

shall make provisions for the sale of such stamps in such places as it may deem necessary.

Appointment of agents to sell such stamps.

The department [may] *shall* appoint [recorders] *the recorder* of deeds [or] *in each county and* other persons, within or without the Commonwealth, as agents, in accordance with the provisions of The Fiscal Code, the act of April nine, one thousand nine hundred twenty-nine, (Pamphlet Laws 343), as amended, for the sale of stamps to be used in paying the tax herein imposed upon documents, and may allow a commission to said agents of one percent of the face value of the stamps. The department shall pay the premium or premiums on any bond or bonds required by law to be procured by any agent for the performance of his duties under this act. *This section shall not be construed to require any recorder of deeds to accept appointment or serve as such agent.*

Bond premiums.

Disposition of all proceeds.

All *moneys paid into the State Treasury during the effective period of this act shall be credited to the General Fund.

Act effective immediately.

Section 2. This act shall take effect immediately.

APPROVED—The 4th day of April, A. D. 1957.

GEORGE M. LEADER

No. 24

AN ACT

Amending the act of March 6, 1956 (P. L. 1228), entitled, as amended, "An act to provide revenue for Commonwealth purposes by imposing a tax on the sale, use, storage, rental or consumption of certain tangible personal property and utility services herein defined as tangible personal property; providing for licenses, reports and payment of tax interest and penalties, assessments, collections, liens, reviews and appeals; conferring powers and imposing duties upon the Department of Revenue, public officers, manufacturers, wholesalers, retailers, corporations, partnerships, associations and individuals and making an appropriation," eliminating provisions which would reduce the rate of the tax and the use of prepaid tax receipts; changing and clarifying certain definitions; making further exemptions; changing the procedure for the collection of the tax and the administration of the act; and providing appeals.

Selective Sales and Use Tax Act.

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

Clause (c), paragraph (4), clause (f), clause (j) and paragraphs (11) and (17), clause (1), section 2, act of March 6, 1956, P. L. 1228, added May 24, 1956, P. L. 1707, further amended.

Section 1. Clause (c), paragraph (4) of clause (f), clause (j) and paragraphs (11) and (17) of clause (1) of section 2, act of March 6, 1956 (P. L. 1228), known as the "Selective Sales and Use Tax Act," added May 24, 1956 (P. L. 1707), are amended to read:

Section 2. Definitions.—The following words, terms and phrases when used in this act shall have the meaning

* "money" in original.

ascribed to them in this section, except where the context clearly indicates a different meaning:

* * * * *

(e) "Manufacture." The performance of manufacturing, fabricating, compounding, processing or other operations, engaged in as a business, which place any personal property in a form, composition or character different from that in which it is acquired *whether for sale or use by the manufacturer*, and shall include, but not be limited to—

(1) *Every operation commencing with the first production stage and ending with the completion of personal property having the physical qualities (including packaging, if any, passing to the ultimate consumer) which it has when transferred by the manufacturer to another;*

(2) Publishing of books, newspapers, magazines or other periodicals *and printing;*

[(2)] (3) Refining, exploring, mining and quarrying for, or otherwise extracting from the earth or from waste or stock piles or from pits or banks, any natural resources, minerals and mineral aggregates, including blast furnace slag;

[(3)] (4) Building, *rebuilding*, repairing and making additions to, or replacements in or upon vessels designed for commercial use of registered tonnage of fifty tons or more when produced upon special order of the purchaser, or when *rebuilt*, repaired or enlarged, or when replacements are made upon order of, or for the account of the owner;

[(4)] (5) Research having as its objective the production of a new or an improved (a) product or utility service, or (b) method of producing a product or utility service, but in either case not including market research or research having as its objective the improvement of administrative efficiency.

The term "manufacture," as defined in this subsection (c), shall not include constructing, altering, servicing, repairing or improving real estate or repairing, servicing or installing personal property.

* * * * *

(f) "Purchase Price."

