

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER LISOWSKI, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

WALMART STORES, INC., t/d/b/a
WALMART,

Defendant.

No. 2:20-cv-1729

Electronically Filed

NOTICE OF REMOVAL

Defendant Walmart Inc. (incorrectly named Walmart Stores, Inc.) (“Walmart”) removes this action from the Court of Common Pleas of Allegheny County, Pennsylvania to the United States District Court for the Western District of Pennsylvania. Removal is based on 28 U.S.C. § 1332 and § 1441, as amended in relevant part by the Class Action Fairness Act of 2005 (“CAFA”) and authorized by 28 U.S.C. § 1453.

As grounds for removal, Walmart states as follows:

BACKGROUND

1. This putative class action was commenced by a Complaint filed on October 7, 2020 in the Court of Common Pleas of Allegheny County and docketed at No. GD-20-10605. The Complaint and its exhibits are attached as Exhibit A.

2. According to Plaintiff’s Affidavit of Service, Walmart was served with Plaintiff’s Complaint on October 13, 2020. This Notice of Removal is filed within thirty days of service and is therefore timely under 28 U.S.C. § 1446(b)(1) and Rule 6(a)(1)(C) of the Federal Rules of Civil Procedure, as well as *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

3. Plaintiff Christopher Lisowski is citizen of the Commonwealth of Pennsylvania and resides at 225 17th Street Pittsburgh, Pennsylvania 15215.

4. Defendant Walmart is a Delaware corporation with its principal executive offices located at 702 S.W. 8th Street, Bentonville, Arkansas. Walmart is thus a citizen of Delaware and Arkansas for purposes of diversity jurisdiction under 28 U.S.C. § 1332.

5. The Complaint's allegations make clear that removal of the action to this Court is proper under CAFA, because the putative class is numerous; the parties are minimally diverse; and the amount-in-controversy unquestionably exceeds \$5 million.

THE ALLEGATIONS OF THE COMPLAINT

6. The Complaint alleges that Mr. Lisowski purchased two 6-packs of "5-Hour Energy" drinks at a Walmart store in Pittsburgh, Pennsylvania on December 29, 2019, and September 14, 2020, respectively. Complaint ¶¶ 5, 8.

7. The Complaint asserts that Mr. Lisowski was charged sales tax of \$0.94 on each sale. *Id.* ¶¶ 6, 9.

8. The Complaint contends that, under 61 Pa. Code § 58.1, "Dietary Supplements and Substitutes" are exempt from sales tax in Pennsylvania. *Id.* ¶¶ 12–13.

9. The Complaint states that "Walmart charged Plaintiff sales tax on Plaintiff's purchases of dietary supplements, and thus overcharged Plaintiff and, it is believed, the other consumer Class Members, for their purchases." *Id.* ¶ 14.

10. Plaintiff asserts a variety of Pennsylvania common law and statutory claims against Walmart based on these limited allegations. Count I alleges that "Walmart has converted and/or misappropriated funds belonging to Plaintiff Lisowski and the other members of the Class in an amount not yet known, but believed to exceed at least a million dollars." *Id.* ¶ 20. The Complaint

also alleges that Walmart “benefited from these overcharges since it was entitled to receive a kick-back or commission equal to 1% of taxes of improperly charged by virtue of Section 7227 of the Pennsylvania Tax Code, 72 P.S. § 7227.” *Id.* ¶ 23.

11. Count II alleges that, “[b]y collecting more from consumers that it was entitled to collect, and to the extent it failed to remit improperly charged sales tax or otherwise benefited from its improper actions,” Walmart was “unjustly enriched.” *Id.* ¶ 27.

12. Count III purports to state a claim for breach of constructive trust Walmart allegedly created when it received payment of sales taxes. *Id.* ¶¶ 30–34.

13. Count IV alleges violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.* (“UTPCPL”), “(a) [b]y representing that the goods sold by Defendant Walmart have characteristics (i.e., that they are taxable) that they do not have, in violation of 73 P.S. § 201-2(4)(b); (b) [b]y engaging in deceptive conduct which creates a likelihood of confusion and misunderstanding in structuring its receipts in such a way that a typical consumer (and, upon information and belief, Walmart’s own tax manager) is unaware of what items purchased were properly subject to taxation, even after the item is purchased and payment is tendered; and (c) [b]y engaging in deceptive conduct which creates a likelihood of confusion and misunderstanding with respect to what constitutes proper charges to customers purchasing goods in Pennsylvania, in violation of 73 P.S. § 201-2(4)(xxi).” *Id.* ¶¶ 36, 37.

CLASS ALLEGATIONS

14. The Complaint purports to be brought on behalf of a putative class of “all individuals who: (a) on or after October 7, 2014, purchased any dietary supplement from either a Walmart or Sam’s Club store in Pennsylvania, online from Walmart.com, or online from

samsclub.com in Pennsylvania, and (b) was charged or paid sales tax on the purchase price of that dietary supplement.” *Id.* ¶ 41.

15. Plaintiff asserts that the putative class “numbers in the tens of thousands, and perhaps in the hundreds of thousands.” *Id.* ¶ 44.

JURISDICTION UNDER THE CLASS ACTION FAIRNESS ACT

16. Removal to federal district court is proper under CAFA where (1) the amount in controversy “exceeds \$5,000,000, as aggregated across all individual claims;” (2) there are “minimally diverse parties;” and (3) the “class consist[s] of at least 100 or more members.” *Judon v. Travelers Prop. Cas. Co. of Am.*, 773 F.3d 495, 500 (3d Cir. 2014) (citing 28 U.S.C. § 1332(d)(2), (5)(B), (6); *Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, 592 (2013)).

17. Amount in Controversy. The CAFA amount in controversy is calculated by aggregating the claims of the entire putative class. 28 U.S.C.A. § 1332 (d)(6). For the avoidance of doubt, Walmart denies that Plaintiff or any putative class member is entitled to recover in any amount, and specifically denies that Plaintiff or any putative class member is entitled to relief in the various forms and amounts sought. Nevertheless, the Complaint’s allegations of the putative class and the relief sought place an aggregate amount in controversy of more than \$5,000,000, exclusive of interest and costs.

18. The Complaint purports to be brought on behalf of a putative class “of all individuals who: (a) on or after October 7, 2014, purchased any dietary supplement from either a Walmart or Sam’s Club store in Pennsylvania, online from Walmart.com, or online from samsclub.com in Pennsylvania, and (b) was charged or paid sales tax on the purchase price of that dietary supplement.” Complaint ¶ 41.

19. Plaintiff alleges that Walmart owns and operates at least 131 Walmart and Sam's Club stores in Pennsylvania. *Id.* ¶ 2. Plaintiff also alleges that "Walmart makes millions of dollars in sales in the Commonwealth of Pennsylvania which involve the sale of dietary supplements including, but not limited to, brands such as '5-Hour Energy' supplements." *Id.* ¶ 3.

20. Plaintiff brings claims based on a variety of theories and seeks remedies including actual damages, punitive damages, treble damages, costs, interest, attorneys' fees, and injunctive relief. *See id.* ¶¶ 19–39.

21. Plaintiff specifically alleges that "at least a million dollars" has been converted and/or misappropriated by Walmart. *Id.* ¶ 20.

22. Plaintiff also claims statutory violations of unfair trade practices. *Id.* ¶ 37. Each violation under the UTPCPL carries a penalty of "actual damages or \$100 per violation, whichever is greater, trebled plus costs, interest and attorneys' fees." *Id.* ¶ 39 (quoting 73 P.S. § 201-9.2).

23. Attorney's fees are also considered in the calculation of the amount-in-controversy. *Frederico v. Home Depot*, 507 F.3d 188, 199 (3d Cir. 2007); *Suber v. Chrysler Corp.*, 104 F.3d 578, 585 (3d Cir. 1997); *Verma v. 3001 Castor, Inc.*, 937 F.3d 221, 228 (3d Cir. 2019).

24. Plaintiff asserts that "the Class numbers in the tens of thousands, and perhaps in the hundreds of thousands." Complaint ¶ 44.

25. For a putative class alleged to be in the "tens of thousands, and perhaps in the hundreds of thousands" the statutory liability alone totals *at least* \$6,000,000 (20,000 class members \times \$100 \times 3). *Id.* ¶ 44. *See Landsman & Funk PC v. Skinder-Strauss Assocs.*, 640 F.3d 72, 79 (3d Cir. 2011) (considering treble damages in calculation of amount-in-controversy). This number is in addition to the minimum \$1,000,000 in alleged overcharges.

26. A “median recovery range for attorney’s fees” of 30% on the \$7,000,000 outlined above equals \$2,100,000. *Neale v. Volvo Cars of N. Am., LLC*, 794 F.3d 353, 358 n.1 (3d Cir. 2015).

27. Based on the allegations in the Complaint, the amount-in-controversy exceeds \$9,000,000.

28. If Plaintiff’s allegation that the class may well number “in the hundreds of thousands” is accepted, then the actual amount-in-controversy is exponentially higher.

29. Additionally, based on its sales records, Walmart has made more than 16,667 discrete sales of 5-Hour Energy drinks since October 2014, when the alleged class period began.¹

30. Citizenship of Parties. Plaintiff is a citizen of Pennsylvania. Complaint ¶ 1. Walmart is a citizen of Delaware and Arkansas for the purposes of 28 U.S.C. § 1332(c)(1).

31. Thus, removal is proper under CAFA because at least one class member is a citizen of a different state than the defendant. 28 U.S.C. § 1332(d)(2)(A).

32. Number of Proposed Class Members. The numerosity requirement is met as the putative class exceeds 100. *See* Complaint ¶ 44 (“the Class numbers in the tens of thousands, and perhaps in the hundreds of thousands...the Class is numerous.”).

PROCEDURAL REQUIREMENTS

33. Removal to Proper Court. This case was filed in Allegheny County, Pennsylvania, which is within this Court’s “district and division” under 28 U.S.C. § 1446(a).

¹ To be sure, given that the Complaint is not limited to claims based on sales tax charged on “5-Hour Energy” branded drinks alone, but also for “any dietary supplement,” a more accurate calculation on the products of concern necessitates further clarification from Plaintiffs regarding scope. Complaint ¶ 3.

34. Timely Removal. Plaintiff served the Complaint on Walmart on October 13, 2020. Therefore, this Notice is timely filed within the requirements set forth in 28 U.S.C. § 1446(b).

35. Pleadings and Process. The Complaint is attached as Exhibit A. Also attached as Exhibit B are copies of all process, pleadings, and orders served on Walmart in this action. 28 U.S.C. § 1446(a).

36. Notice. Exhibit C contains a copy of the Notification of Filing of Notice of Removal, which will be promptly served on Plaintiff's counsel and filed with the Clerk of the Court of Common Pleas, Allegheny County, Pennsylvania under 28 U.S.C. § 1446(d).

37. Signature. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11. *See* 28 U.S.C. § 1446(a).

38. Consent. Walmart is the sole defendant in this action and therefore no additional consent is necessary.

39. For these reasons, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(d), and the claims may be removed to this Court under 28 U.S.C. § 1453.

WHEREFORE, Defendant Walmart, Inc. requests that this action be removed from the Court of Common Pleas of Allegheny County to the United States District Court for the Western District of Pennsylvania.

Date: November 10, 2020

Respectfully submitted,

By: /s/ Michael P. Pest
Thomas E. Sanchez (Pa. I.D. No. 311199)
Michael P. Pest (Pa. I.D. No. 312025)
ECKERT SEAMANS
CHERIN & MELLOTT, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
(412) 566-6000 (telephone)
(412) 566-6099 (facsimile)
tsanchez@eckertseamans.com

mpest@eckertseamans.com

Suyash Agrawal (*pro hac vice* forthcoming)
MASSEY & GAIL LLP
50 E. Washington Street – Suite 400
Chicago, Illinois 60602
(312) 283-1590 (telephone)
(312) 379-0467 (facsimile)
sagrawal@masseygail.com

Kathryn Robinette (*pro hac vice* forthcoming)
MASSEY & GAIL LLP
1000 Maine Ave. SW – Suite 450
Washington, D.C. 20024
(202) 652-4511 (telephone)
(312) 379-0467 (facsimile)
krobinette@masseygail.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Defendant Walmart Inc.'s Notice of Removal has been served upon Plaintiff at the address set forth below via regular mail and email this 10th day of November, 2020:

Frank G. Salpietro, Esq.
Emily E. Town, Esq.
Rothman Gordon, P.C.
310 Grant Street - Third Floor
Pittsburgh, PA 15219
fgsalpietro@rothmangordon.com
etown@rothmangordon.com

Steffan T. Keeton, Esq.
The Keeton Firm LLC
10 South Commons - Suite 102
Pittsburgh, PA 15212
stkeeton@keetonfirm.com

/s/ Michael P. Pest
Michael P. Pest

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA

CHRISTOPHER LISOWSKI, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

WALMART STORES, INC., t/d/b/a
WALMART,

Defendant.

CIVIL ACTION – CLASS ACTION

No. GD-20-10605

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Filed on behalf of Plaintiff:
Counsel of Record for this Party:

Frank G. Salpietro, Esquire
Pa. I.D. No. 47154

Emily E. Town, Esquire
Pa. I.D. No. 309881

Rothman Gordon, P.C.
Firm I.D. 010
310 Grant Street – Third Floor
Pittsburgh, PA 15219
(412) 338-1185 (telephone)
(412) 246-1785 (facsimile)
fgsalpietro@rothmangordon.com

(LEAD CLASS COUNSEL)

Steffan T. Keeton, Esquire
Pa. I.D. No. 314635

The Keeton Firm LLC
10 South Commons – Suite 102
Pittsburgh, PA 15212
(888) 412-5291 (Ext. 711)
stkeeton@keetonfirm.com

(CO-COUNSEL)

OPS\$KRISTOPHER1
7 October 2020
9:20:47
GD-20-010605

FILED

2020 OCT -7 AM 9:18

DEPT. OF COURT RECORDS
CIVIL/FAMILY DIVISION
ALLEGHENY COUNTY PA

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA**

CHRISTOPHER LISOWSKI, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

WALMART STORES, INC., t/d/b/a
WALMART,

Defendant.

