) *Time limits.* If the motor vehicle, trailer or semitrailer is used for a taxable use beyond 1 year from the date of acquisition, the taxpayer shall be liable for a tax on the prevailing market price of the vehicle at the time of acquisition. The taxpayer will be allowed a credit equal to the tax paid due to the taxpayer's election to pay alternate tax. Dealers actively and principally engaged in the business of selling new or used motor boats, aircraft or similar tangible personal property may not utilize this election to pay alternate tax.

(3) *Persons not establishing permanent residence or business.* A person, including a resident of this Commonwealth or a member of the military service who designates an address in this Commonwealth as the person's home of record, may elect to pay tax equal to 6% of the prevailing market price of a vehicle if the person purchased the vehicle 6 months or longer prior to its first taxable use in this Commonwealth.

Source

The provisions of this § 31.44 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816; amended March 19, 1993, effective March 20, 1993, 23 Pa.B. 1322. Immediately preceding text appears at serial pages (59259) to (59260).

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.45. Credit against tax.

A credit shall be granted with respect to vehicles purchased for use outside of this Commonwealth equal to the tax paid to another state by reason of a tax similar to the tax imposed by the Commonwealth. Credit may not be granted unless the other state grants similar tax relief to persons who have paid tax to the Commonwealth. A listing of other states granting similar tax relief may be obtained from the Department of Revenue (Attn: Legal Bureau) upon request.

Source

The provisions of this § 31.45 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816.

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.46. Transfer of registrations which are not subject to tax.

Transfer of registrations which are not subject to tax are as follows:

(1) Transfers to registered dealers who have purchased the vehicle for purposes of reselling it in the ordinary course of the registered dealer's business operations. The registered dealer's license number shall be inserted on the reverse side of Form REV-191.

(2) Transfers to persons engaged in the rental or lease of vehicles in the ordinary course of their business operations. Persons claiming this exemption are required to be registered with the Department of Revenue. The lessor's sales tax license number shall be inserted on the reverse side of Form REV-191.

(3) Transfers to nonresidents of this Commonwealth for use outside of this Commonwealth and registered in a state other than this Commonwealth within 20 days after delivery to the buyer.

(4) Transfers in connection with the establishment of a permanent resident or place of business provided the vehicle was purchased more than 6 months prior to entering the Commonwealth. Military personnel whose home of record is an address in the Commonwealth at the time of the purchase of the vehicle are not entitled to this exemption. Vehicles purchased within 6 months of establishing a permanent residence or business shall be subject to tax upon the original purchase price.

(5) Transfers to persons engaged in the business of rendering a common carrier public utility service. A contract carrier is not entitled to an exemption. The common carrier's Pennsylvania Public Utility Commission (PUC) or Interstate Commerce Commission (ICC) number shall be inserted on the reverse side of Form REV-191. To be exempt from the payment of tax, the following requirements shall be met:

(i) The vehicle shall be used directly in rendering the service.

(ii) The person shall be registered with the PUC or the ICC as a common carrier public utility.

(6) Transfers to organizations qualifying as the following:

(i) Religious organizations.

(ii) Nonprofit education institutions.

(iii) Charitable organizations.

(iv) Volunteer firemen's organizations.

(7) The exemption applies only to vehicles used by the organization in its related activities. It does not include vehicles primarily used to maintain real estate such as lawn tractors, snow plows, and the like. The exemption does not

apply to modular or mobile homes which constitute an improvement to real estate even though they may qualify as a vehicle under 75 Pa.C.S. §§ 101—9821 (relating to the Vehicle Code). To claim the exemption, the organization or institution shall be registered as an exempt organization with the Bureau of Sales and Use Tax and, in the case of charitable organizations, must have obtained a Charitable Exemption Number which shall be inserted on the reverse side of Form REV-191.

(8) Transfers to organizations which are exempt from the payment of tax as a result of legislative statutes other than the TRC (72 P. S. §§ 7101—8203) such as: Municipal authorities created under the Municipal Authorities Acts of 1935 or 1945 (53 P. S. §§ 301—322), or similar acts. Organizations claiming exemption as a result of a particular statute shall cite the section of the applicable law providing for exemption at line 9 on the reverse side of Form REV-191.

(9) Transfers to persons engaged in the business of manufacturing, processing, mining, farming, dairying and rendering public utility services, other than common and contract carriers, when such vehicles shall not be required to be licensed under the Vehicle Code and are directly used in the operations. See also § 31.49 (relating to limited exemption to certain businesses).

Source

The provisions of this § 31.46 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816.

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.47. Transfers of registrations which are presumed to be for a purchase price.

The following are examples of transfers of vehicles which are presumed to be for a purchase price and, therefore, are subject to tax:

(1) *Purchase of vehicle intended as a gift or as a raffle prize.* The purchase of a vehicle which the owner intends to give to another is nonetheless subject to tax. Tax is not imposed on the subsequent transfer of the vehicle from the donor to the donee. See also § 31.48(7) (relating to transfer of registrations which are presumed not to be for a purchase price).

(2) *Foreign purchase of vehicle intended as a gift.* When a vehicle is purchased outside of this Commonwealth and the purchaser brings it into this Commonwealth with the intention of giving it to another, the purchaser shall pay use tax thereon. Thus, if a husband, having purchased a vehicle in Maryland, registers it in this Commonwealth in his wife's name, a use tax shall be

paid by the husband upon the use of the vehicle in this Commonwealth, even though he subsequently gives the vehicle to his wife.