* * * * *

(4) Where there is a transfer or retention of possession or custody, whether it be termed a rental, lease, service or otherwise, of tangible personal property including, but not limited to linens, aprons, motor vehicles, trailers, tires, industrial office and construction equipment, *and* business machines [and printers type], the full consideration paid or delivered to the vendor or

lessor shall be considered the purchase price, even though such consideration be separately stated and be designated as payment for processing, laundering, service, maintenance, insurance, repairs, depreciation or otherwise. Where the vendor or lessor supplies or provides an employe to operate such tangible personal property, the value of the labor thus supplied may be excluded and shall not be considered as part of the purchase price if separately stated. There shall also be included as part of the purchase price the value of anything paid or delivered, or promised to be paid or delivered by a lessee, whether it be money or otherwise, to any person other than the vendor or lessor by reason of the maintenance, insurance or repair of the tangible personal property which a lessee has the possession or custody of under a rental contract or lease arrangement.

* * * * *

(j) "Sale at Retail." Any transfer, for a consideration, of the ownership, custody or possession of tangible personal property, including the transfer of a license to use or consume [when such transfer is made for the purpose of consumption or use,] whether such transfer be absolute or conditional and by whatsoever means the same shall have been effected. *The term "sale at retail" shall include the printing or imprinting of tangible personal property for a consideration for persons who furnish, either directly or indirectly, the materials used in the printing or imprinting.* The term "sale at retail" shall not include any such transfer for the purpose of resale or the transfer of tangible personal property including, but not limited to, machinery and equipment and parts *and foundations* therefor and supplies to be used or consumed directly in *any of the operations of*—

(1) The manufacture of personal property [Provided, however, That this subsection (j) (1) shall not exclude from the definition of sale at retail the transfer of any motor vehicle, trailer, semi-trailer or tractor required to be registered with the department under the provisions of the act of May 1, 1929 (P. L. 905), The Vehicle Code or the provisions of the act of May 1, 1929 (P. L. 1005), The Tractor Code];

(2) Farming, dairying, agriculture, horticulture or floriculture when engaged in as a business enterprise [: Provided, however, That this subsection (j) (2) shall not exclude from the definition of sale at retail the transfer of any motor vehicle, trailer or semi-trailer other than those exempt from registration under the provisions of section 401 (d) of the act of May 1, 1929 (P. L. 905), The Vehicle Code] :

(3) The producing, delivering or rendering of a public utility service *or in constructing, reconstructing,*

remodeling, repairing or maintaining the facilities used in such service whether or not such facilities constitute real estate: Provided, however, "real estate" shall not include buildings.

[For the purpose of this subsection (j), the words "to be used or consumed directly" shall refer only to raw materials, machinery, equipment and parts therefor, and supplies necessary to the production process of the particular operation or necessary to the production, delivery or rendition of a public utility service, and shall not include any personal property to be used or consumed in connection with maintenance facilities (other than those of a public utility) or administrative facilities of the particular operation: Provided, however, That the exclusion from the definition of sale at retail provided for in this subsection shall not apply with respect to tangible personal property (other than machinery, equipment and parts therefor, and supplies) to be used or consumed in the construction, reconstruction, remodeling, repair and maintenance of real estate (other than machinery and equipment).]

The exclusions provided in paragraphs (1) and (2) shall not apply to any vehicle required to be registered under The Vehicle Code or The Tractor Code or to maintenance facilities or to materials or supplies to be used or consumed in any construction, reconstruction, remodeling, repair or maintenance of real estate other than machinery, equipment or parts or foundations therefor that may be affixed to such real estate. The exclusions provided in paragraph (1), (2) and (3) shall not apply to tangible personal property to be used or consumed in managerial sales or other nonoperational activities.

Where tangible personal property is utilized for purposes constituting a "sale at retail" as herein defined, and for purposes excluded from the definition of "sale at retail," the predominant purpose shall determine whether such purposes constitute a "sale at retail" as herein defined.

For the purpose of this subsection (j), a retention after March 7, 1956, of possession, custody or a license to use or consume pursuant to a rental contract or other lease arrangement (other than as security) shall be considered a transfer of such possession, custody or license to use or consume.

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(1) "Tangible Personal Property."