CIVIL ACTION – CLASS ACTION

No. _____

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally, or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint, or for any other claim or relief requested by the Plaintiffs(s). You may lose money, or property, or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**LAWYER REFERRAL SERVICE
The Allegheny County Bar Association
11th Floor Koppers Building
435 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA**

CHRISTOPHER LISOWSKI, on behalf of
himself and all others similarly situated,

Plaintiffs,

v.

WALMART STORES, INC., t/d/b/a
WALMART,

Defendant.

CIVIL ACTION – CLASS ACTION

No. _____

CLASS ACTION COMPLAINT

NOW COMES Plaintiff Christopher Lisowski ("Plaintiff Lisowski"), on behalf of himself and all others similarly situated, who by and through their undersigned counsel, make the following claims against Defendant Walmart Stores, Inc., t/d/b/a Walmart ("Walmart"):

1. Plaintiff Lisowski is an individual with an address of 225 17th Street Pittsburgh, PA 15215.

2. Defendant Walmart is a multi-billion dollar Arkansas corporation with 8500 retail stores in 15 countries. It owns and operates at least 131 Walmart and Sam's Club stores in the Commonwealth of Pennsylvania, including stores in Allegheny County, where it regularly conducts business.

3. While the precise number is not yet known, Plaintiff believes and therefore avers, subject to further discovery, that Defendant Walmart makes millions of dollars in

sales in the Commonwealth of Pennsylvania which involve the sale of dietary supplements including, but not limited to, brands such as “5-Hour Energy” supplements.

4. Jurisdiction and venue in this Court are proper because, *inter alia*, the Defendant regularly conducts business in this County, and transactions or occurrences giving rise to the causes of action occurred in this County. Moreover, principles of comity and the Tax Injunction Act, 28 USC 1341, require the State Courts of this Commonwealth to address matters involving the interpretation of state tax laws and regulations. *See Farneth v. Wal-Mart Stores, Inc*, 2013 WL 6859013 (W.D.Pa. Dec. 30, 2013).

5. On December 29, 2019, Plaintiff Lisowski purchased a 6-pack of “5-Hour Energy” dietary supplement at the Walmart store located at 877 Freeport Road, Pittsburgh, Pennsylvania. A specimen photo of the product purchased by Plaintiff Lisowski is attached hereto as **Exhibit 1**.

6. Plaintiff Lisowski’s receipt, attached hereto as **Exhibit 2**, sets forth the \$13.48 purchase price and description of the Dietary Supplement purchased by Plaintiff Lisowski.

7. Plaintiff Lisowski was charged sales tax of \$0.94 on the sale.

8. On September 14, 2020, Plaintiff Lisowski again purchased a 6-pack of “5-Hour Energy” Dietary Supplement at the Walmart store located at 877 Freeport Road, Pittsburgh, Pennsylvania for a purchase price of \$13.48. A copy of Plaintiff Lisowski’s receipt is attached hereto as **Exhibit 3**.

9. Plaintiff Lisowski was again charged sales tax of \$0.94 on the sale.

10. 72 P.S. § 7202 provides that sales tax is imposed upon each separate sale of tangible personal property within the Commonwealth of Pennsylvania equal to 6% of the “purchase price” (7% in Allegheny County and 8% in Philadelphia), which shall be collected by the vendor from the purchaser.

11. However, that statute (enacted by the Pennsylvania Legislature) and regulations (promulgated by the Pennsylvania Department of Revenue) specifically exclude certain items from the imposition of sales tax.

12. In particular, the Department of Revenue gave express notice to the public, pursuant to 61 Pa. Code § 58.1, that “Dietary Supplements and Substitutes” are not subject to sales tax in the Commonwealth of Pennsylvania. See **Exhibit 4, page 15**.

13. In addition, the Pennsylvania Department of Revenue issues a “Retailer’s Information” booklet that identifies, *inter alia*, taxable and exempt (*i.e.*, non-taxable) property sold in the Commonwealth. See **Exhibit 5** attached hereto. In that publication, the Department of Revenue expressly advised retailers, including grocery stores, supermarkets, convenience stores, and establishments similar to Defendant Walmart, that: “dietary supplements and substitutes, **in any form**” are exempt from sales tax. *Id.*, page 29 (emphasis added).

14. Notwithstanding this clear directive, Defendant Walmart charged Plaintiff sales tax on Plaintiff’s purchases of dietary supplements, and thus overcharged Plaintiff and, it is believed, the other consumer Class Members, for their purchases.

15. As identified on the specimens attached hereto as **Exhibit 1**, the products purchased are clearly labeled and identified as "DIETARY SUPPLEMENTS." In fact, it is believed and therefore averred that Defendant Walmart stocks and sells these products in the medicine, drug, and medical supply section of its stores.

16. The Pennsylvania Department of Revenue's Board of Appeals has already provided guidance on the issue. In particular:

- a. A Petition was filed with the Department's Board of Appeals on or about January 21, 2020, seeking a refund of \$4.51 for the improper collection of tax by a retailer in Allegheny County for the purchase of "5-Hour Energy" Dietary Supplements. A copy of the Petition filed is attached hereto as **Exhibit 6**.
- b. On June 17, 2020, the Department's Board of Appeals entered a *Decision and Order*, finding that the collection of sales tax on dietary supplements was improper. A copy of the *Decision and Order* entered by the Board of Appeals is attached hereto as **Exhibit 7**.
- c. Despite the opportunity to appeal the *Decision and Order*, the Department of Revenue elected not to file a timely appeal by the August 17, 2020 deadline, thereby rendering the *Decision and Order* final and binding.
- d. The Petitioner in the above matter then received a refund dated August 12, 2020 from the Department of Revenue, confirming that dietary supplements are exempt from sales tax in the Commonwealth of Pennsylvania. See **Exhibit 8** attached hereto.

17. It is believed and therefore averred that Defendant Walmart overcharges, continues to overcharge, and has in the past overcharged Pennsylvania residents in its Pennsylvania stores and internet sales, in violation of Pennsylvania tax law and regulation.

18. The extent of improper overcharges are believed and therefore averred to be significant, but the exact scope and amount of said overcharges are not yet known, and subject to further discovery. However, it is believed and therefore averred that Defendant Walmart, through its sophisticated Point of Sale (POS) system, has the capability of identifying, among other things, the number of transactions where dietary supplements were sold, the amount converted through the improper collection of funds under the guise of sales tax charged on dietary supplements, and in all cases where a consumer Class Member used a form of payment other than cash, the identity of the affected Class Member.

COUNT I
(Conversion and Misappropriation)

19. Paragraphs 1 through 18 above are incorporated herein by reference as if fully set forth.

20. By its improper conduct, Defendant Walmart has converted and/or misappropriated funds belonging to Plaintiff Lisowski and the other members of the Class in an amount not yet known, but believed to exceed at least a million dollars.

21. The conversion and misappropriation of these funds is illegal, unjustified, and intentional, insofar as it is believed and therefore averred that Defendant Walmart had actual knowledge of the sales tax exemption pursuant to the statute and regulations, given that Defendant Walmart operates at least 131 stores in the Commonwealth of Pennsylvania.

22. Alternatively, if the conversion and/or misappropriation was not deliberate, it is the result of gross neglect on the part of Defendant Walmart.

23. Further, it is believed and therefore averred that during a portion of the time relevant to this matter, Defendant Walmart benefited from these overcharges since it was entitled to receive a kick-back or commission equal to 1% of taxes of improperly charged by virtue of Section 7227 of the Pennsylvania Tax Code, 72 P.S. § 7227.

24. Regardless of motive, conversion is a tort of strict liability in this Commonwealth.

25. This conversion and misappropriation of Class Members' funds substantially benefited and continues to benefit Defendant Walmart, while acting to the severe pecuniary disadvantage of Plaintiff Lisowski and the consumer Class Members.

WHEREFORE, Plaintiff Christopher Lisowski, on behalf of himself and all others similarly situated, respectfully demands judgment in their favor and against Defendant Walmart in excess of the arbitration limits of this Court (with a specific amount to be determined at a later date), plus interest, punitive damages, costs and attorneys' fees.

COUNT II
(Unjust Enrichment)

26. Paragraphs 1 through 25 above are incorporated herein by reference as if fully set forth.

27. By collecting more from consumers than it was entitled to collect, and to the extent it failed to remit improperly charged sales tax or otherwise benefited from its improper actions, Defendant Walmart was unjustly enriched, to the deprivation of Class Members.

28. Without limitation, Section 7227 of the Pennsylvania Tax Code provides that Defendant Walmart, at a minimum, benefited from the improper collection of sales tax from Class Members by being able to “credit and apply against the tax payable” a commission of 1% of the amount of the tax improperly collected from Class Members.

29. Thus, and again at a minimum, Defendant Walmart was unjustly enriched by being able to retain a percentage of the taxes collected improperly, to the detriment of Class Members.

WHEREFORE, Plaintiff Christopher Lisowski, on behalf of himself and all others similarly situated, demands judgment in their favor and against Defendant Walmart, in excess of the arbitration limits of this Court (with a specific amount to be determined at a later date), plus interest, costs and attorneys’ fees.

COUNT III
(Breach of Constructive Trust)

30. Paragraphs 1 through 29 above are incorporated herein by reference as if fully set forth.

31. Defendant Walmart received money from the taxpayer Class Members to be applied to a particular purpose, *i.e.*, the payment (albeit improper) of sales taxes.

32. The payments collected by Defendant Walmart from Class Members for this purpose created and continue to create a constructive trust, with Defendant Walmart serving, at a minimum, as a trustee for purposes of ensuring that the funds held in trust were/are paid to the proper payee.

33. Defendant Walmart either improperly retained the constructive trust funds, in which case it has been unjustly enriched, or alternatively, improperly paid the trust funds to a third party (*i.e.*, the Pennsylvania Department of Revenue) which, by its own acknowledgement, was not entitled to receive those funds.

34. Whether Defendant Walmart obtained the funds subject to the constructive trust from Class Members intentionally, or through a mistaken belief or assumption that taxes were payable, sales taxes on dietary supplements were not properly collectible or payable, either in fact or in law, and the funds paid by Class Members are recoverable from Defendant Walmart, which breached its duties and obligations to the Class Members as trustee by failing to remit the funds to the proper payees (*i.e.*, the Class Members).

WHEREFORE, Plaintiff Christopher Lisowski, on behalf of himself and all others similarly situated, respectfully demands a judgment and decree against Defendant Walmart as follows:

- a. That the Court determine and decree that all funds paid by Class Members to Defendant Walmart under the guise of "sales tax" on the purchase price of dietary supplements were and are the subject of a constructive trust in favor of the Class Members, with Defendant Walmart as trustee of the constructive trust;
- b. That the Court determine and decree that Defendant Walmart failed to pay the funds held in the constructive trust, as set forth in this Complaint, to the proper payees, *i.e.*, the Class Members;
- c. That the Court determine and decree that to the extent Defendant Walmart collected or retained the funds held in constructive trust for the Class Members, that said

Defendant has breached its duties as trustee and/or has been unjustly enriched;

- d. That the Court determine and decree that to the extent Defendant Walmart paid the funds held in constructive trust to third parties not entitled to receive the funds (whether in fact or in law), then Defendant Walmart breached its duties and obligations as trustee of the constructive trust for Class Members;
- e. That the Court determine and decree that Defendant Walmart should cease and desist from the further improper collection of sales tax on dietary supplements sold in the Commonwealth of Pennsylvania;
- f. That the Court determine and decree that Defendant Walmart is liable to the Class Members for all amounts collected from Class Members under the guise of collecting a "sales tax" to the extent that no sales tax should have been imposed and was not payable, plus interest and costs; and
- g. That the Court enter such other relief as it may deem proper under the circumstances.

Count IV
(Unfair Trade Practices)

35. Paragraphs 1 through 34 above are incorporated herein by reference as if fully set forth.

36. The Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.* ("UTPCPL"), has declared it illegal to engage in certain unfair or deceptive acts or practices in this Commonwealth.

37. By virtue of Defendant Walmart's improper collection and use of the funds of Plaintiff Lisowski and the Class, by virtue of its failure to properly disclose to consumers that Defendant was not permitted to collect sales tax on purchases that are

the subject of this Complaint, and by virtue of its failure and/or refusal to program its POS and/or cash register systems to exclude such taxes from being applied for purchases of dietary supplements made in Pennsylvania (despite the fact that such programming could be done with minimal effort), Defendant Walmart has engaged in activities which violate the UTPCPL in at least the following ways:

- a. By representing that the goods sold by Defendant Walmart have characteristics (*i.e.*, that they are taxable) that they do not have, in violation of 73 P.S. § 201-2(4)(b);
- b. By engaging in deceptive conduct which creates a likelihood of confusion and misunderstanding in structuring its receipts in such a way that a typical consumer (and, upon information and belief, Walmart's own tax manager) is unaware of what items purchased were properly subject to taxation, even after the item is purchased and payment is tendered; and
- c. By engaging in deceptive conduct which creates a likelihood of confusion and misunderstanding with respect to what constitutes proper charges to customers purchasing goods in Pennsylvania, in violation of 73 P.S. § 201-2(4)(xxi).

38. Defendant Walmart's overcharge for the purchase of items as set forth in this Complaint are not revealed to Plaintiff or Class Members until after the transaction between the Class Members and Defendant is complete. It is only after funds are tendered to Defendant Walmart by the Class Member, and a receipt is provided, that the consumer would have the opportunity (even if the receipts were not confusing and deceptive in the first instance) to determine that they had been overcharged. Among other things, this is significant because Defendant Walmart takes, and has taken, the position that the moment it collects sales tax from consumers—whether legally or

illegally—those funds are held by Walmart in trust to be paid to the Commonwealth, and thus cannot be returned to the consumer.

39. Because of its violations of the UTPCPL, Defendant Walmart is liable to all Class Members for actual damages or \$100 per violation, whichever is greater, trebled, plus costs, interest and attorneys' fees. 73 P.S. § 201-9.2.

