

No. 577

## AN ACT

To amend the act, approved the sixth day of March, one thousand nine hundred fifty-six (Pamphlet Laws ) (Act No. 381), entitled "An act to provide revenue for Commonwealth purposes by imposing a tax on the purchase, use, storage or other consumption of certain tangible personal property and utility services herein defined as tangible personal property; providing for licenses, reports, payment and collection 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," by imposing a tax on the sale and rental of certain tangible personal property and utility services; defining or redefining certain words, terms and procedural provisions in the act; excluding certain personal property from the tax; and changing provisions for assessment and collection of the tax and license fees.

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

Selective Sales  
and Use Tax Act.

Section 1. The title of the act of March six, one thousand nine hundred fifty-six (Act No. 381), known as the "Selective Sales and Use Tax Act," is amended to read:

Title of act of  
March 6, 1956,  
Act No. 381,  
amended.

## AN ACT

To provide revenue for Commonwealth purposes by imposing a tax on the [purchase,] sale, use, storage, rental or [other] consumption of certain tangible personal property and utility services herein defined as tangible personal property; providing for licenses, reports and payment [and collection] 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.

Title.

Section 2. Section two of the act is repealed.

Repeal of section  
2 of act.

Section 3. The act is amended by adding, after section one, a new section to read:

Act of March 6,  
1956, Act No.  
381, amended by  
adding a new  
section 2.

*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:*

(a) "Department." *The Department of Revenue of this Commonwealth.*

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

(1) *Having or maintaining within this Commonwealth, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent of general or restricted authority irrespective of whether the place of business or agent is located here permanently or temporarily or whether the person or subsidiary maintaining such place of business or agent is authorized to do business within this Commonwealth; or*

(2) *The engaging in any activity as a business within this Commonwealth by any person, directly or by a subsidiary, in connection with the lease, sale or delivery of tangible personal property for use, storage or consumption including, but not limited to, having, maintaining or using any office, distribution house, sales house, warehouse or other place of business, any stock of goods or any solicitor, salesman, agent or representative under its authority, at its direction or with its permission, regardless of whether the person or subsidiary is authorized to do business in this Commonwealth.*

(c) "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 and shall include, but not be limited to—*

(1) *Publishing of books, newspapers, magazines or other periodicals;*

(2) *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) *Building, 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 repaired or enlarged, or when replacements are made upon order of, or for the account of the owner;*

(4) *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.

(d) "Person." Any natural person, association, fiduciary, partnership, corporation or other entity, including the Commonwealth of Pennsylvania, its political subdivisions and instrumentalities and public authorities. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, or both, the term "person," as applied to an association, shall include the members thereof and, as applied to a corporation, the officers thereof.

(e) "Purchase at Retail." The acquisition for a consideration of the ownership, custody or possession of tangible personal property when such acquisition is made for the purpose of consumption or use, whether such acquisition shall be absolute or conditional, and by whatsoever means the same shall have been effected. The term "purchase at retail" shall include the acquisition of a license to use or consume, and the rental or lease of tangible personal property regardless of the period of time the lessee has possession or custody of the property, but shall not include any acquisition for the purpose of resale. For the purpose of this subsection (e), 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 an acquisition of such possession, custody or license to use or consume.

(f) "Purchase Price."

(1) The total value of anything paid or delivered, or promised to be paid or delivered, whether it be money or otherwise, in complete performance of a sale, lease or purchase at retail of tangible personal property without any deduction on account of the cost or value of the property sold, cost or value of transportation, cost or value of labor or service, interest or discount paid or allowed after the sale is consummated, or any other expense, but excluding the value of the following (i) returnable containers, (ii) labor or service cost in delivering, installing, applying or warranting the property sold if the consideration therefor is stated separately from the consideration paid for the property.

(2) There shall be deducted from the purchase price the value of any personal property actually taken in trade or exchange within this Commonwealth in lieu of the whole or any part of the purchase price. For the purpose of this subsection (f), the amount allowed by reason of personal prop-

erty actually taken in trade or exchange shall be considered the value of such property.

(3) In any transaction not at arm's length, the purchase price shall not be less than the prevailing market price for similar tangible personal property.

(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, 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.

(g) "Purchaser." Any person who acquires, for a consideration, the ownership, custody or possession by sale, lease or otherwise, of tangible personal property.

(h) "Resale."

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

(2) The physical incorporation of personal property as an ingredient or constituent into other personal property, which is to be sold in the regular course of business or which the person incorporating such property has undertaken at the time of purchase to cause to be transported in interstate commerce to a destination outside this Commonwealth.

## (i) "Resident."

(1) Any natural person (i) who is domiciled in the Commonwealth, or (ii) who maintains a permanent place of abode within the Commonwealth and spends in the aggregate more than sixty days of the year within the Commonwealth.

(2) Any corporation (i) incorporated under the laws of this Commonwealth, or (ii) authorized to do business or doing business within this Commonwealth, or (iii) maintaining a place of business within this Commonwealth.

(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 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 therefor and supplies to be used or consumed directly in—

(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.

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

\* "been" omitted in original.

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).

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.

(k) "Storage." Any keeping or retention of tangible personal property within this Commonwealth.

(l) "Tangible Personal Property."