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(11) Toys, games, hobby supplies, photographic and projection equipment and supplies, sporting goods and athletic equipment and supplies therefor

designed for a particular sport and which normally are not used or worn when not engaged in that sport, bicycles and parts, accessories and supplies therefor, pleasure boats and equipment parts, accessories and supplies used in connection therewith, regardless of the use made of such property;

* * * * *

(17) Food and beverages (*except when purchased at, or from a school, church or hospital in the ordinary course of activities of such organization*) when the purchase price of the total transaction is more than fifty cents (50¢) when purchased [for consumption on the premises and when the purchase price of the total transaction is more than fifty cents (50¢) from] (i) *from persons engaged in the business of catering, or (ii) from persons engaged in the business of operating *restaurants, cafes, lunch counters, private and social clubs, taverns, dining cars, hotels and other eating places, [except when purchased from a school, church or hospital in the ordinary course of the activities of such organization or (ii) persons engaged in the business of catering] when in the latter case, the purchase is for consumption on the premises of the vendor or when furnished, prepared or served for consumption at tables, chairs or counters or from trays, glasses, dishes or other tableware provided by the vendor.* For the purposes of this [section] clause (17), beverages shall not include malt and brewed beverages and spirituous and vinous liquors.

Clause (1), section 2, of the act, amended by adding a new paragraph (18).

Section 2. Clause (1) of section 2 of the act is amended by adding at the end a new paragraph to read:

Section 2. Definitions.—The following words, terms and phrases when used in this act shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

* * * * *

(1) “Tangible Personal Property.”

* * * * *

(18) *Periodical and other publications, but not including publications which are published at regular intervals not exceeding three months, circulated among the general public and containing matters of general interest and reports of current events which are sold on a subscription or single copy basis.*

* * * * *

Clause (n), section 2, and clause (c), section 203, of the act added May 24, 1956, P. L. 1707, further amended.

Section 3. Clause (n) of section 2 and clause (c) of section 203 of the act added May 24, 1956 (P. L. 1707), are amended to read:

* “restaurant” in original.

Section 2. Definitions.—The following words, terms and phrases when used in this act shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

* * * * *

(n) "Use." The exercise of any right or power incidental to the ownership, custody or possession of tangible personal property and shall include, but not be limited to transportation, storage or consumption, except that the term "use" shall not include the following:

(1) The demonstration of tangible personal property in the regular course of business, and

(2) The interim [storage or transportation of] *keeping, retaining or exercising any right or power over* tangible personal property [purchased] *for the sole purpose of subsequently transporting it outside this Commonwealth for use outside this Commonwealth, or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other personal property to be transported outside the Commonwealth for use solely outside this Commonwealth.*

(3) The use or consumption of tangible personal property including, but not limited to machinery and equipment and parts *and foundations* therefor, and supplies directly in *any of the operations of*

(i) The manufacture of personal property [: Provided, however, That this paragraph (3) (i) shall not exclude from the definition of use, the use of any motor vehicle, trailer, semi-trailer or tractor required to be registered with the department under the provisions of the act of May 1, 1929 (P. L. 905), The Vehicle Code, or the provisions of the act of May 1, 1929 (P. L. 1005), The Tractor Code];

(ii) Farming, dairying, agriculture, horticulture or floriculture when engaged in as a business enterprise [: Provided, however, That this paragraph (3) (ii) shall not exclude from the definition of use, the use of any motor vehicle, trailer or semi-trailer other than those exempt from registration under the provisions of section 401 (d) of the act of May 1, 1929 (P. L. 905), The Vehicle Code];

(iii) The producing, delivering or rendering of a public utility service, *or in constructing, re-constructing, remodeling, repairing or maintaining the facilities used in such service, whether or not such facilities constitute real estate: Provided, however, "Real Estate" shall not include buildings.*

[For the purposes of this paragraph (3) the words "use or consumption of tangible personal property . . . directly in," shall refer only to raw materials, machinery, equipment and parts therefor, and supplies necessary to the production process of the particular operation or necessary to the production, delivery or rendition of a public utility service, and shall not include any personal property used in connection with maintenance facilities (other than those of the public utility), or administrative facilities of the particular operation: Provided, however, That the exclusion from the definition of use, provided for in this paragraph, shall not apply with respect to tangible personal property (other than machinery, equipment and parts therefor, and supplies), used in the construction, reconstruction, remodeling, repair and maintenance of real estate (other than machinery and equipment).]

The exclusions provided in subparagraphs (I) and (II) shall not apply to any vehicle required to be registered under The Vehicle Code or The Tractor Code or maintenance facilities, or to materials or supplies to be used or consumed in any construction, reconstruction, remodeling, repair or maintenance of real estate other than machinery, equipment or parts or foundations therefor, that may be affixed to such real estate. The exclusions provided in paragraphs (1), (2) and (3) shall not apply to tangible personal property to be used or consumed in managerial sales or other non-operation activities.