WHEREFORE, Plaintiff Christopher Lisowski, on behalf of himself and all others similarly situated, respectfully demands judgment in his favor and against Defendant Walmart, in an amount yet to be determined, but exceeding the arbitration limits of this Court, trebled, plus costs, interest and attorneys' fees.

Class Action Allegations

40. Paragraphs 1 through 39 above are incorporated herein by reference as if fully set forth.

41. The Class consists of all individuals who: (a) on or after October 7, 2014, purchased any dietary supplement from either a Walmart or Sam's Club store in Pennsylvania, online from Walmart.com, or online from samsclub.com in Pennsylvania, and (b) was charged or paid sales tax on the purchase price of that dietary supplement.

42. The questions of law and fact relating to Defendant Walmart's conduct, and the inequity and impropriety of that conduct, as more fully set forth above, are questions which are common to and affect the entire Class. These common questions predominate over and are a necessary precedent to any questions affecting only individual Class Members.

43. The claims of the named Class Representative are typical of the claims of the Class.

44. While the exact number of Class Members is not yet known, subject to discovery, it is believed and therefore averred that the Class numbers in the tens of thousands, and perhaps in the hundreds of thousands. While the Class is numerous, it is believed that Defendant Walmart maintains extensive records relating to the amount of taxes charged in violation of Pennsylvania tax regulations as described in this Complaint, along with the identity of Class Members.

45. Individual actions by members of the Class would, as a practical matter, be dispositive of the interest of members who are not parties, and may substantially impede his or her ability to protect his or her interest and/or create or lead to inconsistent adjudications.

46. In view of the potential expenses of litigation, the separate claims of individual Class Members are insufficient to support the thousands of separate actions. A Class Action is the most expeditious and cost effective method of addressing Defendant Walmart's improper conduct in Pennsylvania.

47. Defendant Walmart, as more fully set above, has acted and/or refused to act on grounds generally applicable to the Class by engaging in conduct which is contrary to Pennsylvania law, which constitutes unfair and/or deceptive conduct under Pennsylvania law, breaches a constructive trust, and unjustly enriches Defendant Walmart.

48. It is believed and therefore averred that counsel for the Class Representatives will diligently and adequately represent the interests of the Class. Said counsel is a partner in a well-respected law firm consisting of 30 attorneys with sufficient support staff to manage an action of this size. Counsel has litigated class actions in the past.

49. The Class Representative, after reasonable inquiry, has determined that he has no conflict of interest in the maintenance of the Class Action, and has or can acquire adequate financial resources to ensure that the interests of the Class will not be harmed.

Respectfully submitted,

ROTHMAN GORDON, P.C.

By: 

Frank G. Salpietro, Esquire
Pa I.D. No. 47154

Emily E. Town, Esquire
Pa. I.D. No. 309881

310 Grant Street – Third Floor
Pittsburgh, PA 15219
(412) 338-1185 (telephone)
(412) 246-1785 (facsimile)
fgsalpietro@rothmangordon.com

Attorneys for Plaintiffs Christopher Lisowski, on
behalf of himself and all others similarly
situated



PLAINTIFF'S
EXHIBIT
1
Lisowski v. Walmart

See back of receipt for your chance
to win \$1000 ID #: 7N8BK71VTDN4

Walmart *

412-782-4444 Mgr: ALONZO HUSE
877 FREEPORT RD
PITTSBURGH PA 15238

ST# 05339 OP# 009049 TE# 49 TR# 07628
5 HR ENERGY 071941070006 13.48 X
DRT UNSCENT 081106801624 3.97 X
DRT UNSCENT 081106801624 3.97 X
DRT UNSCENT 081106801624 3.97 X
SUBTOTAL 25.39
TAX 1 7.000 % 1.78
TOTAL 27.17
DEBIT TEND 27.17
CHANGE DUE 0.00

EFT DEBIT PAY FROM PRIMARY
27.17 TOTAL PURCHASE

US DEBIT ***** 7443 I 3

REF # 936300396111

NETWORK ID. 0090 APPR CODE 520641

US DEBIT

AID A0000000980840

TC 8441C6C151AF64E6

*Pin Verified

TERMINAL # SC010485

12/29/19 13:04:53

ITEMS SOLD 4

TC# 4534 1388 5692 2651 2765



Low Prices You Can Trust. Every Day.

12/29/19 13:05:00

Scan with Walmart app to save receipts



PLAINTIFF'S
EXHIBIT

tabbles

2
Lisowski v. Walmart

Give us feedback @ survey.walmart.com
Thank you! ID #:7P9U9QIUTCOL

Walmart *

412-782-4444 Mgr: JODIE
877 FREEPORT RD
PITTSBURGH PA 15238

ST# 05339 OP# 003338 TE# 04 TR# 06061
SALONPAS 034658111060H 9.66 N
BLEEDSTOP2PK 085081700614 4.88 N
5 HR ENERGY 071941072006 13.48 X
BEEF STRGNOF 004113355149 F 8.94 N
CHCKN FR RCE 004113355168 F 8.94 N
CHCKN FR RCE 004113355168 F 8.94 N
BEEF STRGNOF 004113355149 F 8.94 N
CHCKN FR RCE 004113355168 F 8.94 N
CHCKN FR RCE 004113355168 F 8.94 N
5 GAL EXCHA 085119900102 F 6.50 N

SUBTOTAL 88.16
TAX 1 7.000 % 0.94

TOTAL 89.10
DEBIT TEND 89.10
CHANGE DUE 0.00

EFT DEBIT 89.10 TOTAL PURCHASE
US DEBIT *** ** 7443 1 3

REF # 0258004219
NETWORK ID 0000 APPR CODE 348029

US DEBIT
AID 00000000980840
AAC 2419EEDC8F916EDB
TERMINAL # SC010550

09/14/20 15:42:27
ITEMS SOLD 10

TC# 8559 6107 6179 7740 2094



Low Prices You Can Trust. Every Day.
09/14/20 15:42:32

Scanned with CamScanner

PLAINTIFF'S
EXHIBIT

3

Lisowski v. Walmart

The
Pennsylvania**BULLETIN****BULLETIN**
TOC

• PREV • NEXT •

NEXT
BULLETIN

• SEARCH •

HOME

NOTICES

DEPARTMENT OF REVENUE

Notice of Taxable and Exempt Property

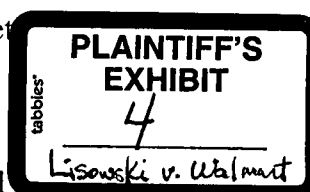
[28 Pa.B. 2730]

The Department of Revenue is hereby giving notice to the public, in accordance with the provisions of 61 Pa. Code §§ 52.1 and 58.1 (relating to purchases of medicines, medical supplies, medical equipment and prosthetic or therapeutic devices; and publication of the list of taxable and exempt tangible personal property) of additions, deletions and revisions to the list of taxable and exempt property under the sales and use tax provisions of the TRC published at 25 Pa.B. 1353 (April 8, 1995). Under §§ 52.1 and 58.1, this list is required to be published by notice at least once every 3 years. In addition, quarterly the Department will publish notice of any additions, deletions or revisions to the list.

Copies of the Retailers' Information Booklet may be obtained by calling the 24-hour answering service numbers for forms ordering: in Pennsylvania 1 (800) 362-2050; outside Pennsylvania and within local Harrisburg area (717) 787-8094. TTD (717) 772-2252 (Hearing Impaired Only).

Index to Categories

| Title | Category No. |
|--|---------------------|
| Books and Stationery | (1) |
| Business Supplies and Equipment | (2) |
| Clothing and Accessories | (3) |
| Cosmetics and Toilet Goods | (4) |
| Farming Supplies and Equipment | (5) |
| Flowers, Seeds, Fertilizers, etc. | (6) |
| Food and Beverages Sold From a Caterer or Establishment Serving Ready-to-Eat Food | (7) |
| Food and Beverages Sold From Other than a Caterer or Establishment Selling Ready-to-Eat Food | (8) |
| Hair Goods and Notions | (9) |
| Hobby Supplies, Toys, Games, Radios, Recorders, etc. | (10) |



| | |
|---|------|
| Home Sewing, Millinery and Craft Supplies | (11) |
| Household Goods and Supplies | (12) |
| A. Soaps and Detergents | |
| B. Cleaning and Polishing Preparations | |
| C. Paper Goods | |
| D. Wrapping Supplies | |
| Infant Supplies | (13) |
| Jewelry | (14) |
| Luggage, Handbags, Carrying Bags, Wallets, etc. | (15) |
| Medicines, Drugs and Medical Supplies; Prosthetic and Therapeutic Devices | (16) |
| Miscellaneous | (17) |
| Optical Goods | (18) |
| Pets | (19) |
| Religious Articles | (20) |
| Restaurant Equipment and Supplies | (21) |
| Shoes and Shoe Accessories | (22) |
| Sporting Equipment, Clothing, Supplies and Recreational Equipment | (23) |
| Tobacco Products | (24) |
| Utilities and Fuel | (25) |
| Motor Vehicle, Lease and Rental 1/ | (26) |
| Tires 1/ | (26) |
| Vehicle Rental Tax | (27) |
| 1/ Public Transportation Assistance Fund Taxes and Fees | |

Listing of Taxable and Exempt Property

T--TAXABLE NT--NONTAXABLE

(1) Books and Stationery

Tax is imposed on books, stationery and stationery supplies, not including Bibles and religious publications sold by religious groups.

NT--Bibles

 T--Comic books

 T--Crossword, game books

 T--Dictionaries

 T--Greeting Cards

 T--Instruction books, for needle-craft, embroidery, knitting, etc.

NT--Mail order catalogues

NT--Newspapers of general circulation qualified to carry a legal advertisement

 T--Periodicals and magazines not purchased by subscription

NT--Periodicals and magazines purchased by subscription

T--School supplies, except when sold directly to a school district or nonprofit educational institution

NT--Textbooks when sold by a school or an authorized book store

T--Vending machines and equipment

(2) Business Supplies And Equipment

Generally, sales of business supplies and equipment used in construction, repair, etc., of real estate are taxable.

T--Amusement and record playing devices

T--Building materials, supplies, and equipment used in construction, repair, etc., of real estate

T--Business forms such as invoices, order books, etc.

T--Cash register receipt paper

T--Computer software, canned or customized

NT--Direct mail advertising materials, including calendars, matchbooks, etc.

T--Display cases and merchandising equipment

NT--Dry ice, when sold for internal packaging with the sale of property to others

T--Fans

T--Signs, circulars, show cards and posters

T--Vending machines and equipment

NT--Wrapping supplies used in connection with the sale of products

(3) Clothing And Accessories

Generally, clothing is nontaxable except the following: (1) Formal day or evening apparel; (2) Articles made of real, imitation or synthetic fur where the fur is more than three times the value of the next most valuable component material; and (3) Sporting goods and clothing normally worn or used when engaged in sports. (See Category 23.)

T--Accessories and ornamental wear

NT--Aprons

NT--Belts and suspenders

NT--Boots

T--Bridal apparel and accessories

T--Corsages and boutonnieres

T--Costumes--Halloween, Christmas, etc.

NT--Dress shields

T--Formal clothing

T--Fur, articles made of fur on hide or pelt or any material imitative of fur and articles of which fur real, imitation or synthetic is the component material of chief value and fur trimmed articles if the value of fur is more than three times the value of the next most valuable component material. Felt, wool or fabric is not taxable unless it resembles fur on the hide.

NT--Garters and garter belts

NT--Girdles

T--Gloves, baseball, golf, racquet, etc.

NT--Gloves, cloth, leather, kid
 T--Gloves, sheepskin, fur, rubber
 NT--Gym suits
 NT--Handkerchiefs
 NT--Headwear and millinery, all types
 NT--Hosiery, pantyhose and peds
 NT--Leotards and tights
 NT--Leather wearing apparel
 NT--Lingerie
 NT--Neckwear, ties
 NT--Nightgowns
 T--Prom dress
 NT--Rainwear
 NT--Receiving blankets
 NT--Repairing of wearing apparel
 NT--Safety clothing
 NT--Scarves, for headwear and neckwear
 NT--Scout uniforms and camp clothes
 T--Sheepskin coats
 NT--Stockings, including support-hose
 NT--Suspenders
 T--Tuxedos
 T--Umbrellas
 NT--Underclothing
 NT--Work clothes, work uniforms
 NT--Yard goods (to make clothing)

(4) Cosmetics and Toilet Goods

T--After shave creams, lotions, powders
 T--Antiperspirants
 T--Atomizers containing perfume and other liquids
 T--Bath crystals
 T--Bath milks, oils, powders, salts, tablets, etc.
 T--Bay rum
 T--Bleach creams and lotions
 T--Blush
 T--Bouquet liquids
 T--Breath sweeteners
 T--Bubble bath preparations
 T--Cocoa butter, if advertised or labeled for toilet purposes
 T--Colognes
 T--Compact refills
 T--Compacts containing rouge or powder
 T--Cosmetics
 T--Creams, protective (having cosmetic claims or use as skin creams, antiperspirants)
 T--Creams, cleansing, beauty or cold
 T--Cuticle softeners and removers
 T--Deodorants (even though having a medicinal or curative value, if advertised or

labeled for use as a body deodorant)

T--Deodorants (for use in closets, bureau drawers, etc., for imparting fragrance to clothing)

NT--Deodorants, colostomy

T--Dusting powders

T--Essences and extracts, perfume

T--Eyebrow pencils

T--Eyelash mascara and eyelash and brow dyes

T--Eye shadows

T--Face creams

T--Face lotions, facial oils

T--Face packs

T--Face powders, in loose or cake and liquid form

T--Floral essences

T--Foundation makeup film

T--Freckle removers

T--Hair bleaches

T--Hair conditioners and rinses

T--Hairdressings

T--Hair dyes, colorings and tints

T--Hair lotions

T--Hair oils

T--Hair pomades (regardless of whether they are colored or scented)

T--Hair removers

T--Hair restoratives

T--Hairsprays

T--Hair straighteners

T--Hair tints and rinses

T--Hair tonics

T--Hand creams

T--Hand lotions

T--Lavender water

T--Lip ices and salves

T--Lip pomade

T--Lipsticks, lipstick refills

T--Liquid lip color

T--Lotions, cleansing and beauty

T--Manicure preparations

T--Mask preparations

T--Massage creams

T--Mousse

T--Mouthwashes

T--Mustache wax

T--Nail bleaches

T--Nail enamels

T--Nail enamel or polish removers

T--Nail lacquers or removers

T--Nail polishes, paste, powder, or liquid

T--Perfumes

- T--Perfume ingredient kits
- T--Perfume novelties, containing perfume
- T--Permanent waving creams, lotions, neutralizers and kits
- T--Powder bases (liquid and cream)
- T--Rouges, blush
- T--Sachets containing powder or aroma producing materials
- T--Scalp lotions, which are used or intended for use as a treatment for dry or oily hair
- T--Shampoos
- T--Shaving preparations, creams, lotions, powders including medicated preparations
- T--Skin balms, bleaches, creams, fresheners, lotions; oils tonics or whiteners
- T--Sun allergy cream
- T--Sunburn preventives--suntan creams, lotions, oils, etc.
- NT--Sunburn treatment, lotions or creams
- T--Talcum powder
- T--Tissue creams
- T--Toothbrush, electric
- NT--Toothbrush, toothpaste, tooth cleansers, dental floss and replacement brushes for electric toothbrush
- T--Vanishing creams
- T--Water Piks
- T--Wave set, paste, powder or lotion
- T--Wrinkle removing and concealing preparations

(5) Farming Supplies and Equipment

The tax is not imposed upon the sale of property to a farmer to be used or consumed directly in the business of producing agricultural products. Home gardening is not considered "farming". See REV-1729, Farming Information, for additional information.