(1) Motor vehicles, trailers, semi-trailers and aircraft and all accessories, supplies, parts, lubricants and equipment used in the maintenance, operation or repair of such motor vehicles, trailers, semi-trailers and aircraft;

(2) Formal day or evening apparel and articles made of fur on the hide or pelt, or any material imitative of fur and articles of which such fur real, imitation or synthetic, is the component material of chief value, but only if such value is more than three times the value of the next most valuable component material;

(3) All materials, supplies and equipment used in the construction, reconstruction, remodeling, repair and maintenance of any real estate;

(4) Furnishings, appliances, supplies, fittings, ornaments, furniture, equipment and accessories for home, business, industrial or commercial use, for indoor or outdoor purposes;

(5) Business, industrial, professional and commercial supplies, equipment and machines of all types, including parts and accessories purchased for or used in connection therewith;

(6) Cosmetics, toilet preparations, toilet articles, drugs and medical supplies, except when sold on prescription;

(7) All smoking accessories and tobacco products, except cigarettes;

(8) Luggage, handbags, wallets, billfolds, pocket-books, umbrellas, leather goods and related articles,

except leather wearing apparel not elsewhere in this section defined as tangible personal property, but including fittings and accessories;

(9) Jewelry, watches, clocks, silverware, dishes, tableware, pottery and related articles, but not including religious articles;

(10) Books, stationery and stationery supplies, but not including religious publications sold by religious groups. Bibles, mail order catalogues and direct mail advertising literature;

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

(12) Flowers, plants, shrubbery, trees, fertilizer, sprays and insecticides, bulbs and seeds, and supplies and equipment used in connection therewith;

(13) Fuel oil and petroleum products for heating purposes; steam and natural, manufactured \*and bottled gas;

(14) Hardware, tools, paint and painting materials, and equipment;

(15) Live animals, fish and birds (except when purchased as food for human consumption), and supplies, food and equipment used in connection therewith;

(16) Radios, television, receiving sets and receiving equipment, phonographs, sound recorders, musical instruments or any combination of the foregoing, and parts, components and accessories for the same, and records and sheet music;

(17) Food and beverages when purchased for consumption on the premises and when the purchase price of the total transaction is more than fifty cents (50¢) from (i) persons engaged in the business of operating restaurants, cafes, lunch counters, private and social clubs, taverns, 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. For the purposes of this section, beverages shall not include malt and brewed beverages and spirituous and vinous liquors.

(m) "Taxpayer." Any person required to pay or collect the tax imposed by this act.

\* "or" in original.

(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 tangible personal property purchased outside this Commonwealth for use outside this Commonwealth.*

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

(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.*

*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*

\* "(1)" omitted in original.

\*\* "(11)" omitted in original.



*machinery, equipment and parts therefor, and supplies), used in the construction, reconstruction, remodeling, repair and maintenance of real estate (other than machinery and equipment).*

(o) "Vendor." *Any person maintaining a place of business in this Commonwealth, selling or leasing tangible personal property, the sale or use of which is subject to the tax imposed by this act.*

Section 4. Article II. of the act is repealed.

Section 5. The act is amended by adding, after Article I., a new article to read:

Repeal of Article II. of act.

Act of March 6, 1956, Act No. 381, amended by adding a new Article II.

## ARTICLE II

### IMPOSITION OF TAX

*Section 201. Imposition of Tax.—(a) There is hereby imposed upon each separate sale at retail of tangible personal property within this Commonwealth a tax of three per cent of the purchase price, which tax shall be collected by the vendor from the purchaser, and shall be paid over to the Commonwealth as herein provided.*

*(b) There is hereby imposed upon the use within this Commonwealth of tangible personal property purchased at retail on or after March 7, 1956, a tax of three per cent of the purchase price, which tax shall be paid to the Commonwealth by the person who uses such property as herein provided, except that such tax shall not be paid by such person where he has paid the tax imposed by subsection (a) of this section with respect to such property.*

*Section 202. Computation of Tax.—The amount of tax imposed by section 201 of this act shall be computed as follows:*

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

*(b) If the purchase price \*is eleven cents (11¢) or more but less than forty-one cents (41¢), one cent (1¢) shall be collected.*

*(c) If the purchase price is forty-one cents (41¢) or more but less than seventy-one cents (71¢), two cents (2¢) shall be collected.*

*(d) If the purchase price is seventy-one cents (71¢) or more but less than one dollar and one cent (\$1.01), three cents (3¢) shall be collected.*

*(e) If the purchase price is more than one dollar (\$1.00), three per centum of each dollar of purchase price plus the above bracket charges upon any fractional part of a dollar in excess of even dollars shall be collected.*

\* "of", in original.