(3) *Transfer from partner to partnership or from partnership to partner.* A transfer of a vehicle from a partner to the partnership, or from a partnership to a partner, is a taxable transfer, and is presumed to be made in consideration of an increased interest in the partnership, or for services rendered the partnership or for other value passing between the parties.

(4) *Transfer to or from a corporation.* A transfer of a vehicle to a corporation in exchange for stock is a taxable transfer, even though the transferor is the sole stockholder of the corporation. A transfer of a vehicle to or from a corporation for any purpose is presumed to be a taxable transfer, regardless of the reason or motive for which the transfer is made, and the taxpayer has the burden of overcoming this presumption by showing clear and sufficient evidence that there was in fact no consideration for the transfer.

(5) *Transfer between parent corporation and wholly owned subsidiary.* The transfer of a vehicle by a parent corporation to a wholly owned subsidiary corporation or by a subsidiary corporation to the parent shall be a taxable transfer unless such transfer is the result of a corporate merger or consolidation under the Business Corporation Law (15 P. S. §§ 1001—2914).

Source

The provisions of this § 31.47 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816.

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.48. Transfers of registrations which are presumed not to be for a purchase price.

The following are examples of transfers of vehicles which are presumed not to be for a purchase price and, therefore, are not subject to tax:

(1) *Transfer as a gift.* The transfer by a donor to a donee, without consideration, and with an intention on the part of the donor that the transfer be a gift, is not be a taxable transfer.

(2) *Transfer by inheritance.* A transfer to an heir or legatee made under a provision of the law applicable to the inheritance or devise of property by intestacy or will is not a taxable transfer.

(3) *Transfer from sole proprietorship business to owner.* A transfer from a business operated as a sole proprietorship, whether or not operated under a fictitious name, to the actual owner thereof is not a taxable transfer.

(4) *Transfer from husband to wife or wife to husband.* A transfer from a husband to his wife or from a wife to her husband is not a taxable transfer

unless the transfer was made in accordance with a property settlement between the parties. When the transfer has been made pursuant to a property settlement it is presumed to be made with consideration and the burden of proving that no consideration was given for the transfer is upon the taxpayer.

(5) *Transfer from husband and wife to husband or to wife—transfer from husband or from wife to husband and wife.* A transfer from a husband and wife, as joint owners; to the husband or the wife; or a transfer from a husband or a wife to the husband and wife as joint owners; is not a taxable transfer.

(6) *Transfer from trustee, administrator or executor to a trust beneficiary.* A transfer from a trustee, administrator or executor, to a beneficiary of a trust, is not a taxable transfer, if no consideration passes from the beneficiary, or the trust settlor. If a consideration has passed, or if the transfer of the vehicle is made in contemplation of the passing of this consideration, the transfer is taxable.

(7) *Transfer to winner of drawing or raffle.* A transfer to a winner of a drawing or raffle is deemed to be a gift to the winner, and is not a taxable transfer. The purchase of a vehicle by the person who will transfer it to the winner is subject to tax.

Source

The provisions of this § 31.48 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816.

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 31.47 (relating to transfers of registrations which are presumed to be for a purchase price); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.49. Limited exemption to certain businesses.

(a) Persons engaged in the business of manufacturing, processing, mining, farming, dairying or rendering a public utility service, other than common carriers, shall pay tax upon the transfer of a vehicle required to be licensed under 75 Pa.C.S. §§ 101—9821 (relating to the Vehicle Code). When the person purchases a vehicle for which he obtains a Certificate of Title which is not required to be licensed under the Vehicle Code; and is directly used by the purchaser in his business of manufacturing, processing, mining, farming, dairying or rendering his public utility service, other than a common carrier, the use of the vehicle is exempt from tax.

(b) Persons who may qualify for this exemption are required to pay the applicable tax as a prerequisite to registration of the vehicle, but may file a Petition for Refund with the Department (Attention: Secretary, Board of Appeals) for a refund of the tax they have paid provided the use of the vehicle qualifies for exemption.

Source

The provisions of this § 31.49 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816.

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 31.46 (relating to transfer of registrations which are not subject to tax); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

§ 31.50. Taxable services rendered on vehicles.

(a) A person who maintains a place of business in this Commonwealth, and repairs or services vehicles, or sells equipment, parts or accessories therefor, shall register with the Department for the collection and remission of tax. The person shall collect and remit tax upon the transactions.

(b) When a Registered Dealer installs parts upon a new or used vehicle which was purchased from him, and makes no charge for the parts because they are furnished under a warranty given in conjunction with original purchase of the vehicle, he need not collect tax upon the furnished parts. When a partial warranty was given, and the dealer makes a charge based upon a percentage of the charge which he normally would ask for the parts, tax shall be collected by the dealer upon the amount actually charged the purchaser, since with respect to that portion of the transaction which is not consummated under the warranty, the transfer is deemed to be a sale.

Source

The provisions of this § 31.50 adopted September 29, 1972, effective September 30, 1972, 2 Pa.B. 1816.

Cross References

This section cited in 61 Pa. Code § 31.7 (relating to use tax); 61 Pa. Code § 31.41 (relating to definitions); 61 Pa. Code § 31.41a (relating to scope); 61 Pa. Code § 33.2 (relating to purchase price); and 61 Pa. Code § 60.16 (relating to Local Sales, Use and Hotel Occupancy Tax).

[Next page is 32-1.]

31-60

(319276) No. 381 Aug. 06

Copyright © 2006 Commonwealth of Pennsylvania