- NT--Artificial breeding equipment and supplies
 - T--Building supplies and materials used to build and repair barns, sheds, coops, etc.
- NT--Cleansers and disinfectants used in cleaning milking equipment and to sterilize milk cans to prevent spoilage. (Property used for general farm cleaning and maintenance is taxable)
- NT--Equipment used to extract a product from productive animals or from the soil, such as harvesters, combines, binders, forage blowers, milking equipment, egg collecting equipment, corn shuckers, threshers, manure handling equipment
- NT--Equipment such as barn shovels, ensilage forks, wheelbarrows and feed carts
- NT--Feed and feed additives for productive animals
- NT--Fencing--portable when used directly for farm use
 - T--Fencing, including gates, which become a permanent part of realty
- NT--Fertilizer and chemical additives to be added to soil
 - T--Fire prevention and safety equipment
- NT--Fuel for use in heating poultry brooder and greenhouses
- NT--Fumigation services upon agricultural commodities or containers used for agricultural commodities
 - T--Greenhouses and mushroom houses (if permanently installed to the real estate)
- NT--Grooming materials, equipment and supplies when necessary for the health of productive animals

NT--Harnesses used to control productive animals on the farm

NT--Ice

NT--Livestock equipment to dispense chemicals, medicines and feed additives

NT--Livestock, feeding equipment such as tubs, buckets, cans, etc., feed scoops and portable watering devices

T--Maintenance facilities including tools, machinery and equipment to maintain machinery, equipment or building property, such as chain hoists, tire spreaders, drills, sanders, lumber, nails, wrenches, brooms, welding equipment, paint brushes and sprayers

NT--Milk strainers and strainer discs and towels (dispensers to store and dispense the discs are taxable)

T--Motor vehicles, if required to be licensed by the Dept. of Transportation

NT--Pest control services for agricultural purposes

NT--Property which becomes an ingredient or constituent of a farm product or is consumed by productive animals or plant growth, such as seeds, fertilizer, chemical additives, etc., and property such as seeders, planters, plows, harrows, cultivators, sprayers and similar equipment used to till soil, plant, seed and care for productive plants.

NT--Property used to handle, store or preserve farm products or productive animals on farm premises such as chemicals, grooming equipment (dehomers, debeakers, hoof trimmers, calf weaners, etc.)

T--Property used to transport or convey the farm product after the final farming operation

T--Refrigeration or cooling equipment used to store farm products

NT--Replacement parts such as tires, motors, belts, cutting edges, air filters, gears and similar replacement parts installed on exempt equipment. Motor fuels, lubricants, compressed air, distilled water, abrasives and similar supplies when used in operating exempt machinery are not taxable. Tools and equipment to apply parts and supplies are taxable.

NT--Seeds

NT--Silos

T--Water heater for cleaning dairy equipment and supplies

NT--Water pump for farm use

NT--Wrapping supplies and containers which are non- returnable to deliver self-produced farm products.

(6) Flowers, Seeds, Fertilizers, etc.

The tax is imposed upon the sale of property which is purchased by persons not engaged in the business of farming.

T--Fertilizer, sprays, insecticides

NT--Gardening supplies

T--Seeds and bulbs

T--Vegetable plants, flowers and trees

NT--Vegetable seeds, vegetable plants and fruit trees purchased with food stamps

(7) Food and Beverages Sold From a Caterer or Establishment Serving Ready-to-Eat Food

Generally, tax is imposed on food and beverages, for consumption on or off the premises, or on a "take-out" or "to go" basis, or delivered to the purchaser or consumer, when purchased from a caterer or an eating establishment from which ready-to-eat foods and beverages are sold, such as a restaurant, cafe, lunch counter, private or social club, tavern, dining car, hotel, night club, fast food operation, honor box, pizzeria, fair, carnival, lunch cart, ice cream stand, snack bar, lunch truck, cafeteria, employee cafeteria, theatre, stadium, arena, amusement park, juice stand, carryout shop, coffee shop, popcorn stand, automat, vending machine and other establishments, whether mobile or immobile.

NT--Alcohol, malt or brewed beverages and wines. Tax is paid at time of purchase from a Liquor Control Board store or licensed malt beverage distributor.

NT--Candy and gum

T--All food and beverages, in any quantity, including both food and beverages prepared on the premises and prepackaged food and beverages.

NT--Ice

T--Nonalcoholic beverages

(8) Food and Beverages Sold From Other than a Caterer or Establishment Selling Ready-to-Eat Food

NT--Bitters, grenadine and noncarbonated cocktail mixes

NT--Candy and gum

NT--Food, fruit drinks, soft drinks and sandwiches purchased with food stamps

NT--Food supplements such as vitamins and therapeutic nutritional supplements

NT--Fruit drinks, noncarbonated or reconstituted, containing at least 25% natural fruit juice

T--Fruit drinks, noncarbonated or reconstituted, containing less than 25% natural fruit juice

NT--Ice

T--Nonalcoholic beverages

T--Soft drinks, bottled and nonbottled (including soft drink mixes and powder, liquid or tablet form)

NT--Tea, all forms including liquid and powdered tea

NT--Sweeteners, artificial

NT--Water, including nonflavored mineral water

T--Water, flavored mineral

A vending machine (EFF. 7-1-98), delicatessen, grocery store, supermarket, farmers market, bakery, donut shop, pastry shop or convenience store selling the following items, whether sold for consumption on or off the premises or on a "take out" or "to go" basis or delivered is considered to be an eating establishment with respect to the sale of the following items:

T--Brewed coffee

T--Hot beverages

T--Hot food items

T--Hot soup

T--Hot pizza

- T--Ice cream, yogurt and other ice based products when hand dipped or hand served
- T--Meals--not including prepackaged frozen meals
- T--Salad bars, food from
- T--Sandwiches
- T--Soft drinks

(9) Hair Goods and Notions

Generally, hair goods are taxable unless the item qualifies as clothing.

- T--Hair goods and notions, such as barrettes, hair pins, hair nets, curlers, clips, hair bow holders; combs, brushes, chignons, bandeaux
- T--Shower caps
- T--Wigs and toupees (the service of cleaning, styling, etc., also is taxable)

(10) Hobby Supplies, Toys, Games, Radios, Recorders, etc.

- T--Baseball, football cards, etc.
- T--Bicycles and parts
- T--Boats and equipment
- T--Computer games and equipment
- T--Games
- T--Hobby supplies
- T--Musical instruments and sheet music
- T--Photographic and projection equipment and supplies
- T--Photographic services, film developing, printing, processing, mounting, coloring, etc.
- T--Pocket knives
- T--Radios, TV sets, receiving equipment
- T--Sound players, recorders, components and accessories, records, compact discs
- T--Tape recorders and tapes
- T--Toys
- T--Video cassettes, recorders and cameras

(11) Home Sewing, Millinery and Craft Supplies

Goods and items which are to become a component part of clothing are not taxable. Goods and items which become a component of articles other than clothing, such as formal wear are taxable. Equipment and supplies used in sewing are taxable. Clothing is defined as articles designed for everyday wear,

- T--Artificial flowers
- NT--Buckles for clothing
- NT--Buttons for clothing
- T--Dress forms and patterns
- NT--Dress material and fabrics
- NT--Dye, clothing fabric
- NT--Elastics

- T--Embroidery hoops
- NT--Hooks and eyes
- NT--Knitting yarn for clothing
- NT--Laces, ribbons, edgings, trimmings
- T--Needle-craft instruction books
- T--Needles
- NT--Ribbons
- T--Rug yarns
- T--Scissors
- T--Sewing kits
- NT--Shoulder pads
- T--Tape measures
- T--Thimbles
- T--Thread for articles other than clothing
- NT--Thread for clothing
- NT--Yard goods for clothing
- T--Yarn holders
- NT--Zippers for clothing

(12) Household Goods and Supplies

- T--Air fresheners
- T--Ant traps
- T--Basin stoppers
- T--Batteries
- T--Bedding
- T--Books
- T--Boot caddy
- T--Brooms
- T--Buckets
- T--Candles
- T--Charcoal
- T--Cloth dish towels
- T--Cloth hand and bath towels
- T--Cloth laundry bags
- T--Clothesline
- T--Clothespins
- T--Coat hangers
- T--Cutlery
- T--Decorations
- T--Dinnerware
- T--Dishpans
- T--Dispensers
- T--Door mat
- T--Drinking glasses
- T--Easter egg color/paint
- T--Extension cords
- T--Filters, disposable air
- T--Fire extinguishers

T--Fly swatters

T--Fly tapes

T--Furnishings, appliances, fittings, ornaments, furniture, equipment and accessories.
Furnishings including bedding, rugs, lamps, hardware, electrical goods, mirrors, pillows, scarves for furniture, bookends, clocks, glassware, crockery, silverware and other household wares.

T--Fuses

T--Glue

T--Greeting cards

T--Grill scraper

T--Hardware and tools

T--Household linens, blankets

T--Insecticide sprays

T--Ironing board covers

T--Jars for canning and jar lids

T--Light bulbs

T--Lubricating oils

T--Matches

T--Metal and plastic cooking utensils and flatware

T--Mops

T--Moth balls

T--Moth flakes

T--Mouse traps

T--Needles

T--Notebooks

T--Oilcloth

T--Paints, brushes and painting equipment

T--Paint removers

T--Plants, vegetable and flower (see Category 6)

T--Playing cards

T--Polishing cloths

T--Pots and pans

T--Refrigerator deodorants

T--Rubber gloves

T--Rug shampoo applicator

T--Salt, water softeners

T--Sandpaper

T--Scrub brushes

T--Seeds, vegetable and flower (see Category 6)

T--Shoe brushes

T--Sponges

T--Squeegee scraper

T--Stationery

T--Static control spray, sheets

T--Thermometer

T--Thimbles

T--Tie racks

T--Toothpicks

T--Turpentine and paint thinner

T--Vacuum bottles
T--Vacuum cleaner bags, disposable
T--Vacuum cleaner parts
T--Ventilating fans and equipment
T--Wax applicator
T--Wax paraffin

A. Soaps and Detergents

T--Bleaches
T--Bluing
T--Borax
T--Cleaner, septic tank, hand, oven, toilet bowl or tile
T--Cleansers
T--Detergents
T--Drain opener
T--Pre-soaks
T--Rug shampoo
T--Soaps, scented and unscented
T--Softeners (fabric)
T--Spot removers
T--Starch
T--Whiteners

B. Cleaning and Polishing Preparations

T--Car cleaners and waxes
T--Glass cleaner
T--Polishes, floor, furniture, silver and similar items
T--Removers, rust or wax
T--Scouring pads
T--Steel wool

C. Paper Goods

T--Cups; paper, plastic or styrene
NT--Disposable diapers and incontinence products
T--Drop cloths; paper and plastic
T--Facial tissue
T--Filters, coffee
T--Napkins
T--Place mats
T--Plates; paper, plastic or styrofoam
NT--Sanitary napkins, tampons or similar items used for feminine hygiene
T--Shelf paper, liners
T--Straws
T--Tablecloths
NT--Toilet tissue

T--Towels
NT--Wet-wipes

D. Wrapping Supplies

T--Aluminum foil
T--Food bags
T--Plastic wraps
T--Tape, masking, scotch, plastic, freezer, duct
T--Trash bags, paper and plastic
T--Twine
T--Waxpaper
T--Wrapping paper, including gift wrapping, ribbons, etc.

(13) Infant Supplies

T--Accessories, nursing bottles, nipples, teething beads, teethers
NT--Bibs
T--Car seat, infant
T--Crib blankets
T--Diaper bags
NT--Diaper pins
NT--Diapers, cloth and disposable
T--Liners, (nursing bottles)
NT--Receiving blankets for infants
NT--Rubber pants

(14) Jewelry

T--Earring backs
T--Jewelry, although a religious symbol is incorporated
T--Ornaments and pins for hats and dresses

(15) Luggage, Handbags, Carrying Bags, Wallets, etc.

T--Bags, carrying, athletic, book, etc.
T--Handbags, pocketbooks and purses
T--Knitting bags
T--Leather goods, except clothing
T--Luggage, briefcases
T--Wallets and billfolds

(16) Medicine, Drugs and Medical Supplies: Prosthetic and Therapeutic Devices

The tax is not imposed on prescription or nonprescription medicines and drugs or medical supplies, crutches and wheelchairs for the use of people with disabilities, 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 people with disabilities or any other therapeutic, prosthetic or artificial device designed for the use of a particular individual to correct or alleviate a physical incapacity, including but not limited to hospital beds, iron lungs, and kidney machines.