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

*(a) The sale at retail or use of tangible personal property other than motor vehicles, trailers and semi-trailers sold by or purchased from a person not a vendor in an isolated transaction, or sold by or purchased from a person who is a vendor but is not a vendor with respect to the tangible personal property sold or purchased in such transaction: Provided, That inventory and stock in trade so sold or purchased, shall not be excluded from the tax by the provisions of this subsection.*

*(b) The use of tangible personal property purchased by a nonresident person outside of, and brought into this Commonwealth for use therein for a period not to exceed seven days, or for any period of time when such nonresident is a tourist or vacationer and, in either case, not consumed within the Commonwealth.*

*(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.*

*(d) The sale at retail to or use by (1) any charitable organization, volunteer firemen's organization or non-profit educational institution, or (2) a religious organization for religious purposes of tangible personal property: Provided, however, That the exclusion of subsection (d) shall not apply with respect to any tangible personal property used in any unrelated trade or business carried on by such organization or institution or with respect to any tangible personal property defined in paragraph (3) of section 2 (l) of this act.*

*(e) The sale at retail, or use of tubes and replacement parts directly used in broadcasting radio and television programs by licensed stations.*

*(f) The sale at retail, or use of gasoline and other motor fuels, the sales of which are otherwise subject*

to excise taxes under the "Liquid Fuels Tax Act," May 21, 1931 (P. L. 194), as amended, and the "Fuel Use Tax Act," January 14, 1952 (P. L. 1965), as amended.

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

(h) The sale at retail to, or use by the United States, this Commonwealth or its instrumentalities or political subdivisions of tangible personal property.

(i) The sale at retail, or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, non-returnable containers and all other wrapping supplies, when such use is incidental to the delivery of any personal property, except that any charge for wrapping or packaging shall be subject to tax at the rate imposed by section 201.

*Section 204. Alternate Imposition of Tax.*—If any person brings tangible personal property purchased for use outside the Commonwealth into the Commonwealth for use (other than complete consumption) therein for a period not to exceed six months, such person may, upon notice to the department within ten days of the commencement of use of such property within the Commonwealth, elect to pay a tax upon the use of such property equal to three per cent (3%) of the fair rental value of such property for the actual period of use if such use does not exceed six months. Should such property be completely consumed within the Commonwealth or remain therein for longer than six months, the taxpayer shall be liable for a tax upon the use of such property according to section 201 (b) of this act but shall be allowed a credit equal to seventy per cent of the tax paid pursuant to the election provided for in this section. Such election may not be made with respect to any tangible personal property purchased or used in a state having a tax similar to that imposed by this act which does not grant, either

(a) a similar election with respect to tangible personal property upon the sale or use of which tax has been paid under the provisions of this act, or

(b) tax relief substantially similar to that granted by section 205 of this act.

*Section 205. Credit Against Tax.*—A credit against the tax imposed by this act shall be granted with respect to tangible personal property purchased for use outside the Commonwealth equal to the tax paid to another state by reason of the imposition by such other state of a tax similar to the tax imposed by this act: Provided, however, That no such credit shall be granted unless such other state grants substantially similar tax relief by reason of the payment of tax under this act.

Section 301, of the act, amended by adding a new subsection (e).

Section 6. Section 301 of the act is amended by adding, at the end thereof, a new subsection to read:

Section 301. Licenses \* \* \*

(e) *All applications for a license submitted to the department subsequent to June 1, 1956, shall not be subject to payment of the fee of two dollars (\$2). The amount of such license fee paid by a licensee shall be allowed as a credit on any return filed by such licensee on or before September 30, 1956.*

Sections 401 and 402 of the act, amended.

Section 7. Sections 401 and 402 of the act are amended to read:

Section 401. [Canceling Prepaid Tax Receipts.—On and after the effective date of this article the payment of the tax shall be evidenced by cancelling prepaid tax receipts equal in face value to the amount of the tax in the manner provided by this article. No profit other than the compensation provided for by this act shall accrue to a vendor or other person from the collection of any tax imposed by this act. Any person collecting any such tax shall cancel the proper amount of prepaid tax receipts equal in face value to the tax collected for each purchase at retail. If the total amount of taxes so collected in any period shall be in excess of two per centum of the sale price of the sales by the person collecting taxes during such period, the person shall, nevertheless, account to the department for the total amount of taxes collected as well as the total amount of prepaid tax receipts cancelled without deducting the amount by which the taxes collected exceed two per centum of the sale price of his sales during such period and without making any other deduction other than the compensation allowed by this act.] *Purchasers to Pay Tax Prepaid Tax Receipts.—Except as provided in Section 402.1, the tax imposed by Section 201 shall be paid by the purchaser to the vendor, and each vendor shall collect from the purchaser the full and exact amount of the tax payable on each taxable transaction and shall evidence the payment of the tax by canceling prepaid tax receipts equal in face value to the amount of the tax in the manner and at the time provided, as follows:*

(1) *If the purchase price is at or prior to the delivery of possession of the thing sold to the purchaser paid in currency passed from hand to hand by the purchaser or his agent to the vendor or his agent the vendor or his agent shall*

(i) *Collect the tax with and at the same time as the purchase price;*

(ii) *Immediately cancel in the presence of the purchaser by immediately tearing into two parts prepaid tax receipts of the proper face value, deliver*

*one part of each such canceled prepaid tax receipt to the purchaser or his agent and retain the other part.*

*(2) If the purchase price is otherwise paid or to be paid, the vendor or his agent shall cancel by tearing into two parts prepaid tax receipts equal in face value to the amount of the tax imposed by section 201. The amount of the tax on such sale, payment of which to the Commonwealth is evidenced by such cancellation, shall become a legal charge in favor of the vendor and against the purchaser, which shall be collected by the vendor in addition to the purchase price. The vendor shall retain one part of each cancelled prepaid tax receipt and, upon receipt of the purchase price, shall, at his election, (i) deliver one part of each cancelled prepaid tax receipt to the purchaser, or (ii) make available to the purchaser at the principal place of business of such vendor one part of each canceled prepaid tax receipt. Tax receipts which are unclaimed after ninety days shall be disposed of by the vendor under regulations issued by the department.*