Where tangible personal property is utilized for purposes constituting a "use," as herein defined, and for purposes excluded from the definition of "use," the predominant purpose shall determine whether such purposes constitute a "use" as herein defined.

* * * * *

Section 203. Exclusions from Tax.—The tax imposed by section 201 shall not be imposed upon

* * * * *

(c) The sale at retail or use of supplies and materials to be used in the fulfillment of contracts for the construction, reconstruction, remodeling, repairing, maintenance or sale of real estate when such contract was entered into

(1) Prior to March 7, 1956, and is at a fixed price not subject to change or modification by reason of the tax imposed by this Act; or

(2) Pursuant to the obligation of a bid or bids submitted prior to March 7, 1956, which bid or bids could not be altered or withdrawn on or after that date and which bid or bids and contract entered into pursuant thereto are at a fixed price not subject to change or modification by reason of the tax imposed by this act.

Provided, however, That notice of such contract or bid by reason of which an exclusion is claimed under this subsection (c) must be given by the taxpayer to the department on or before June 15, 1956.

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Section 4. Section 203 of the act added May 24, 1956 (P. L. 1707), is amended by adding, after clause (i), three new clauses to read:

Section 203 of the act added May 24, 1956, P. L. 1707, amended by adding three new clauses, (j), (k) and (l).

Section 203. Exclusions from Tax.—The tax imposed by section 201 shall not be imposed upon

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(j) (1) Sale at retail or use of vessels designed for commercial use of registered tonnage of fifty tons or more when produced by the builders thereof upon special order of the purchaser;

(2) Sale at retail of tangible personal property used or consumed in building, rebuilding, repairing and making additions to or replacements in and upon vessels designed for commercial use of registered tonnage of fifty tons or more upon special order of the purchaser, or when rebuilt, repaired or enlarged, or when replacements are made upon order of or for the account of the owner.

(k) The sale at retail or use of tangible personal property to be used or consumed as fuel, supplies, ships' equipment, ships' stores or sea stores on vessels to be operated principally outside the limits of the Commonwealth.

(l) The sale at retail or use of medicine on prescription, crutches and wheelchairs for the use of cripples and invalids, artificial limbs, artificial eyes and artificial hearing devices when designed to be worn on the person of the purchaser or user, false teeth and materials used by a dentist in dental treatment, eyeglasses when especially designed or prescribed by an ophthalmologist, oculist or optometrist for the personal use of the owner or purchaser and artificial braces and supports designed solely for the use of crippled persons.

Sections 401, 402, 402.1, 403, 404, 405, 406 and 407 amended or added May 24, 1956, P. L. 1707, repealed.

Sections 520, 531, 534, 541 and subsection (c), section 546, of the act, amended May 24, 1956, P. L. 1707, further amended.

Section 5. *Sections 401, 402, 402.1, 403, 404, 405, 406 and 407 amended or added May 24, 1956 (P. L. 1707), are repealed.

Section 6. Sections 520, 531, 534, 541 and subsection (c) of section 546 of the act amended May 24, 1956 (P. L. 1707), are amended to read:

Section 520. Time for Filing Returns.—(a) [Monthly] *Quarterly* returns [a] *for the period ending December 31, 1956*. A return shall be filed monthly with respect to the preceding month by every licensee. Such return shall be filed on or before the last day of the month succeeding the month with respect to which the return is made. [for] *Except as provided for by regulations promulgated by the department pursuant to subsection (e) of this section for the period beginning January 1, 1957, and thereafter, a return shall be filed by every licensee on or before the last day of April, July, October and January [and] for the [periods] three months ending the last day of March, June, September and December.*

(b) Annual Returns. In addition to the return required by subsection (a), a return shall be filed annually with respect to the preceding calendar year by every licensee. Such return shall be filed [by] *on or before the [last day of February] fifteenth day of April* in the year succeeding the year with respect to which the return is made. *Licensees maintaining their books and records on the basis of an annual fiscal period other than the calendar year may, on application, be authorized by the department to file returns with respect to such fiscal period on or before the fifteenth day of the fourth month following the end of such fiscal period. The department, by regulation, may provide for the filing of short term returns by taxpayers who shall change reporting periods.*

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

(d) Transmittal Returns. *Except as provided for by regulations promulgated by the department pursuant to the provisions of subsection (e) of this section, every licensee shall, on or before the fifteenth day of every month other than April, July, October and January, file a transmittal return with respect to the total tax collected or incurred during the preceding calendar month.*

* "Section" in original.