- T--Adhesive removers
- NT--Adhesives used for medical treatment
- T--Air cleaners and electrostatic machines
- NT--Alcohol, rubbing
- NT--Analgesics
- NT--Antacids
- NT--Antiseptics, for external use only
- NT--Applicators (See "Cotton applicators")
- NT--Arch supports
- NT--Arm slings
- NT--Artificial eyes
- NT--Artificial limbs
- NT--Aspirin
- T--Autoclave
- NT--Automobile accessories, when noted by the Department of Transportation upon the motor vehicle operator's license of the purchaser that such accessories are necessary and when charges for accessories are stated separately by the vendor on the sales invoice.
- NT--Automobile wheelchair lift
- T--Baby powder
- NT--Bandages, dressings, gauze and cotton
- T--Bath tub and bathroom safety devices
- T--Bed boards
- NT--Bed drain bags
- NT--Bed pans
- NT--Bed trapeze bars
- NT--Benzoin
- T--Bicycle ergometer
- T--Bidet toilet seat
- T--Blankets
- T--Blood agar plates
- NT--Blood glucose monitors used to treat diabetes (therapeutic devices)
- NT--Blood pack units
- T--Blood pressure testing apparatus
- NT--Bone pins
- NT--Braces and supports worn on the body to correct or alleviate a physical incapacity
- NT--Braille teaching texts
- T--Breast pumps
- NT--Breathing units, intermittent positive pressure
- NT--Burn ointment and lotion
- NT--Calamine lotion
- NT--Canes

- NT--Cardiac emergency kit
- NT--Cardiac pacemakers and electrodes
- NT--Castor oil
- NT--Catheters and accessories
 - T--Chemical agents and related supplies for analysis of patients' specimens
- NT--Cod liver oil
- NT--Colostomy appliances
- NT--Colostomy deodorants
- NT--Commode, chair bedside
- NT--Commode seats, elevated for use by incapacitated persons
- NT--Contact lens, solutions and kits
- NT--Corn pads and plasters for the removal of corns
- NT--Cotton applicators, cotton rolls, cotton balls and cotton swabs
- NT--Cough and cold items, cough drops, cough syrups
- NT--Crutches
- NT--Crutch pads
 - T--Dehumidifiers
- NT--Dental floss
- NT--Dental materials used in dental treatment including x-ray film, cotton, impression materials
 - T--Dentist chair
- NT--Dentist drills, disposable
- NT--Dentist materials which are transferred to the patient including dentures, fillings, crowns, inlays, bridges and lingual or palatal bars
 - T--Dentist replacement burs, drills, reusable
- NT--Denture products, including denture cleaners and adhesives
 - T--Deodorants, personal and room
 - T--Diagnostic equipment
 - T--Diagnostic glassware and diagnostic testing materials
- NT--Dialysis machines
- NT--Diathermy machines
- NT--Dietary supplements and substitutes
- NT--Diet pills
 - T--Disinfectants
- NT--Drapes, paper
 - T--Ear plugs
 - T--EKG mounts and EKG paper
- NT--Elastic bandages and braces
 - T--Electrocardiocorder
 - T--Elevators
- NT--Emesis basins or pans
- NT--Epsom salts
 - T--Esophageal dilator.
 - T--Eucalyptus oil
- NT--Examining table paper
 - T--Exercise equipment including exercise bikes and treadmill exercisers
- NT--Eye ointment
- NT--Eye pads
- NT--Eye washes

- NT--Eyeglasses, sold on prescription
- NT--False teeth
- NT--First aid kits
- NT--Fluidic breathing assistor
- NT--Food substitutes
- NT--Foot pads, insoles, all types
- NT--Foot products for treatment of infections
- NT--Gauze
- NT--Gloves, surgical, disposable
- NT--Glycerine
- NT--Gowns, medical
- NT--Hearing aids and batteries
 - T--Heaters, portable, room
- NT--Heating pads
- NT--Hospital beds, having side rails, electric and non-electric with attachments
- NT--Hot water bottles
 - T--Humidifiers
- NT--Hygienic needs, douche powder, vaginal preparations
- NT--Hydrogen peroxide
- NT--Ice bags
- NT--Ileostomy bags
- NT--Incontinence pants
- NT--Infusion pumps
- NT--Inhalation therapy equipment and equipment used to provide emergency breathing assistance
- NT--Insulin
 - T--Intravenous stand
- NT--Iron lungs
- NT--IUD devices
 - T--Laboratory testing and analysis equipment and supplies
- NT--Lactose intolerance medication
- NT--Lamps, ultraviolet and infrared
- NT--Laxatives and cathartics
- NT--Lifters, patient
- NT--Lubricating jelly
- NT--Lymphedema pumps
 - T--Mattresses, air
- NT--Mattresses, alternating positive pressure
- NT--Mattresses and covers for hospital beds
 - T--Medical alert cards
 - T--Medical alert systems
- NT--Medicine cups, disposable
- NT--Mercurochrome
 - T--Microscopes
- NT--Milk of magnesia
 - T--Mouthwashes
- NT--Muscle stimulator, electronic, for physical therapy
- NT--Nasal cannula
 - T--Nasal speculum

T--Needle holder
NT--Needles, disposable
T--Needles and syringes, reusable
NT--Orthodontic brackets
T--Orthodontic trays
NT--Orthopedic splints
T--Overbed tables
NT--Oxygen and oxygen equipment, when used for medical treatment
NT--Pads, moist heat pad, alternating positive pressure pad, flotation pad, lambs wool pad
NT--Paraffin bath units, standard or portable
T--Percussors
NT--Pet medicines
T--Petroleum jelly
NT--Physical therapy equipment, when designed exclusively for use in correcting or alleviating a physical incapacity
T--Plaque remover
NT--Pore cleaners, medicated
NT--Postural drainage board
T--Postural support chairs
NT--Prophylactics
NT--Prostheses (mammary, malar, chin, urinary, incontinence, etc.)
T--Pumice powder
NT--Pump, diaphragm, pressure vacuum
T--Razor blades
NT--Rectal preparations
T--Safety grab bars
NT--Sanitary napkins, tampons and similar items
T--Sanitizer, air
T--Sauna baths
T--Scissors
T--Shaving products
T--Sheets, cloth
NT--Sheets, disposable
NT--Shoe insoles, orthopedically designed
NT--Sitz bath
NT--Smoking deterrents, gum and patch
T--Soaps
NT--Specimen containers, disposable
T--Sphygmomanometer
T--Sphygmostat
NT--Stair gliders for persons having a physical disability. (EFF 7-1-98)
T--Stethoscope
NT--Styptic pencils
T--Suction machines and pumps
NT--Sunburn treatment lotions or creams
T--Sunglasses (unless sold on prescription)
T--Suntan lotion
NT--Suppositories

- T--Surgical instruments
- NT--Surgical instruments and supplies, single use disposable
- NT--Sutures
- NT--Syringes, disposable
 - T--Syringes, reusable
- T--Table, bedside
- T--Table, examining
- T--Talcum powder
- T--Telecaption equipment
- NT--Test strips used in treatment of diabetes
 - T--Testing kits
- T--Thermometer, medical
- NT--Thermometer covers, disposable
- NT--Tongue depressor, disposable
- NT--Toothache drops
- NT--Tourniquets
- NT--Trachea tubes
- NT--Traction units, including bed stand, anklet, extension, pelvic or cervical units, head holder, fracture unit with trapeze bar set, weights, weight bags, pelvic lacing belt and over door traction equipment
- NT--Tubing, intravenous
- NT--Urine drain bag
 - T--Vacutainers
- NT--Vaginal diaphragms
 - T--Vapona strips
 - T--Vaporizers
- NT--Vitamins
- NT--Walking bars and walkers
- NT--Wheel chairs
 - T--Whirlpool baths and whirlpool pumps
- T--X-ray equipment and machines
- T--X-ray film and chemicals not used by dentists

(17) Miscellaneous

- T--Antiques
 - T--Bullion (gold, silver)
- NT--Caskets, burial vaults, markers, cremation urns and tombstones for human graves, including foundations
 - T--Coin banks and coin holders
 - T--Coins and paper money, which are not legal tender in U.S.A., are taxable on full purchase price
 - T--Coins and paper money, which are legal tender in U.S.A., are taxable on amount in excess of face value
 - T--Dry ice, except when sold as an internal packaging material to retailer, manufacturer or processor
- NT--Safety equipment and devices designed and worn by production personnel employed in manufacturing, processing, mining, public utility, farming and dairying. Examples: asbestos suits, gloves, aprons, boots, masks, helmets, goggles and similar items

- T--Equipment and devices worn by nonproduction personnel are taxable
- T--Fencing materials
- NT--Flags of the U.S. and Commonwealth. Bunting and others are taxable.
- T--Fuel for motor vehicles except when subject to liquid fuel or fuel use tax
- T--Lunch kits, vacuum bottles and replacement parts
- T--Motor vehicle repair services (including labor), accessories, parts, supplies, lubricants and equipment
- T--Party favors
- NT--Religious articles when used for worship or prayer
- T--Scout supplies and training manuals except when sold to a scout troop
- T--Souvenirs
- T--Stamps, uncanceled U.S.A. stamps are taxable on amount in excess of face value
- T--Stamps, cancelled U.S.A. stamps and all foreign stamps are taxable on the full purchase price
- T--Trading stamp redemption for taxable property
- NT--Coupon books sold to individual consumers

(18) Optical Goods

- NT--Contact lens, solutions and kits
- NT--Eyeglasses and contact lenses sold on prescription
- T--Magnifying glasses
- T--Opera glasses and field glasses
- T--Sunglasses (prescription sunglasses are exempt)

(19) Pets (Animals, fish, birds, and similar items)

- NT--Boarding or sitting
- T--Clippers and clipper lubricants
- T--Equipment for pets (collars, leashes, etc.)
- NT--Flea collars, flea powder, flea and tick soap and tick sprays
- T--Food for pets including dietary food
- T--Grooming
- NT--Medicines and medical supplies for pets
- T--Sale or rental of pets

(20) Religious Articles

Articles used solely for religious or devotional purposes are not taxable.

- NT--Bibles (printed, audio or electric data)
- NT--Candles used in religious worship
- NT--Holy water bottles
- NT--Clergy vestments and choir and altar server clothing
- T--Household articles which are functional or utilitarian, even though a religious symbol is incorporated. (Household shrine not taxable)
- T--Jewelry, even though a religious symbol is incorporated
- NT--Nativity scenes
- NT--Religious statues, medals and symbols used in religious worship

NT--Religious publications sold by religious groups
NT--Rosaries
NT--Wines used in religious services

(21) Restaurant Equipment and Supplies

Equipment, implements and similar property for use in the preparation and service of food is taxable.

T--Carbonator for soda fountain operation
NT--Carbon dioxide for soda fountain
T--Equipment used to prepare and serve food and beverages
T--Ice making equipment
T--Napkins, wooden or plastic spoons, forks, straws, and similar articles for use in restaurants, vending machines and other eating places
T--Vending machines and equipment
NT--Wrapping supplies, paper or plastic plates, cups and similar articles used by restaurants or in vending machines for the delivery of food

(22) Shoes and Shoe Accessories

Generally shoes designed for everyday wear are exempt. However, shoes designed for formal wear or sporting activities are taxable.

T--Bathing (swimming) shoes
NT--Overshoes
NT--Safety shoes
T--Shoe brushes, applicators and shoe trees
T--Shoeclips
NT--Shoe dye
NT--Shoe laces
NT--Shoe polish
NT--Shoe repairs
T--Shoes for baseball, bowling, football, soccer, hockey, dance, etc.
T--Shoes for formal wear, such as metallic cloth, brocade, satin, or silver leather, primarily for formal wear.
NT--Slippers
NT--Shoe soles and heels for shoe repair
NT--Shower clogs
NT--Sneakers, jogging, tennis and aerobic shoes

(23) Sporting Equipment, Clothing, Supplies and Recreational Equipment

Tax is imposed on sporting and recreational equipment and clothing and supplies which are designed to be worn and are normally worn only when engaged in sports.

T--Accessories such as ammunition belts, hip waders and fly vests
NT--Baseball caps and tee shirts

- T--Bathing caps
- T--Bathing suits
- T--Beach coats
- T--Bicycles, parts, accessories and supplies
- T--Boats, pleasure boats and equipment and parts
- NT--Bowling shirts
- T--Equipment and supplies for baseball, football, hockey, basketball and other sports
- T--Guns and ammunition
- NT--Gym suits, outfits
- T--Helmets
- NT--Hunting coats, pants and coveralls
- T--Hunting wear, reflecting orange
- NT--Jogging outfits, running shoes
- T--Mats, floor
- T--Protective equipment, knee pads, elbow pads, forearm pads, etc.
- T--Sleeping bags
- NT--Sneakers, jogging, tennis and aerobic shoes, etc.
- NT--Snowmobile suits
- T--Uniforms, baseball, football, soccer, basketball, hockey etc.
- NT--Warm-up suits, cloth sweat suits
- T--Weights
- T--Skates, ice, roller, in-line

(24) Tobacco Products

- T--Chewing tobacco, snuff
- T--Cigarettes
- T--Smoking accessories
- T--Tobacco, cigars

(25) Utilities and Fuel

- NT--Coal
- NT--Coin-operated telephone charges
- T--Firelogs, processed
- NT--Firewood and kindling for residential use
- NT--Fuel oil, gas, steam or electricity purchased for residential use
- T--Fuel oil, gas, steam or electricity purchased for commercial use
- T--Interstate and intrastate telephone services for residential or commercial use
- NT--Basic telephone service and subscriber line charges for residential use
- T--Basic telephone service and subscriber line charges for commercial use
- T--Utilities for office or business within home

(26) Tires and Motor Vehicle Leases and Rentals Subject to Public Transportation Assistance Fund Taxes and Fees (PTA) (61 Pa. Code § 9.4).