Section 402. [Issuance of Prepaid Tax Receipts.—The department shall issue prepaid tax receipts in such denominations and classifications as it deems necessary, and it shall adopt and promulgate such rules and regulations as it may deem necessary in order to carry out the provisions of this act.] *Issuance and Design of Prepaid Tax Receipts.—Prepaid tax receipts required by section 401 shall be issued by the department in such denominations as it deems necessary. They shall be printed on durable paper, shall be of different design and distinctly different coloring for each denomination, and shall bear plainly on their face the denominations represented thereby.*

Section 8. The act is amended by adding, after section 402, a new section to read:

Act of March 6,  
1956, Act No.  
381, amended by  
adding a new  
section 402.1.

*Section 402.1. Powers and Duties of the Department; Prepayment of Tax.—The department shall design and procure prepaid tax receipts. The department shall enforce and administer this article, and it may adopt and promulgate such rules and regulations as it deems necessary to carry out the provisions thereof. The department may*

*(1) Prescribe the form and manner of canceling prepaid tax receipts;*

*(2) Waive the cancellation of prepaid tax receipts in the manner otherwise provided in this act in the case of purchases of natural or manufactured, gas or steam, but no such authority shall be granted or exercised except upon application to the department;*

(3) *Authorize a manufacturer, wholesaler or retailer to prepay the tax upon the sales of tangible personal property produced or distributed by such manufacturer, wholesaler or retailer and waive the collection of the tax from the consumer in the manner otherwise provided in this act if, upon application by such manufacturer, wholesaler or retailer and hearing, advance notice of which is given to all persons in the same classification as the applicant, the department finds that the conditions of the applicant's business are such as to render impracticable the collection of the tax in the manner provided by said sections. No such authority shall be granted or exercised unless the applicant (i) furnishes bond payable to the Commonwealth in such amount as the department determines to be sufficient to secure the prepayment of the tax, and (ii) gives notice of such prepayment by printing a notice plainly upon the product sold or the statement rendered therefor or, if the printing of such notice is impossible, by posting notice thereof upon the premises of the applicant where such product is sold. The person to whom such authority is granted shall purchase and cancel prepaid tax receipts and make one part of each such prepaid tax receipt available to the purchaser as provided in section 401 (2) of this act.*

Sections 403,  
404 and 405 of  
the act, amended.

Section 9. Sections 403, 404 and 405 of the act are amended to read:

Section 403. Distributors.—The department shall distribute the prepaid tax receipts to any bank or trust company or bank and trust company in this Commonwealth, which applies for a permit to act as a distributor of prepaid tax receipts to vendors. As a commission for handling and distributing the prepaid tax receipts, each distributor shall be allowed a commission of one-half of one per centum of the total value of stamps sold to vendors. Each distributor shall also furnish to the [departments] department [a semi-annual], on or before the tenth day of the month, a monthly report for the preceding month and, on or before the last day of January, an annual reconciliation report showing an accounting of such sales. It shall be the duty of the Department of Revenue to conduct audits and make investigations to determine whether or not each distributor makes a proper accounting of the distribution of prepaid tax receipts. *The department may sell prepaid tax receipts to vendors in amounts not less than five thousand dollars (\$5,000) of face value of such prepaid tax receipts in one transaction.*

Section 404. Purchase by Vendors.—Each vendor making taxable sales shall purchase and have on hand at all times prepaid tax receipts in suitable denominations and in amounts sufficient to supply the normal

requirements of his business. A vendor shall procure prepaid tax receipts only from *the department or authorized distributors licensed as such by the Commonwealth*. For the purpose of compensating vendors for the keeping of prescribed records and the proper accounting of taxes and prepaid tax receipts by them, such vendors shall be allowed to purchase prepaid tax receipts at a discount of two per centum upon each purchase amounting to twenty-five dollars [(\$25.00)] (\$25) or more. *The department shall redeem and pay for any unused or spoiled tax receipts at their net value. An application for refund shall be filed with the department on the form prescribed by it within ninety days from the date the tax receipts are spoiled.*

Section 405. Redemption.—To encourage the assistance of health, welfare, charitable, religious, educational, fraternal, patriotic and volunteer firemen's organizations, *labor and union organizations*, and the general public in the collection of the tax, the department shall redeem the consumer's or purchaser's portion of prepaid tax receipts at two per centum of the face value when presented in accordance with rules and regulations prescribed by the department in amounts aggregating one hundred dollars (\$100) or more.

Section 10. The act is amended by adding, after section 405, two new sections to read:

Act of March 6, 1956, Act No. 381, is amended by adding two new sections 406 and 407.