Such transmittal return shall set forth only the identity of the licensee and the tax collected or incurred during such period.

(e) Small Taxpayers. The department, by regulation, may waive the requirement for the filing of quarterly returns in the case of any group of licensees whose individual tax collections do not exceed twenty-five dollars (\$25) per month, and monthly transmittal returns in the case of any group of taxpayers whose individual tax collections do not exceed one hundred dollars (\$100) per month, or in the alternative, may provide for reporting on a less frequent basis in such cases: Provided, That every licensee must file the annual return provided for by subsection (b) of this section.

Section 531. Time of Payment.—(a) Monthly and Quarterly Payments. The tax imposed by this act and incurred or collected by a licensee shall be due and payable by the licensee on [or before the last day of the month succeeding the period during which the transactions subject to the tax were made, and shall] *the day the return is required to be filed under the provisions of section 520 and such payment must accompany the return for such preceding period [, but credit against the tax imposed by subsection (a) of section 201 shall be allowed for the amount of prepaid tax receipts purchased and cancelled in accordance with the provisions of Article IV for the period covered by the return].*

(b) Annual Payments. If the amount of tax due for the preceding year as shown by the annual return of any taxpayer is greater than the amount already paid by him in connection with his monthly or quarterly returns, he shall send with such annual return a remittance for the unpaid amount of tax for the year.

(c) Other Payments. Any person, other than a licensee, liable to pay any tax under this act shall remit the tax at the time of filing the return required by this act.

Section 534. Commissions.—The licensee shall be entitled to apply and credit against the amount of tax payable by him an amount equal to two percent of the gross tax collected by him to cover his expense in the collection and remittance of said tax: Provided, however, That nothing contained in this section shall apply to any licensee who shall fail or refuse to file his return with and pay the tax to the department within the time prescribed. [This section shall not apply after the effective date of Article IV.]

Section 541. Mode and Time of Assessment.—(a) Underpayment of Tax. Within a reasonable time after any return is filed, the department shall examine it and,

if the return shows a greater tax due or collected than the amount of tax remitted with the return, the department shall forthwith assess the difference. The difference shall be paid to the department within ten days after a notice of the assessment has been mailed to the taxpayer.

(b) **Understatement of Tax.** If the department determines that any return or returns of any taxpayer understates the amount of tax due, it shall assess the proper amount and shall determine the difference between the amount of tax shown in the return and the amount assessed, such difference being hereafter sometimes referred to as the "deficiency." The deficiency shall be paid to the department within thirty days after a notice of the assessment thereof has been mailed to the taxpayer.

(c) **Failure to File Return.** In the event that any taxpayer fails to file a return required by this act, the department may make an estimated assessment (based on the best information available) of the proper amount of tax owing by the taxpayer, and the tax shall be paid within thirty days after a notice of such estimated assessment has been mailed to the taxpayer.

(d) **[Authority to Establish Effective Rates by Business Classification.** The department is authorized to make the studies necessary to compute effective rates by business classification, based upon the ratio between the tax required to be collected and taxable sales, and to use such rates in arriving at the tax liability of a taxpayer.

Any assessment based upon such rates shall be binding upon the taxpayer, unless such assessment is appealed in accordance with the provisions of this act.] *Notice of Assessment or Estimated Assessment. The notice of any assessment or estimated assessment shall set forth explicitly and in detail the amount of such assessment or estimated assessment and the grounds for making the assessment or estimated assessment.*

Section 546. Collection of Tax.—

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(c) **Exemption Certificates.** If the tax does not apply to the sale or lease of tangible personal property, the purchaser or lessee shall furnish to the vendor a certificate indicating that the sale is not legally subject to the tax. [The certificate shall be in such form as the department, by regulation, shall prescribe.] Where the tangible personal property is *of a type which is* never subject to the tax imposed or where the sale or lease is in interstate commerce, such certificate need not be furnished. Where the identity of the purchaser or user is such that all transactions with such person are never

subject to tax, such purchaser or user may furnish the vendor with a single exemption certificate [for each calendar year in such form as the department by regulation shall prescribe]. An exemption certificate, if taken in good faith, shall relieve the vendor from any liability for the tax.