The following items are subject to a Public Transportation Assistance Fund Tax or Fee as indicated below. The tax or fee is IN ADDITION TO any Sales or Use Tax which may be due. However, the Sales, Use, PTA Tax or PTA Fees shall not be included within the tax base when imposing such taxes or fees.

| Item | PTA Tax/Fee | Exemption |
|---|--|---|
| Tires, new tires for highway use (used tires and tires for off highway use are not subject to the fee.) | \$1 fee upon the sale of each new tire | Exempt if lessee qualifies for sales tax exemption. |
| Rentals of Motor Vehicles (the term rental shall mean the transfer of the possession of a motor vehicle for a period of less than 30 days.) | \$2 fee upon each rental day. | Exempt if lessee qualifies for sales tax exemption. |
| Leases of Motor Vehicles (the term lease shall mean the transfer of possession of a motor vehicle for a period of 30 or more days.) | 3% tax upon the total lease payment including down payment and accelerated lease payments. | Exempt if lessee qualifies for sales tax exemption. |

(27) Vehicle Rental Tax (VRT) (61 Pa. Code § 9.14)

Rental companies that have available for rental five or more motor vehicles designed to carry 15 or less passengers or a truck, trailer or semi-trailer used in the transportation of property other than commercial freight that is rented without a driver are responsible for collecting an additional 2% tax. This tax is imposed on the purchase price, as calculated for Sales Tax purposes of each rental contract for a period of 29 consecutive days or less. The VRT is separate from, and in addition to any applicable state or local Sales Tax or the \$2 daily PTA fees.

Rental companies may claim a refund up to the amount of tax remitted for filing, and registration fees paid to the Commonwealth during a previous calendar year.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-932. Filed for public inspection June 12, 1998, 9:00 a.m.]

No part of the information on this site may be reproduced for profit or sold for profit.

This material has been drawn directly from the official *Pennsylvania Bulletin* full text database. Due to the limitations of HTML or differences in display capabilities of different browsers, this version may differ slightly from the official printed version.



webmaster@PaBulletin.com

▶ RETAILER'S INFORMATION

STATE and LOCAL SALES, USE and HOTEL OCCUPANCY TAX

PUBLIC TRANSPORTATION ASSISTANCE FUND TAXES and FEES

VEHICLE RENTAL TAX

This booklet is for informational purposes only and it is not intended to be binding on the Department of Revenue if the information contradicts statute, regulation, case law or binding letter rulings.



pennsylvania

DEPARTMENT OF REVENUE

www.revenue.pa.gov

REV-717 AS (08-16)

**PLAINTIFF'S
EXHIBIT**

tabbies

5

Lisowski v. Wal-Mart

TABLE OF CONTENTS

| | Page |
|---|-------------|
| PERSONS REQUIRED TO BE LICENSED | 3 |
| HOW TO OBTAIN A LICENSE | 3 |
| COLLECTION OF TAX | 3 |
| PAYMENT OF TAXES AND FEES ON VEHICLES | 3 |
| SALES TAX PURCHASE PRICE | 4 |
| TAX RATE | 4 |
| TAX RETURNS | 4 |
| FILE ELECTRONICALLY: e-TIDES | 5 |
| REMITTANCE BY ELECTRONIC FUNDS TRANSFER (EFT) | 5 |
| HOTEL OCCUPANCY TAX | 7 |
| TAX EXEMPT SALES | 7 |
| SALES ON WHICH NO PUBLIC TRANSPORTATION ASSIS- TANCE FUND TAXES AND FEES ARE TO BE COLLECTED | 8 |
| ADDITIONAL SERVICES SUBJECT TO TAX | 8 |
| CONSTRUCTION CONTRACTS | 10 |
| EXEMPTION CERTIFICATES | 11 |
| PETITIONS FOR REASSESSMENT OR REFUND | 11 |
| PROPERTY PURCHASED WITH FOOD STAMPS | 11 |
| VENDING MACHINE SALES | 11 |
| BARBERS AND BEAUTICIANS | 11 |
| LOCAL SALES AND USE TAX | 12 |
| E-911 FEE | 12 |
| KEYSTONE OPPORTUNITY ZONES (KOZ) | 12 |
| SALES AND USE TAX RATES | 38 |
| MOTOR VEHICLE LEASE TAX RATES | 40 |

CUSTOMER SERVICE & TAXPAYER ASSISTANCE

- General Information**

Online Customer Service Center www.revenue.pa.gov
 Taxpayer Service and Information Center 717-787-1064
 Automated toll-free line 1-888-PATAXES (728-2937)
 Service for Taxpayers with Special Hearing
 and/or Speaking Needs (TT only) 1-800-447-3020
 For district office locations and information, please visit our website.

- Electronic Filing**

e-Business Unit 717-783-6277
 Internet Filing – e-TIDES www.etides.state.pa.us
 Telephone Filing – TeleFile 1-800-748-8299

- Forms Ordering**

All forms mentioned in this booklet are available on The department's website for download at www.revenue.pa.gov or from our 24-hour Forms Ordering Message Service by calling 1-800-362-2050.

Taxpayers may also request tax forms by writing to:

PA DEPARTMENT OF REVENUE
 TAX FORMS SERVICE UNIT
 1854 BROOKWOOD ST
 HARRISBURG PA 17128-0510

Rules and Regulations www.pacode.com

CATEGORIES

| Title | Page |
|--|------|
| (1) Books and Stationery | 13 |
| (2) Business Supplies and Equipment | 14 |
| (3) Clothing and Accessories | 14 |
| (4) Computer Hardware and Software | 15 |
| (5) Cosmetics and Toiletries | 16 |
| (6) Farming Supplies and Equipment | 17 |
| (7) Flowers, Seeds, Fertilizers, Etc. | 19 |
| (8) Food and Beverages Sold From a Caterer or Establishment Selling Ready-to-Eat Food | 19 |
| (9) Food and Beverages Sold From a Vending Machine, Delicatessen, Grocery Store, Supermarket, Farmers Market, Bakery, Donut Shop, Pastry Shop, Convenience Store and Other Similar Establishments | 20 |
| (10) Hair Goods and Notions | 21 |
| (11) Hobby Supplies, Toys, Games, Radios, Etc. | 21 |
| (12) Home Sewing, Millinery and Craft Supplies | 21 |
| (13) Household Goods and Supplies | 22 |
| A. Soaps and Detergents | 24 |
| B. Cleaning and Polishing Preparations | 25 |
| C. Paper Goods | 25 |
| D. Wrapping Supplies | 25 |
| (14) Infant Supplies | 25 |
| (15) Jewelry | 26 |
| (16) Luggage, Handbags, Carrying Bags, Wallets, Etc. | 26 |
| (17) Medicine, Drugs and Medical Supplies; Prosthetic and Therapeutic Devices | 26 |
| (18) Miscellaneous | 32 |
| (19) Optical Goods | 33 |
| (20) Pets | 34 |
| (21) Religious Articles | 34 |
| (22) Restaurant Equipment and Supplies | 34 |
| (23) Shoes and Shoe Accessories | 35 |
| (24) Sporting Equipment, Clothing, Supplies and Recreational Equipment | 35 |
| (25) Tobacco Products | 36 |
| (26) Utilities and Fuel | 36 |
| (27) Tires and Motor Vehicle Leases and Rental (PTA Tax) | 37 |
| (28) Vehicle Rental Tax (VRT) | 37 |

1. PERSONS REQUIRED TO BE LICENSED

a. Sales, Use and Hotel Occupancy Taxes (61 Pa. Code § 34.1)

Every person, association, fiduciary, partnership, corporation, or other entity making taxable sales of tangible personal property or services must obtain a Sales Tax license. Sales include leasing or renting of tangible personal property and the rental of hotel or motel rooms. Failure to be licensed may subject the seller to a fine. Entities which make taxable purchases but did not pay sales tax upon purchase should report use tax directly to the department on the PA-1, Use Tax Return.

b. Public Transportation Assistance Fund Taxes and Fees (PTA) (61 Pa. Code § 47.19)

Every person, association, fiduciary, partnership, corporation, or other entity selling new tires for highway use, or renting, or leasing of motor vehicles must obtain a separate license. Failure to do so may subject the seller to a fine. Entities leasing motor vehicles from nonregistered vendors should report tax directly to the department.

2. HOW TO OBTAIN A LICENSE

Prior to making taxable sales, rentals or leases, one must apply for a license with the PA Department of Revenue. Registration for Sales, Use and Hotel Occupancy Tax, Public Transportation Assistance Fund Taxes and Fees and Vehicle Rental Tax can be completed by registering online using the PA Open for Business website at **www.pa100.state.pa.us** or by completing a paper PA Enterprise Registration Form (PA-100).

If more than one place of business is maintained in Pennsylvania, a copy of the license must be displayed at each location. All applicants must have filed all required PA tax returns and paid all PA taxes or the license will not be issued or renewed. Sales Tax licenses must be renewed every five years.

3. COLLECTION OF TAX (72 P.S. § 7237)

Taxes and fees must be collected at the time of sale, unless the sale is on credit. Taxes and fees on credit sales must be remitted within 30 days of the date of sale. A seller is liable for reporting and remitting taxes and fees with the tax return covering the period in which either a taxable sale was made, or the tax or fee should have been collected. The seller may be assessed for failure to collect taxes and fees, plus charges for appropriate interest and penalties.

3a. PAYMENT OF TAXES AND FEES ON VEHICLES (61 Pa. Code § 31.41, et seq.)

Sales Tax is due and payable at the time of application for Certificate of Title or Registration upon the sale or use of a motor vehicle, trailer or semi-trailer. The lease or rental of a motor vehicle is subject to Sales Tax and the PTA Tax or Fee. Report these taxes and fees on the appropriate return which must be filed with the PA Department of Revenue. (See Category 27.)

4. SALES TAX PURCHASE PRICE (72 P.S. § 7201(g); 61 Pa. Code § 33.2)

Tax is to be collected on the full purchase price without any deduction on account of the cost of labor, shipping, handling, delivery or installation. Separately stated charges for returnable containers are not subject to tax.

5. TAX RATE (72 P.S. § 7202; 61 Pa. Code § 31.2, 61 Pa. Code § 60.16)

The 6 percent state Sales Tax is to be collected on every separate taxable sale in accordance with the tax table on Page 37. On taxable sales originating in a city or county that has imposed a local tax, a separate 1 or 2 percent local Sales and Use Tax is imposed. See chart on Page 38. Rates for Public Transportation Assistance Fund Taxes due on the lease of a motor vehicle are shown on Page 40.

6. TAX RETURNS (72 P.S. § 7217)

The department offers three electronic filing options, e-TIDES, TeleFile, and third party vendors.

E-TIDES is an Internet-based filing option that allows taxpayers to file returns and payments electronically without cost. A step-by-step demonstration is available to assist taxpayers through the registration process and can be accessed by visiting www.etides.state.pa.us.

TeleFile is a telephone filing system designed for taxpayers who do not have computer access. Pre-registration is not necessary to use TeleFile, however, you will need your Account ID, EIN or SSN, 10 digit Revenue ID, and the period ending date of the period you wish to file for prior to calling. TeleFile is toll-free and can be accessed 24 hours a day/7 days a week by calling 1-800-748-8299.

The department also has third party vendors who will provide e-filing software for those taxpayers who do not wish to use the department's e-filing options. A list of approved software vendors is available on the department's website at www.revenue.pa.gov.

IMPORTANT: PA-3 forms are NOT available for download from the Internet and the use of other tax forms could result in non-filer notification and/or the misapplication of the tax payment.

MONTHLY RETURNS

Licensees whose actual tax liability is less than \$25,000, but greater than \$600 per quarter, must file monthly. Monthly returns are due the 20th day of the month which follows the month in which the tax was collected.

MONTHLY RETURNS WITH PREPAYMENT OBLIGATIONS

Sales and use tax licensees whose actual tax liability for the third calendar quarter of the preceding year is \$25,000 but less than \$100,000 must pay 50 percent of the tax liability for the same month of the preceding calendar year or remit at least 50 percent of the actual tax liability required to be reported for the same month in the current year.

Businesses remitting \$100,000 or more for the third calendar quarter of the preceding year must remit 50 percent of the tax liability due for the same month of the preceding year. Prepayments are due by the 20th of the current month, and returns for the period are due on or by the 20th of the subsequent month.

QUARTERLY RETURNS

Licensees whose total tax liability is less than \$600 in the third calendar quarter, but greater than \$300 annually, must file quarterly. Quarterly returns are due:

| Period | Due |
|--------------------|------------|
| January - March | April 20 |
| April - June | July 20 |
| July - September | October 20 |
| October - December | January 20 |

SEMI-ANNUAL RETURNS

Licensees whose total tax liability is \$300 or less annually must file semi-annually.

Semi-annual returns are due:

| Period | Due |
|-------------------|-------------|
| First Six Months | August 20 |
| Second Six Months | February 20 |

FILE ELECTRONICALLY: E-TIDES INTERNET FILING

The Electronic Tax Information Data Exchange System (e-TIDES), is an Internet-based business tax filing system, which is available free of charge for filing Sales, Use and Hotel Occupancy Tax, Employer Withholding Tax, Liquid Fuels and Fuels Tax, PTA Tax, Corporate Tax, Vehicle Rental Tax, IFTA, Wine Excise Tax and Tobacco Products Tax.



WWW.ETIDES.STATE.PA.US

REMITTANCE OF TAX PAYMENTS BY ELECTRONIC FUNDS TRANSFER (EFT) (72 P.S. § 9; 61 Pa. Code § 5.3)

By regulation, the PA Departments of Treasury and Revenue implemented a program enabling taxpayers to remit tax payments through Electronic Funds Transfer (EFT). This regulation requires the participation of taxpayers remitting a payment of \$1,000 or more.

Failure to comply with the EFT remittance requirements may result in an assessment of a penalty equal to 3 percent of the total tax due, not to exceed \$500. The penalty may be imposed on all payments of \$1,000 or more that are not presented to the Department of Revenue by an **approved** payment method. If a business does not meet the \$1,000 threshold, it may voluntarily request participation in the program.