*Section 406. Returns and Refunds Official Credit Memorandum.—If prepaid purchases are returned to the vendor by the purchaser after the tax imposed by section 201 has been collected or charged to the account of the purchaser, the vendor shall be entitled to reimbursement of the amount of the tax so collected or charged by him, either through the cancellation of prepaid tax receipts paid for by the purchaser or through the cancelling of prepaid tax receipts paid for by the vendor and charged to the account of the purchaser in the manner provided by this act. Upon receipt of a sworn statement by the vendor as to the gross amount of refunds during the period covered by the sworn statement, which period shall not be longer than the quarterly period as set forth in section 520, the department shall issue to the vendor an official credit memorandum equal to the net amount paid by the vendor for the canceled prepaid tax receipts. The memorandum shall be accepted by the department or an agent at full face value from the vendor to whom it is issued in the purchase of prepaid tax receipts under section 404.*

*Section 407. Penalties.—Any person who falsely or fraudulently uses more than once any prepaid tax receipt shall, upon conviction thereof in a summary pro-*

*ceeding, be sentenced to pay a fine of not more than one hundred dollars (\$100), or to undergo imprisonment for not more than thirty days, or both.*

*Any person who, with intent to defraud, falsely or fraudulently makes, forges, alters or counterfeits any prepaid tax receipt prescribed by the department pursuant to this act, or, with intent to defraud, falsely or fraudulently makes, forges, alters or counterfeits any vendor's purchase order of any such prepaid tax receipt, or knowingly and wilfully utters, publishes, passes, presents for credit or tenders as true any such false, altered or forged or counterfeited receipt or vendor's purchase order for the purchase of such prepaid tax receipt, or, with intent to defraud, purchases any stolen prepaid tax receipts or vendor's purchase order whether such prepaid tax receipts or vendor's purchase order is false, altered, forged, counterfeited, reused or true, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than two thousand dollars (\$2000), or to undergo imprisonment for not more than one year.*

Section 501, subsections (a) and (b) of section 520, sections 531, 533 and 534 of the act, amended.

Section 11. Section 501, subsections (a) and (b) of section 520, sections 531, 533 and 534 of the act are amended to read:

Section 501. Persons Required to Make Returns.—Every [taxpayer] *person required to pay tax to the department or collect and remit tax to the department shall file returns with respect to such tax.*

Section 520. Time for Filing Returns.—(a) *Monthly Returns. 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 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 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 the [thirty-first day of January] last day of February in the year succeeding the year with respect to which the return is made.*

\* \* \* \* \*

Section 531. Time of Payment.—(a) *Monthly Payments. The tax imposed by this act and incurred or collected by a licensee shall be due and payable [in monthly*



installments] *by the licensee* on or before the last day of the month succeeding the [month] *period* during which the [purchases] *transactions* subject to the tax were made, and shall accompany the return for such preceding [month] *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 533. Place for Payment [of Tax].—The tax imposed by this act shall be paid to the department at the place fixed for filing the return.

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 [per centum] 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 12. The act is amended by adding, after section 534, a new section to read:

*Section 535. Tax Held in Trust for the Commonwealth.—All taxes collected by any person from purchasers in accordance with this act shall constitute a trust fund for the Commonwealth, and such trust shall be enforceable against such person, his representatives and any person receiving any part of such fund without consideration, or knowing that the taxpayer is committing a breach of trust: Provided, however, That any person receiving payment of a lawful obligation of the taxpayer from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust. Any person, other than a taxpayer, against whom the department makes any claim under this section shall have the same right to petition and appeal as is given taxpayers by any provisions of this article.*

Act of March 6,  
1956, Act No.  
381, amended by  
adding a new  
section 535.

Sections 541, 542,  
543, 544, 546 and  
547 of the act,  
amended.

Section 13. Sections 541, 542, 543, 544, 546 and 547 of the act are amended to read:

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 [thirty] *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, [the department] *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 [licensee] *taxpayer*.

(c) Failure to File Return. In the event that any [licensee] *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 [probable] *proper* amount of tax owing by the [licensee] *taxpayer*, and the tax shall be paid within thirty days after a notice of such estimated assessment has been mailed to the [licensee] *taxpayer*.

(d) Authority to Establish Effective Rates by Business [Classifications. If a return required by this act is not filed or a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the department from such information as may be obtainable.] *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 [licensee] *taxpayer*.

Any assessment based upon [effective rates established by the department] *such rates* shall be binding upon the taxpayer, unless such assessment is appealed in accordance with the provisions of this act.

Section 542. Reassessment.—Any [licensee] *taxpayer* against whom an assessment is made may petition the department for a reassessment. Notice of an intention to file such a petition shall be given to the department prior to the time the assessment becomes due and payable. The department shall hold such hearings as may

be necessary for the purpose, at such times and places as it may determine, and each [licensee] *taxpayer* who has duly notified the department of an intention to file a petition for reassessment shall be notified by the department of the time when, and the place where, such hearing in his case will be held. A petition for reassessment, if filed, shall set forth explicitly and in detail the grounds upon which the [licensee] *taxpayer* claims that the assessment is erroneous or unlawful, in whole or in part, and shall be accompanied by an affidavit under oath or affirmation certifying to the facts stated in the petition.

It shall be the duty of the department, within six months after the hearing, or after receiving a filed petition for reassessment, to dispose of the issue raised at such hearing or by such filed petition. Notice of the action taken shall be given to the petitioner promptly after the date of reassessment by the department.