* * * * *

Section 7. Section 551 of the act is amended to read :

Section 551 of
the act amended.

Section 551. [Restriction on Refunds.—No refund shall be made under section 550 without the approval of the Board of Finance and Revenue.] *Procedure for Refund.*—*Any overpayment of the tax imposed by this act shall be refunded to the person making such overpayment. The person making such overpayment shall petition the Board of Finance and Revenue for refund within two years of the payment of which a refund is requested, or within three years after the date when the return required by subsection (b) or (c) of section 520 is filed, whichever is later.*

Every petition for refund shall state specifically the reasons for such refund and shall be supported by an affidavit that the facts set forth therein are true and correct.

The Board of Finance and Revenue shall act finally in disposition of such petitions within six months after they have been received, and in the event of the failure of the Board of Finance and Revenue to dispose of such petition within six months, the petition shall be deemed to have been denied.

Any person or the Commonwealth aggrieved by the decision of the Board of Finance and Revenue or by the board's failure to act upon a petition for refund may, within sixty days from the date of mailing of the board's decision or the end of the six months' period when the board fails to act, appeal to the court of common pleas of Dauphin County in the manner now or hereafter provided by law for appeals in the case of tax settlements.

Section 8. Section 564 of the act amended May 24, 1956 (P. L. 1707), is repealed.

Section 564 of
the act amended
May 24, 1956,
P. L. 1707,
repealed.

Section 9. Subsections (a) and (b) of section 571, sections 572 and 581, subsection (a) of section 585, section 603 renumbered 604, and section 604 renumbered 605, of the act amended May 24, 1956 (P. L. 1707), are amended to read :

Subsections (a)
and (b), section
571, sections
572 and 581,
subsection (a),
section 585,
section 603 re-
numbered 604
and section 604
renumbered 605,
of the act
amended May
24, 1956, P. L.
1707, further
amended.

Section 571. Additions to Tax.—(a) Failure to File Return. In the case of failure to file any return required by section 501 on the date prescribed therefor (determined with regard to any extension of time for

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filing), there shall be added to the amount required to be shown as tax on such return five percent of the amount of such tax if the failure is for not more than one month, with an additional five percent for each additional month, or fraction thereof, during which such failure continues, not exceeding twenty-five percent in the aggregate. [In no case shall the amount added be less than ten dollars (\$10).] *In all cases the amount added shall be a minimum of two dollars (\$2).*

(b) Failure to Pay Tax Through Negligence or Fraud.

(1) If any part of any deficiency is due to negligence or intentional disregard of rules and regulations (but without intent to defraud), there shall be added to the tax an amount equal to five percent of the underpayment. *The mere existence of a deficiency shall not constitute such negligence or intentional disregard of rules and regulations.*

(2) If any part of any deficiency is due to fraud, there shall be added to the tax an amount equal to fifty percent of the deficiency. This amount shall be in lieu of any amount determined under paragraph (1) of this subsection.

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Section 572. [Penalties.—(a)] Penalty Assessed as Tax.—The penalties and liabilities provided by this act shall be paid upon notice and demand by the department, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in this act to “tax” imposed by this act shall be deemed also to refer to the penalties and liabilities provided by this part.

[(b) Attempt to Evade or Defeat Tax. Any person who wilfully attempts, in any manner, to evade or defeat the tax imposed by this act, or the payment thereof, or to assist any other person to evade or defeat the tax imposed by this act, or the payment thereof, or to receive a refund improperly, shall, in addition to other penalties provided by law, be liable for a penalty equal to the total amount of the tax evaded. No penalty shall be imposed under subsection (b) of section 571 for any offense to which this subsection is applicable.]

Section 581. Keeping of Records.—(a) General Provision. Every person liable for any tax imposed by this act, or for the collection thereof, shall keep the records, render such statements, make the returns and comply with such rules and regulations as the department may from time to time prescribe *in so far as the information which may be required is within the knowledge of the person required to make such return.* When-

ever in the judgment of the department it is necessary, it may require any person, by notice served upon such person, or by regulations, to make such returns, render such statements or keep such records as the department deems sufficient to show whether or not such person is liable to pay or collect tax under this act.

(b) **Persons Collecting Tax from Others.** Any person liable to collect tax from another person under the provisions of this act shall file reports, keep records, make payments and be subject to interest and penalties as provided for under this act, in the same manner as if he were directly subject to the tax.