All tax documents are still required to be filed even though the payments are made through EFT.

EFT Requirement: If you meet the \$1,000 payment threshold, you are required to remit your payment electronically.

Electronic Payment Methods: Taxpayers can choose one of the following electronic methods: Automated Clearing House (ACH) Debit, Automated Clearing House (ACH) Credit, or credit card. A convenience fee, which is based on the tax due, will be charged by the vendor for processing the credit card transaction. Credit card payments can be made by telephone or over the Internet. Visit the department's website at www.revenue.pa.gov for more information.

DISCOUNT (72 P.S. § 7227)

Effective for returns that have a period end date after August 1, 2016, the vendor discount for licensees for timely filed returns and payments is limited to the lesser of \$25 or 1 percent of tax collected for a monthly filer, \$75 or 1 percent of tax collected for a quarterly filer and \$150 or 1 percent of tax collected for a semi-annual filer.

LATE FILING (72 P.S. § 7265, 7266; 61 Pa. Code § 35.2)

No discount is granted on returns filed late. Interest and additions are to be added to late returns as follows:

Interest: Effective Jan. 1st of each year, the interest rate will be equal to the rate of interest established by the U.S. Secretary of Treasury. Interest rates can be obtained from form REV-1611. For any late payment of tax, interest is calculated on a daily basis using the following formula:

Interest = TAX x DAYS LATE x DAILY INTEREST RATE

NOTE: The daily interest rate is derived by dividing the annual interest rate by 365 days.

Additions: If any return is not filed by its due date, there is an addition of 5 percent of the tax due for each month or fraction of a month a proper return for the period remains unfiled, up to a maximum of 25 percent of the amount of tax for the period. In no case shall the addition be less than \$2.

NOTE: If the proper tax, interest and additions are not remitted, the department will make an assessment.

USE TAX (72 P.S. § 7202; 61 Pa. Code § 31.7)

Use tax due by all sales tax licensees must be reported and paid on the Sales, Use and Hotel Occupancy Tax Return. No discount is allowed on use tax reported. Use tax is due upon the purchase price of any taxable tangible personal property or services on which no equivalent amount of sales tax was paid. The tax must be reported and paid with the first tax return filed following the first taxable use of the property or service. Use tax due by nonlicensees must be reported and paid with form **PA-1, Use Tax Return**, within the first 20 days of the month following the month of the first taxable use in Pennsylvania.

Beginning with tax year 2011, individuals' use tax liabilities may be reported annually on the PA Personal Income Tax Return (PA-40). Visit www.revenue.pa.gov/usetax for more information on use tax reporting responsibilities and options.

PTA TAXES AND FEES (61 Pa. Code § 47.19)

If the PTA Taxes or Fees have not been paid to a vendor, PTA licensees should report these taxes on Line 7 of the **PTA Taxes and Fees Return (PA-4)**.

7. HOTEL OCCUPANCY TAX (72 P.S. § 7210; 61 Pa. Code § 38.1, 38.2, 38.3)

A 6 percent tax is imposed upon the rent paid for the occupancy of a room or rooms in a hotel within the Commonwealth. The term **hotel** is defined as a building or buildings in which the public may, for a consideration, obtain sleeping accommodations. **The term hotel shall not include any charitable, educational or religious summer camp for children, hospital or nursing home.** An additional 1 percent local Hotel Occupancy Tax is imposed on the occupancy of rooms in hotels within a county or city which imposes a local tax. (See Page 39.) The 6 percent and 1 percent Hotel Occupancy Taxes are in addition to any other room rental taxes imposed.

EXEMPTIONS (61 Pa. Code § 38.2)

After the completion of 30 consecutive days involving an occupancy of a room or rooms in a hotel, an occupant is considered to be a permanent resident and is not required to pay Hotel Occupancy Tax.

The occupancy of a room or rooms by an ambassador, minister, or other diplomatic representative of a foreign government properly accredited by the U.S. Government is not subject to tax. The occupancy of a room or rooms by employees or representatives of the U.S. Government is subject to tax unless the employee is on official business, provides the required supervisory approved documentation and the rent is paid by the U.S. Government.

8. TAX EXEMPT SALES (72 P.S. § 7204)

The following sales are not subject to tax:

The services of repairing, altering, mending, pressing, fitting, dyeing, laundering, dry cleaning or cleaning wearing apparel including formal wear and shoes. Alterations on formal wear, when purchased in conjunction with the original formal wear purchase, are taxable.

The services of laundering or dry cleaning of wearing apparel or household goods when performed by coin operated equipment.

Residential use of steam; natural, manufactured and bottled gas; fuel oil; electricity; basic telephone service and subscriber line charges.

Gasoline on which Liquid Fuels or Fuel Use Tax is paid.

Wrapping supplies when use is incidental to delivery of property.

Drugs or medical supplies (See Category 17, Page 26.)

Coal

Grocery store food

Water

Wearing apparel, except formal apparel, sporting goods and clothing and real or imitation fur articles

Newspapers of general circulation that are qualified to carry a legal advertisement

Caskets, burial vaults and grave markers
Flags of the United States and Pennsylvania
Textbooks for use in schools
Sales to the U.S. Government
Sales to the Commonwealth and its
instrumentalities or political subdivisions
Sales for resale

The transfer of property or rendition of services for **direct use** in: Dairying (61 Pa Code § 32.31), Farming (61 Pa Code § 32.33), Manufacturing (61 Pa Code § 32.32), Mining (61 Pa Code § 32.35), Printing (61 Pa Code § 32.36), Processing (61 Pa Code § 32.32) and Rendering a Public Utility Service (61 Pa Code § 32.34), except motor vehicles required to be registered. The sales at retail of motor vehicles required to be registered are subject to tax unless sold to a common carrier for direct use in rendering a public utility service.

Certain sales and services to organizations qualifying as purely public charities which hold an exemption number prefixed by the number **75**. These organizations do not qualify for exemption on purchases of materials, supplies or equipment used in the construction, reconstruction, remodeling, repair or maintenance of real estate, with the exception of materials and supplies used in the routine maintenance of real estate. The exemption does not apply to equipment used in performing routine maintenance of real estate, nor does the exemption apply to purchases for use in an unrelated trade or business.

8A. SALES ON WHICH NO PUBLIC TRANSPORTATION ASSISTANCE FUND TAXES (PTA) AND FEES ARE TO BE COLLECTED (61 Pa. Code § 47.19)

New tires for highway use by a governmental entity, leases and rentals of motor vehicles that qualify for a sales and use tax exemption are not subject to PTA Taxes or Fees.

9. ADDITIONAL SERVICES SUBJECT TO TAX

Generally, the services described below are subject to state and local sales or use tax unless otherwise exempt. These services are presumed to be subject to PA sales or use tax if the delivery or benefit of the service occurs in Pennsylvania. Use tax is due if the purchaser of the services does not pay sales tax to the vendor.

Pronouncements – Statements of Policy or Regulations on the services listed in A thru J have been published in the PA Bulletin. These can be obtained by visiting www.revenue.pa.gov.

A. LOBBYING SERVICES (72 P.S. § 7201(k)(11), (o)(9); 61 Pa. Code § 60.6) – services provided by a lobbyist as that term is defined under the Lobbying Registration and Regulation Act are subject to tax if the benefit or delivery of the service occurs in Pennsylvania.

B. ADJUSTMENT, COLLECTION OR CREDIT REPORTING SERVICES (72 P.S. § 7201(k)(12), (o)(10); 61 Pa. Code §§ 60.10-.11) – adjustment and collection services are taxable when

the creditor is doing business in Pennsylvania and the debtor's address referred for adjustment or collection is also in the State. Moreover, credit reporting services are subject to tax when the information or report is delivered to or received at a location in the Commonwealth. Taxable services include, but are not limited to, services provided by adjustment bureaus or collection agencies, consumer or mercantile credit reporting bureaus, credit bureaus or agencies, credit clearinghouses or credit investigation services. However, the provision of credit card service with collection by a central agency, debt counseling or adjustment services to individuals or billing or collection services provided by local exchange telephone companies are not taxable.

C. SECRETARIAL OR EDITING SERVICES (72 P.S. § 7201(K)(13), (o)(11); 61 Pa. Code § 60.8) – services including, but not limited to, editing, letter writing, proofreading, resume writing, typing or word processing performed for a purchaser in Pennsylvania are taxable. Such taxable services do not include court reporting and stenographic services.

D. EMPLOYMENT AGENCY SERVICES (72 P.S. § 7201(k)(15), (o)(13); 61 Pa. Code § 60.5) – employment agency services are taxable if the employee reports to work at a location in Pennsylvania or if the employee is assigned to work in Pennsylvania but reports to work at a location outside of the state. "Employment agency services" means the service of attempting to procure or procuring temporary or permanent employment for prospective employees or employers. Examples of such services include executive placement services or labor contractor employment agencies (other than farm labor.)

E. HELP SUPPLY SERVICES (72 P.S. § 7201(k)(15), (o)(13); 61 Pa. Code § 60.4) – help supply services are taxable if the delivery or use of the services occurs in Pennsylvania. "Help supply services" is the provision of an individual by a vendor to a purchaser when the individual is an employee of the vendor and is supervised by the purchaser. Examples of such services include those provided by labor and manpower pools, employee leasing services, office help supply services, temporary help services, usher services and modeling services. Farm labor services, human health-related services are not taxable help supply services.

F. DISINFECTING OR PEST CONTROL SERVICES (72 P.S. § 7201(k)(14), (o)(12); 61 Pa. Code § 60.3) – Disinfecting or pest control services are taxable when these services are performed on (1) real property that is located in Pennsylvania; (2) tangible personal property located in this Commonwealth unless it is delivered to a location outside of the Commonwealth, or (3) tangible personal property outside this Commonwealth and the property is delivered to a location in this Commonwealth. Disinfecting services are services to property that destroy or sanitize harmful microorganisms, including deodorizing. Pest control services are services to trees, shrubs, animals, buildings and other property that neutralize, exterminate, trap, recover or prevent pests, including fumigation.

G. BUILDING MAINTENANCE OR CLEANING SERVICES (72 P.S. § 7201(k)(14), (o)(12); 61 Pa. Code § 60.1) – building maintenance or cleaning services are subject to tax when performed in

Pennsylvania; however, building repair services on buildings or other property that is permanently affixed to realty are nontaxable.

Building cleaning services are services that include the removal of dirt, dust, grease or grime on a building or inside of a building and the keeping of the building and its contents in a clean, neat, polished or orderly appearance. Building maintenance services are routine and periodic services on a building that keep a building in a satisfactory operating condition. Example of building maintenance and cleaning services are janitorial services, office or interior building cleaning or maintenance, bulb maintenance and acoustical tile cleaning services. Building repair services are any services that do not qualify as either building cleaning or building maintenance services.

H. LAWN CARE SERVICES (72 P.S. § 7201(k)(17), (o)(15); 61 Pa. Code § 55.6) – lawn upkeep services performed in Pennsylvania are taxable. Lawn care services include, but are not limited to, fertilizing; mowing; dethatching; applying herbicides, insecticides, or fungicides; and raking grass on lawns.

I. SELF-STORAGE SERVICES (72 P.S. § 7201(k)(18), (o)(16); 61 Pa. Code § 60.12) – the provision of a building, a room in a building, or a secured area within a building with a separate access for each purchaser for the storage of personal property is taxable if the self-storage is located in Pennsylvania. However, safe deposit boxes provided by financial institutions, storage in refrigerator or freezer units, storage in commercial warehouses, facilities for goods distribution and lockers in airports, bus stations, museums and other public places are not taxable self-storage services.

J. PREMIUM CABLE SERVICES (72 P.S. § 7201(m); 61 Pa. Code § 60.9) – the sale or use of premium cable service delivered to a location in Pennsylvania is taxable. Additionally, the sale, rental or lease of television, audio or radio equipment for use in connection with premium or nonpremium cable service is subject to tax.

10. CONSTRUCTION CONTRACTS (61 Pa. Code § 31.11 – 31.16)

Generally, construction contractors are required to pay tax on all property (including materials, equipment, components and supplies) that is furnished and installed in the performance of construction activities.

A contractor may claim an exemption on property qualifying as "building machinery and equipment," as defined under 72 P.S. § 7201(pp), that will be transferred pursuant to a construction contract with an exempt entity such as a purely public charity or a government entity.

The contractor must provide to the vendor an exemption certificate that identifies the exempt entity and includes the exemption number issued by the department. Additionally, the contractor must attach to the exemption certificate a list of the property claimed to qualify as "building machinery and equipment".

11. EXEMPTION CERTIFICATES (72 P.S. § 7237; 61 Pa. Code § 32.2)

Properly completed exemption certificates, REV-1220, which provide a valid reason for exemption and are accepted in good faith, relieve the vendor from the collection of tax.

Exemption certificates are required to substantiate all exempt sales with the exception of the following:

Unless otherwise stated, (1) sales to governmental entities, (2) sales of nontaxable tangible personal property or services, and (3) sales where delivery is required to be made outside of the Commonwealth. Documentary evidence must be retained by the seller on these transactions.

12. PETITIONS FOR REASSESSMENT OR REFUND (72 P.S. §§ 9702, 10003.1; 61 Pa. Code § 7.1, et seq.)
PETITIONS FOR REASSESSMENT

Once a taxpayer has filed a return, the Department of Revenue has three years to issue an assessment for any additional tax owed. In certain circumstances, such as fraud or a failure to file a return, the department may have a longer period of time to issue an assessment. Under Act 119, the taxpayer has 90 days after the mailing date of the assessment to file a petition for reassessment with the Board of Appeals.

PETITIONS FOR REFUND

A petition for refund may be submitted when a taxpayer believes tax has been overpaid. A taxpayer generally has three years from the date of payment to petition for a refund. In case of audits, the refund petition must be filed within six months of the mailing date of the notice of assessment, determination or settlement.

For more information regarding petition procedures, please visit the Board of Appeals On-Line Petition Center at www.boardofappeals.pa.gov.