Section 543. Review by Board of Finance and Revenue.—Within sixty days after the date of mailing of notice by the department of the action taken on any petition for reassessment filed with it, or after the department's failure to act within the time specified, the person against whom such assessment was made may, by petition, request the Board of Finance and Revenue to review such action. Every petition for review filed hereunder shall state specifically the reasons on which the petitioner relies, or shall incorporate by reference the petition for reassessment in which the reasons are stated. The petition shall be supported by affidavit that it is not made for the purpose of delay and that the facts [therein] set forth *therein* are true. The Board of Finance and Revenue shall act finally in disposing of petitions filed with it within six months after they have been received. In the event of the failure of the board to dispose of any petition within six months, the action taken by the department, upon the petition for reassessment, shall be sustained. The Board of Finance and Revenue may sustain the action taken *by the department* on the petition for reassessment, or it may reassess the tax due on such basis as it deems according to law. The board shall give notice of its action by mail to the department and to the petitioner.

Section 544. Appeal to the Court of Common Pleas of Dauphin County.—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 review within six months may, within sixty days, appeal to the Court of Common Pleas of Dauphin County from the decision of the board or [from the decision] of the department, as the case may

be, in the manner now or hereafter provided by law for appeals in the case of tax settlements.

Section 546. Collection of Tax.—(a) Collection by Department. The department shall collect the tax in the manner provided by law for the collection of taxes imposed by the laws of this Commonwealth.

(b) Collection by Persons Maintaining a Place of Business in <sup>\*</sup>the Commonwealth. (1) Every person maintaining a place of business in this Commonwealth and selling or leasing tangible personal property, the sale or use of which is subject to tax, shall collect the tax from the purchaser or lessee at the time of making the sale or lease, [shall collect the tax from the purchaser or lessee] and shall remit the tax to the department.

(2) Any person required under this act to collect tax from another person, who shall fail to collect the proper amount of such tax, shall be liable for the full amount of the tax which he should have collected.

(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 [seller or lessor] 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 identity of the user is such that the transaction is never subject to the tax imposed or] Where the tangible personal property is never subject to the tax imposed or where the sale or lease is in interstate commerce, [no] 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.

(d) Direct Payment Permits. The department may authorize a purchaser or lessee who acquires tangible personal property under circumstances which [normally] make it impossible at the time of acquisition to determine the manner in which it will be used, to pay the tax directly to the department and waive the collection of the tax by the [sellers] vendor. No such authority shall be granted or exercised, except upon application to the department, and the issuance by the department, in its discretion, of a direct payment permit. If a direct payment permit is granted [then the payment of tax on all acquisitions, including acquisitions of tangible personal property the use of which is known at the time of the

\* "the" omitted in original.

acquisition], *its use shall be subject to conditions specified by the department, and the payment of tax on all acquisitions pursuant to the permit shall be made directly to the department by the permit holder. [If such person is a licensee, the tax shall be paid at the same time and in the same manner as is prescribed for a licensee.]*

Section 547. Collection Upon Failure to Request Reassessment, Review or Appeal.—The department may collect any tax:

(a) If an assessment of tax is not paid within *ten days or thirty days as the case may be* after notice thereof to the [licensee] *taxpayer*, and no petition for reassessment has been filed;

(b) Within sixty days from the date of reassessment, if no petition for review has been filed;

(c) Within sixty days from the date of the decision of the Board of Finance and Revenue upon a petition for review, or of the expiration of the board's time for acting upon such petition, if no appeal has been made; and

(d) In all cases of judicial sales, receiverships, assignments or bankruptcies.

In any such case in a proceeding for the collection of such taxes, the person against whom they were assessed shall not be permitted to set up any ground of defense that might have been determined by the department, the Board of Finance and Revenue or the courts.

Section 14. Section 548 is amended by adding, at the end thereof, a new subsection to read:

Section 548. Lien of Taxes.—\* \* \*

*(d) Priority of Tax. In the distribution, voluntary or compulsory, in receivership, bankruptcy or otherwise, of the property or estate of any person, all taxes imposed by this act which are due and unpaid and are not collectible under the provisions of section 535 hereof, shall be paid from the first money available for distribution in priority to all other claims and liens, except in so far as the laws of the United States may give a prior claim to the Federal government. Any person charged with the administration or distribution of any such property or estate, who shall violate the provisions of this section, shall be personally liable for any taxes imposed by this act, which are accrued and unpaid and are chargeable against the person whose property or estate is being administered or distributed.*

Section 15. The act is amended by adding, after section 548, a new section to read:

Section 549. Collection of Tax on Credit Sales.—*If any sale subject to tax hereunder is wholly or partly*

Section 548 of the act amended by adding a new subsection (d).

Act of March 6, 1956, Act No. 381, amended by adding a new section 549.

*on credit, the taxpayer shall require the purchaser to pay in cash at the time the sale is made, or within thirty days thereafter, the full tax due on the basis of the entire purchase price.*

Sections 562, 563, subsection (a) of section 564, sections 570, 571, subsection (b) of section 572, subsection (b) of section 573 and sections 580, 581, 582, 583, 584, 585 and 601 of the act, amended.

Section 16. Sections 562, 563, subsection (a) of section 564, sections 570, 571, subsection (b) of section 572, subsection (b) of section 573, sections 580, 581, 582, 583, 584, 585 and 601 of the act are amended to read:

Section 562. False or Fraudulent Return.—Where the taxpayer *wilfully* files a [wilfully] false or fraudulent return with [the] intent to evade the tax imposed by this act, the amount of tax due may be assessed and collected at any time.