(c) **Records of Non-residents.** A non-resident who does business in this Commonwealth as a retail dealer shall keep adequate records of such business or businesses and of the tax due with respect thereto, which records shall at all times be retained within this Commonwealth unless retention outside the Commonwealth is authorized by the department. No taxes collected from purchasers shall be sent outside the Commonwealth without the written consent of, and in accordance with conditions prescribed by the department.

(d) **Keeping of Separate Records.** Any person doing business as a retail dealer who at the same time is engaged in another business or businesses which do not involve the making of sales taxable under this act, shall keep separate books and records of his businesses so as to show the sales taxable under this act separately from his sales not taxable hereunder. If any such person fails to keep such separate books and records, he shall be liable for tax at the rate designated in section two hundred one of this act upon the entire purchase price of sales from both or all of his businesses.

(e) *Other Methods.* In those instances where a vendor gives no sales memoranda or uses registers showing only total sales, the vendor must adopt some method of segregating tax from sales receipts or keep records showing such segregation, for example:

(1) *Maintaining a separate container near each cash register or cash box in which the tax collected is deposited. A record of the amount of tax removed from such container must be preserved along with the record of sales proceeds from such register or cash box.*

(2) *Maintaining a tabulator or tax record sheet in conjunction with the register or cash box to show the amount of tax collected and deposited in the register or cash box.*

A vendor may apply to the department for permission to use a collection and recording procedure which will show such information as the law requires with reason-

able accuracy and simplicity. Such application must contain a detailed description of the procedure to be adopted. Permission to use the proposed procedure is not to be construed as relieving the vendor from remitting the full amount of tax collected when the tax has been segregated by the vendor. The department may revoke such permission upon thirty days' notice to the vendor.

Section 585. Bonds.—(a) Taxpayer to File Bond. Whenever the department, in its discretion, deems it necessary to protect the revenues to be obtained under the provisions of this act, it may require any non-resident natural person or any foreign corporation, either not authorized to do business within this Commonwealth or not having an established place of business therein and subject to the tax imposed by section 201 of this act, to file a bond issued by a surety company authorized to do business in this Commonwealth and approved by the Insurance Commissioner as to solvency and responsibility, in such amounts as it may fix, to secure the payment of any tax or penalties due, or which may become due, from such natural person or corporation. [The department may also require such a bond of any person petitioning the department for re-assessment.] In the event that the department determines that a taxpayer is to file such a bond, it shall give notice to such taxpayer to that effect, specifying the amount of the bond required. The taxpayer shall file such bond within five days after the giving of such notice by the department unless, within such five days, the taxpayer shall request, in writing, a hearing before the Secretary of Revenue or his representative at which hearing the necessity, propriety and amount of the bond shall be determined by the secretary or such representative. Such determination shall be final and shall be complied with within fifteen days after the taxpayer is given notice thereof.

* * * * *

Section 604. Appropriation.—So much of the proceeds of the tax imposed by this act as shall be necessary for the payment of refunds [or the redemption of prepaid tax receipts, provided for hereunder,] is hereby appropriated for the payment of such refunds [and redemption].

Section 605. Effective Date.—The provisions of this act shall take effect the day following final enactment and continue thereafter at the rate provided in sections 201 and 204 [but the provisions of article IV shall not be operative until January 1, 1957, or as soon thereafter as practicable: Provided, however, That any delay in

implementing the provisions of Article IV shall not affect any other provision of this act.

On and after June 1, 1957, the rate of tax imposed by sections 201 and 204 shall be two percent of the purchase price or fair rental value, and shall be computed as follows:

(a) If the purchase price is ten cents or less, no tax shall be collected;

(b) If the purchase price is eleven cents or more, but less than sixty-two cents, one cent shall be collected;

(c) If the purchase price is sixty-two cents or more, but less than one dollar and one cent, two cents shall be collected;

(d) If the purchase price is more than one dollar, two per cent of each dollar of the purchase price, plus the above bracket charges upon any fractional part of a dollar in excess of even dollars, shall be collected.]

Section 10. The provisions of this amending act in so far as they apply to sections 520 and 531 of the act of March 6, 1956 (P. L. 1228), shall become effective July 1, 1957. All the other provisions of this amending act shall become effective immediately. Effective dates.