Section 563. Extension of Limitation Period.—Notwithstanding any of the foregoing provisions of this part, where, before the expiration of the period prescribed therein for the assessment of a tax, a taxpayer has consented, in writing, that such period be extended, the amount of tax due may be assessed at any time within such extended period. The period so extended may be [further] extended *further* by subsequent consents, in writing, made before the expiration of the extended period.

Section 564. Limitations on Refund or Credit.—(a) Application for Refund. Any application for refund must be filed with the department within three years from the time the return [is] required *by subsections (b) and (c) of section 520* is to be filed (determined without regard to any extension of time), or two years from the [time] *date* the tax was paid, whichever is later.

\* \* \* \* \*

Section 570. Interest.—If any amount of tax imposed by this act is not paid *to the department* on or before the last date prescribed for payment, interest on such amount at the rate of one-half of one [per centum] *percent* per month for each month, or fraction thereof, from such date, shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined under subsection (a) or (c) of section 531 without regard to any extension of time for payment. In the case of any amount assessed as a deficiency or as an estimated assessment, the date prescribed for payment shall be thirty days after notice of such assessment.

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 filing), there shall be added to the amount required to be shown

as tax on such return five [per centum] *percent* of the amount of such tax if the failure is for not more than one month, with an additional five [per centum] *percent* for each additional month, or fraction thereof, during which such failure continues, not exceeding twenty-five [per centum] *percent* in the aggregate. [but in] *In* no case shall the amount added be less than ten dollars (\$10).

(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.

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

(c) Interest. If the department assesses a tax according to section 541 (b) or (c), there shall be added to the amount of the deficiency interest at the rate of one-half of one [per centum] *percent* per month for each month, or fraction thereof, from the date prescribed by section 531 (a) or (c) of this act for the payment of the tax to the date of notice of the assessment.

(d) Uncollectible Checks. Whenever any check issued in payment of any tax [assessment] or for any other purpose shall be returned to the department as uncollectible, the secretary shall charge a fee of five dollars (\$5) plus all protest fees, to the person presenting such check to him to cover the cost of its collection *in addition to the interest and penalties otherwise provided for by this act*.

Section 572. Penalties.—\* \* \*

(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 [, circumvent] 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 [section] *subsection* is applicable.

Section 573. Crimes.—\* \* \*

(b) Other Crimes. Except as otherwise provided by subsection (a) of *this section*, any person maintaining

a place of business in this Commonwealth, who advertises or holds out or states to the public or to any purchaser or user, directly or indirectly, that the tax or any part thereof imposed by this act will be absorbed by such person, or that it will not be added to the [selling] *purchase* price of the tangible personal property sold or, if added, that the tax or any part thereof will be refunded, other than when such person refunds the [selling] *purchase* price because of such property being returned to the [seller] *vendor*, and any person maintaining a place of business in this Commonwealth and selling or leasing tangible personal property the *sale* or use of which by the purchaser is subject to tax hereunder, who shall wilfully fail or refuse to collect the tax from the purchaser and remit the same to the department, and any person who shall wilfully fail, neglect or refuse to file any return or report required by this act or any taxpayer who shall refuse to pay any tax, penalty or interest imposed or provided for by this act, or who shall wilfully fail to preserve his books, papers and records as directed by the department, or any person who shall refuse to permit the department or any of its authorized agents to examine his books, records or papers, or who shall knowingly make any incomplete, false or fraudulent return or report, or who shall do, or attempt to do, anything whatever to prevent the full disclosure of the amount or character of taxable sales [or] purchases or use made by himself or any other person, or shall provide any person with a false statement as to the payment of tax with respect to particular tangible personal property, or shall make, utter or issue a false or fraudulent exemption certificate, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000) and costs of prosecution, or undergo imprisonment not exceeding one year, or both: *Provided, however, That any person maintaining a place of business outside this Commonwealth may absorb the tax with respect to taxable sales made in the normal course of business to customers present at such place of business without being subject to the above penalty and fines.* The penalties imposed by this section shall be in addition to any other penalties imposed by any provision of this act [other than subsection(a)].

Section 580. Rules and Regulations.—(a) *General Provision.* The department is hereby charged with the enforcement of the provisions of this act, and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce, rules and regulations not inconsistent with the provisions of this act, relating to any matter or thing pertaining to the administration and enforcement



of the provisions of this act, and the collection of taxes, penalties and interest imposed by this act.

*(b) Sales between Affiliated Interests. In determining the purchase price of taxable sales where, because of affiliation of interests between the vendor and the purchaser or for any other reason, the purchase price of such sale is not indicative of the true value of the article sold or the fair price thereof, the department shall prescribe uniform and equitable rules for determining the amount of constructive purchase price upon the basis of which the tax shall be levied. Such rules shall provide for a constructive amount of a purchase price for each such sale, which price shall equal a price for such article which would naturally and fairly be charged in an arm's-length transaction in which the element of common interests between vendor and purchaser or any other element causing a distortion of the price is absent.*

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. Whenever 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 [for the] 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.*

Section 582. Examinations.—The department or any of its authorized agents is hereby authorized to examine the books, papers and records of any taxpayer in order to verify the accuracy and completeness of any return made or, if no return was made, to ascertain and assess the tax imposed by this act. The department may require the preservation of all such books, papers and records for any period deemed proper by it *but* not to exceed [, however,] three years from the end of the calendar year to which the records relate. Every such taxpayer is hereby required to give to the department, or its agent, the means, facilities and opportunity for such examinations and investigation. The department is further authorized to examine any person, under oath, concerning taxable sales or [purchases] *use* by any taxpayer or concerning any other matter relating to the enforcement or administration of this act, and to this end may compel the production of books, papers and records and the attendance of all persons whether as parties or witnesses whom it believes to have knowledge of such matters. The procedure for such hearings or examinations shall be the same as that provided by the Fiscal Code relating to inquisitorial powers of fiscal officers.