APPROVED—The day of, A. D. 1957.

OFFICE OF THE SECRETARY OF THE COMMONWEALTH

Harrisburg, April 5, 1957.

I do certify that the above bill, entitled "An act amending the act of March 6, 1956 (P. L. 1228), entitled, as amended, 'An act to provide revenue for Commonwealth purposes by imposing a tax on the sale, use, storage, rental or consumption of certain tangible personal property and utility services herein defined as tangible personal property; providing for licenses, reports and payment of tax interest and penalties, assessments, collections, liens, reviews and appeals; conferring powers and imposing duties upon the Department of Revenue, public officers, manufacturers, wholesalers, retailers, corporations, partnerships, associations and individuals and making an appropriation,' eliminating provisions which would reduce the rate of the tax and the use of prepaid tax receipts; changing and clarifying certain definitions; making further exemptions; changing the procedure for the collection of the tax and the administration of the act; and providing appeals" was presented to the Governor on the twenty-fifth day of March, one thousand nine hundred fifty-seven, and was not returned within ten days after it had been presented to him, wherefore it has, agreeably to the Constitution of this Commonwealth, become a law in like manner as if he had signed it.

LAWS OF PENNSYLVANIA,
STATEMENT BY
GOVERNOR GEORGE M. LEADER
CONCERNING HOUSE BILL 337
PRINTER'S NO. 160

Harrisburg, Pa., April 4, 1957.

The Sales Tax Bill (House Bill 337), sent to my desk by the Republican-controlled General Assembly, will become law without my signature.

I permit it to become law only after many hours of deliberation.

In candor, I tell you that I would have vetoed the Bill if Republican legislative leaders had not agreed to adopt in substance the enforcement and administrative provisions which I have repeatedly requested.

I also would have vetoed the measure if these leaders had not agreed to abandon the costly and ineffective stamp tax plan.

Unhappily, they have done nothing to remove from the Bill the inexcusable preferences given to certain favored groups.

The Republicans, seeking to justify this favoritism, say they want to help industry.

As long as this help is legitimate, the principle is laudable.

I personally have emphasized—again and again—the importance of making our tax system in Pennsylvania competitive with that of other states for the attraction and growth of industry.

But House Bill 337 subverts this purpose.

It makes unwarranted concessions to a handful of favored interests and in this manner sets business against business.

In effect, it authorizes a multi-million dollar giveaway to shipbuilders, utilities, and certain other special interests.

My own feeling about the Sales Tax is well known. I have always opposed its very philosophy, the undeniable fact that it favors the few at the expense of the many.

The Republicans, by their control of both Houses of the General Assembly, wrote this bill.

The Democrats in the General Assembly fought it vigorously, but were overridden.

By insisting upon this Sales Tax Bill, the Republicans must inevitably take responsibility for it.

Just the same, I'd like to say this:

If we must have a Sales Tax, let's have one that works.

This bill—even as it is to be amended—is still an unfair and bad bill.

Privately, many Republicans in the General Assembly concede that the Sales Tax should be rewritten.

With that, I emphatically agree.

I urge these Republicans to say in public what they admit in private; to recognize that the dictates of conscience outweigh the dictates of caucus.

It is apparent that we won't get a responsible Sales Tax unless Party feelings are set aside in the interests of the Commonwealth.

In the attempt to remove the vital issue of taxation from the arena of partisan politics, I appointed a Tax Policy Advisory Committee, composed of distinguished Pennsylvanians.

That Committee was not only representative of the Commonwealth's many interested groups, but it approached its study in what is unarguably a non-partisan manner.

The recommendations of that Committee went unheeded.

Nonetheless, I believe that this was the sort of approach most likely to get results.

Accordingly, I offer this suggestion to the General Assembly, with no wish to encroach upon its legislative prerogatives:

Appoint a similar committee of your own, and set it to work at once to write a more equitable Sales Tax.

Clearly, a committee of this sort should not be answerable to any political party or lobby.

If the General Assembly acts immediately, it can still perform this essential service to the Commonwealth before the session ends.

I urge immediate action, and recommend that the present legislation be considered merely a stop-gap.

In its approach to this task, the General Assembly can count on the full support of this Administration, whose only concern is that the burden of taxation ultimately be distributed—as fairly as possible—among all of Pennsylvania's citizens.

GEORGE M. LEADER

Governor.