Section 583. Unauthorized Disclosure.—Any information gained by the department as a result of any return, *examination*, investigation, hearing or verification, required or authorized by this act, shall be confidential, except for official purposes and except in accordance with proper judicial order or as otherwise provided by law, and any person unlawfully divulging such information shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not in excess of one thousand dollars (\$1000) and costs of prosecution, or to undergo imprisonment for not more than one year, or both.

Section 584. Cooperation with Other Governments.—Notwithstanding the provisions of section 583, the department may permit the Commissioner of Internal Revenue of the United States, or the proper officer of any state, or the authorized representative of either such officer, to inspect the tax returns of any taxpayer, or may furnish to such officer or to his authorized representative an abstract of the return of any taxpayer or supply him with information concerning any item contained in any return or disclosed by the report of any

*examination or investigation of the return of any taxpayer. [The] This permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of the Commonwealth charged with the administration of this act.*

Section 585. Bonds.—(a) [Where the secretary, in his] *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, [he] it may require any [taxpayer] nonresident 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 [with him] 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 [the secretary] it may fix, to secure the payment of any tax or penalties due, or which may become due, from such [taxpayer in] natural person or corporation. The department may also require such a bond of any person petitioning the department for reassessment. In the event that the [secretary] department determines that a taxpayer is to file such a bond, [he] it shall give notice to such taxpayer to that effect, specifying the amount of the bond required. [the] 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 [such] or such representative. Such determination [by the secretary] shall be final and shall be complied with within fifteen days after the taxpayer is given notice thereof.*

(b) *Securities in Lieu of Bond.* In lieu of the bond required by this section, securities approved by the department [secretary], or cash in such amount as he may prescribe, may be deposited [which]. *Such securities or cash shall be kept in the custody of the department [secretary] who may, at any time without notice to the depositor, apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by the department [secretary], at public or private sale, [without notice,] upon five days written notice to the depositor.*

Section 601. *Saving Clause.*—Notwithstanding anything contained in any law to the contrary, the validity of any law or any ordinance, or part of any law or of

any ordinance, or any resolution or part of any resolution, and any amendments or supplements thereto, now or hereafter enacted or adopted by the Commonwealth or any political subdivision thereof, providing for or relating to the imposition, levy or collection of any tax, shall not be affected or impaired by anything contained in this act.

Act of March 6,  
1956, Act No.  
381, amended by  
adding a new  
section 602.

Section 17. The act is amended by adding, after section 601, a new section to read:

*Section 602. Sales Presumed to be at Retail.*—Every sale of tangible personal property shall be presumed to be at retail and to be subject to the tax imposed by this act.

Sections 602, 603  
and 604 of the  
act, amended.

Section 18. Sections 602, 603 and 604 are amended to read:

Section [602] 603. Constitutional Construction.—If any section, sentence, clause or part of this act, is, for any reason, held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional sentence, section, clause or part thereof, not been included herein.

Section [603] 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 [604] 605. Effective Date.—The provisions of this act shall take effect the day following final enactment but the provisions of article [iv] IV. shall not be operative until [July 1, 1956] *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.*

[The rate of tax imposed by section 201 shall be two per centum of the purchase price on and after June 1, 1957, and shall be computed as follows:

(1) If the purchase price is ten cents (10¢) or less, no tax shall be collected;

(2) If the purchase price is eleven cents (11¢) or more, but less than sixty-two cents (62¢), one cent (1¢) shall be collected;

(3) If the purchase price is sixty-two cents (62¢) or more, but less than one dollar and one cent (\$1.01), two cents (2¢) shall be collected;

(5) If the purchase price is more than one dollar (\$1), two per centum 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.]

*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 19. This act shall take effect immediately and its provisions shall be retroactive to March 7, 1956, **Effective date.** except that it shall not be construed to impose a tax retroactively with respect to any tangible personal property not subject to tax under this act prior to the effective date of this amendment.

APPROVED—The 24th day of May, A. D. 1956.

GEORGE M. LEADER

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No. 578

AN ACT

Amending the act of June twenty-four, one thousand nine hundred thirty-seven (Pamphlet Laws 2017), entitled "An act creating in each county (except of the first class) as a separate corporation, and in each city of the first and second class as a part of the city government, an institution district for the care and maintenance of certain indigent persons and children; prescribing the powers and duties of county commissioners, county treasurers, city departments of public welfare, the State Department of Welfare and the State Department of Public Assistance, in respect thereto; abolishing certain poor districts and terminating the terms of directors, overseers, guardians and managers of the poor and poor district auditors, and providing for the temporary employment of certain of them; providing for the transfer, vesting, sale and disposition of the property of poor districts and the payment of their obligations; imposing certain existing obligations on institution districts and