13. PROPERTY PURCHASED WITH FOOD STAMPS (72 P.S. § 7204(46))

The sale at retail or use of tangible personal property purchased with food stamps is exempt from tax in accordance with the Food Stamp Act of 1977, as amended.

14. VENDING MACHINE SALES (61 Pa. Code § 31.28)

The vending machine sale of property, other than food and beverages, is taxed on each separate sale. Taxable food and beverages are taxed as follows: divide the gross receipts collected on taxable sales by 1.06 which results in the taxable sales amount. This taxable sales amount is multiplied by 0.06 to determine tax due. These figures should be inserted on the tax return.

15. BARBERS AND BEAUTICIANS (61 Pa. Code § 58.6)

Barbers and beauticians are required to pay tax on all purchases of equipment, materials or supplies, regardless whether the property

is purchased for use in performance of services or for resale. If supplies are sold to a customer, the full 6 percent tax shall be charged and collected. The barber or beautician may take a "TPPR" (tax paid, purchase resold) credit on the credit line of the sales and use tax return for those purchases upon which tax was paid at the time of purchase and the item was resold. The TPRR block must be checked on the credit line of the tax return. If supplies are sold to a customer, the full 6 percent tax shall be charged and collected.

16. LOCAL SALES, USE OR HOTEL OCCUPANCY TAXES (61 Pa. Code § 60.16)

In addition to state Sales, Use, or Hotel Occupancy Taxes, a local sales, use, or hotel occupancy tax may also be imposed by a county of the Commonwealth or the City of Philadelphia. As of January 2010, only Allegheny County and the City of Philadelphia have imposed local taxes. This local tax only applies to sales originating in or the use of taxable property or services in a county or city that has imposed the tax. Sales of property delivered to an out-of-state location is not subject to the local tax. Vendors may voluntarily collect the local tax to relieve purchasers of the responsibility to report Use Tax.

17. E-911 FEE

The E-911 Surcharge is a fee collected by retailers on each prepaid wireless telephone or prepaid telecommunication service sold. A prepaid wireless telecommunication service qualifies as prepaid cell phones, prepaid cell phone minutes/phone cards or any service that would reduce a customer's prepaid account to complete a call. This surcharge is collected on each retail transaction regardless of whether the service or prepaid wireless telephone is purchased in person, by telephone, through the internet, or by any other method. The prepaid e-911 surcharge is to be charged and collected by the retailer in addition to any other charges or fees and is not to be included for purposes of calculating sales tax.

There will not be a separate return for the prepaid e-911 surcharge. It is to be reported on the **PA-3, Sales, Use & Hotel Occupancy Tax Form**, which has been modified to include a separate line item to report the surcharge. Prepaid e-911 surcharges are to be collected by a seller and reported and remitted to the Department of Revenue with the same filing frequency and by the same due dates as a seller's sales/use tax returns. The seller may qualify for a discount, upon timely filing and payment in full on or before the sales tax due date.

For more information on the prepaid e-911 surcharge, visit the department's Online Customer Service Center at www.revenue.pa.gov or call 717-787-1064 and press Option 2 for sales and use tax.

18. KEYSTONE OPPORTUNITY ZONES (73 P.S. § 820.101, et seq.)

Keystone Opportunity Zones (KOZ), Keystone Opportunity Expansion Zones (KOEZ) and Keystone Opportunity Improvement Zones (KOIZ) have been established throughout the Commonwealth to encourage investment and development in areas designated as economically distressed. The zone sales tax exemption is limited to tangible

personal property and services exclusively used, consumed or utilized by qualified businesses in the Zones. The exemption does not apply to motor vehicles.

Effective September 8, 2008, a construction contractor may make exempt purchases of taxable tangible personal property and services pursuant to a construction contract with a qualified business located within the Zones.

A qualified business in a Zone must have a sales tax exemption number, issued by the department on an annual basis, to claim the exemption when making otherwise taxable purchases.

Qualified businesses are required to complete a **Pennsylvania Exemption Certificate (REV-1220)** with the following information:

Line 4. Purchaser is a "KOZ/KOEZ/KOIZ business holding exemption number 72-xxxxxx"; and

Line 7. Other "Property or services are being purchased for use and consumption in a KOZ/KOEZ/KOIZ."

LISTING OF TAXABLE AND EXEMPT PROPERTY

T - TAXABLE

NT - NONTAXABLE

*** - INDICATES CHANGE OR CLARIFICATION**

**** - INDICATES NEW ITEM**

1 BOOKS AND STATIONERY

Tax is imposed on books, stationery and stationery supplies, including Bibles and religious publications sold by religious groups. Tax is imposed whether physically, electronically, or digitally delivered, streamed or accessed

T - Bibles

T - Comic books

T - Crossword, game books

T - Dictionaries

T - Greeting Cards

T - Instruction books for needle-craft, embroidery, knitting, etc.

NT - Mail order catalogues

NT - Newspapers of general circulation qualified to carry a legal advertisement

T - Periodicals and magazines not purchased by subscription

NT - Periodicals and magazines purchased by subscription

T - School supplies, except when sold directly to a school district or qualified nonprofit educational institution

NT - Textbooks, when sold by a school or an authorized book store

**T - Yearbooks

**T - E-Books; subscriptions to access e-books

**T - Photographs

2 BUSINESS SUPPLIES AND EQUIPMENT

Generally, sales of business supplies and equipment used in construction, repair, etc., of real estate are taxable.

T - Building materials, supplies and equipment used in construction, repair, etc., of real estate, except building machinery and equipment purchased by or for certain exempt entities

T - Business forms such as invoices, order books, etc.

T - Cash register receipt paper

NT - Direct mail advertising materials, including calendars, match-books, etc.

T - Display cases and merchandising equipment

NT - Dry ice, when sold for internal packaging with the sale of property to others

T - Fans

T - Signs, circulars, show cards and posters

T - Vending machines and equipment

NT - Wrapping supplies used in connection with the sale of products

3 CLOTHING AND ACCESSORIES

Generally, clothing is nontaxable except the following: (1) Formal day or evening apparel; (2) Articles made of real, imitation or synthetic fur, where the fur is more than three times the value of the next most valuable component material; and (3) Sporting goods and clothing normally worn or used when engaged in sports (See Category 24).

T - Accessories and ornamental wear

NT - Aprons

NT - Belts and suspenders

T - Biking clothing

NT - Boots and shoes, designed for everyday wear

T - Bridal apparel and accessories

T - Corsages and boutonnieres

T - Costumes - Halloween, Christmas, etc.

NT - Dress shields

T - Formal clothing, including mother of the bride and flower girl dresses.

T - Fur, articles made of fur on hide or pelt, or any material imitative of fur, and articles of which fur, real, imitation or synthetic, is the component material of chief value; and fur trimmed articles, if the value of fur is more than three times the value of the next most valuable component material. Felt, wool or fabric is not taxable unless it resembles fur on the hide.

NT - Garters and garter belts

NT - Girdles

T - Gloves, baseball, golf, racquet, etc.

NT - Gloves, cloth and leather, for everyday wear

- **NT - Gloves, gardening
 - T - Gloves, sheepskin, fur, rubber
 - T - Graduation caps and gowns
- NT - Gym suits
 - T - Handkerchiefs
- NT - Headwear for everyday wear
 - T - Helmets
- NT - Hosiery, pantyhose and peds
- NT - Hunting clothing, including camouflage and blaze orange
- NT - Leotards and tights
- NT - Leather wearing apparel
- NT - Lingerie
- NT - Maternity clothing for everyday wear
- NT - Neckwear, ties
- NT - Nightgowns
 - T - Prom dresses
- NT - Rainwear
- NT - Receiving blankets
- NT - Repairing of wearing apparel
 - T - Safety clothing - (See Category 18)
- NT - Scarves, for headwear and neckwear
- NT - Scout uniforms and camp clothes
 - T - Sheepskin coats
- NT - Stockings, including support-hose
- NT - Suspenders
- **T - Swimming Suits
- NT - T-shirts, imprinted
 - T - Tuxedos
 - T - Umbrellas
- NT - Underclothing
- NT - Work clothes, work uniforms
- NT - Yard goods (to make clothing)

4 COMPUTER HARDWARE, DIGITAL PRODUCTS AND STREAMING SERVICES

Generally, tax is imposed upon the sale or use of computer hardware. Canned software is taxable including canned software products and services accessed by end users in Pennsylvania via computer devices, such as smartphones. Canned software is software that is not designed, created and developed for and to the specifications of an original purchaser. Additionally, sales and use tax applies to any transfer of a digital product where the purchaser pays a consideration, unless that transfer is otherwise exempt.

- **T - Canned computer software, whether accessed by physical medium such as a CD-ROM or accessed electronically
- **T - Cellular telephones, smartphones, and accessories

- **T - Computer tablets, e-readers, and accessories
- **T - Desktop computer hardware and accessories such as monitors, keyboards, and mice
- **T - GPS navigation equipment and services
- **T - Laptop computers
- **T - Mobile applications (apps); in-app purchases
- **T - Satellite radio equipment, services, and subscriptions
- **T - Video and audio including downloads, subscriptions and streaming services, consoles, and equipment
- **T - Video games including downloads, subscriptions and streaming services, consoles, and equipment

5 COSMETICS AND TOILETRIES

- T - After shave creams, lotions, powders
- T - Antiperspirants
- T - Aromatherapy products (Candles, oils, washes, etc.)
- T - Atomizers containing perfume and other liquids
- T - Bath milks, oils, powders, salts, tablets, crystals, etc.
- T - Bath and shower gels and body shampoos
- T - Bleach creams and lotions
- T - Blush, rouges
- T - Body lotion and creams
- T - Breath fresheners and breath sprays
- T - Bubble bath preparations
- T - Cocoa butter, if advertised or labeled for cosmetic purposes
- T - Colognes
- T - Compacts containing blush or powder, compact refills
- T - Cosmetics
- T - Creams, cleansing, beauty or cold
- T - Creams, protective (having cosmetic claims or use as skin creams, antiperspirants)
- T - Cuticle softeners and removers
- T - Deodorants (even though having a medicinal or curative value, if advertised or labeled for use as a body deodorant)
- T - Deodorants (for use in closets, bureau drawers, etc., for imparting fragrance to clothing)
- NT - Deodorants, colostomy
- T - Dusting powders
- T - Eye shadows, eyeliner
- T - Eyebrow pencils
- T - Eyelash mascara and eyelash and brow dyes
- T - Face lotions, facial oils, face creams
- T - Face packs
- T - Face powders, in loose or cake and liquid form
- T - Foundation makeup
- T - Freckle removers, vanishing creams

- T - Hair conditioners and rinses
- T - Hair dyes, colorings, tints, rinses and bleaches
- T - Hair gels and mousse
- T - Hair oils
- T - Hair removers
- NT - Hair restorative medications
- T - Hair straighteners
- *T - Hair straightening lotions, creams, conditioners and rinses
- T - Hairdressings, lotions, tonics and pomades (regardless of whether they are colored or scented)
- T - Hairsprays
- T - Hand lotions, creams and sanitizers
- T - Lip balm and ointments
- T - Lipsticks, lipstick refills, liquid lip color, lip liner and lip gloss
- T - Lotions, cleansing and beauty
- T - Makeup remover
- T - Manicure preparations and kits
- T - Mask preparations
- T - Massage creams
- T - Mouthwashes
- T - Nail bleaches
- T - Nail polish removers
- T - Nail polishes, nail lacquers, nail enamel
- T - Perfume novelties, containing perfume
- T - Perfumes and perfume ingredient kits
- T - Permanent waving creams, lotions, neutralizer and kits
- T - Powder bases (liquid, cream and pressed)
- T - Sachets containing powder or aroma producing materials
- T - Scalp lotions, which are used or intended for use as a treatment for dry or oily hair
- T - Shampoos
- T - Shaving preparations, creams, lotions, powders, including medicated preparations
- T - Skin balms, bleaches, creams, fresheners, lotions, oils tonics or whiteners
- T - Sun allergy cream
- T - Sunburn preventives - suntan creams, lotions, oils, sunblock, etc.
- NT - Sunburn treatment, lotions or creams
- T - Talcum powder
- NT - Toothbrush, electric
- NT - Toothbrush, toothpaste, tooth cleaners, dental floss and replacement brushes for electric toothbrush
- T - Water picks
- T - Wave set, paste, powder or lotion
- T - Wrinkle removing and concealing preparations

6 FARMING SUPPLIES AND EQUIPMENT

The tax is not imposed upon the sale of property to a farmer to be used or consumed directly in the business of producing agricultural products. Home gardening is not considered farming. See REV-1729, Tax Information for Farmers, for additional information.

- NT - Artificial breeding equipment and supplies
- NT - Blacksmith/farrier services for commercial racehorses or horses used directly in farming
- T - Building supplies and materials used to build and repair barns, sheds, coops, etc.
- NT - Cleaners and disinfectants used in cleaning milking equipment and to sterilize milk cans to prevent spoilage. (Property used for general farm cleaning and maintenance is taxable)
- NT - Equipment used to extract a product from productive animals or from the soil, such as harvesters, combines, binders, forage blowers, milking equipment, egg collecting equipment, corn shuckers, threshers, manure handling equipment
- NT - Equipment such as barn shovels, ensilage forks, wheelbarrows and feed carts
- NT - Feed and feed additives for productive animals
- T - Fencing
- NT - Fertilizer and chemical additives to be added to soil
- T - Fire prevention and safety equipment
- NT - Fuel for use in heating poultry brooder and greenhouses
- NT - Fumigation services upon agricultural commodities or containers used for agricultural commodities
- T - Greenhouses and mushroom houses (if permanently installed to the real estate)
- NT - Grooming materials, equipment and supplies when necessary for the health of productive animals
- NT - Harnesses used to control productive animals on the farm
- NT - Ice
- NT - Livestock equipment to dispense chemicals, medicines and feed additives
- NT - Livestock feeding equipment such as tubs, buckets, cans, etc., feed scoops and portable watering devices
- T - Maintenance facilities including tools, machinery and equipment to maintain machinery, equipment or building property, such as chain hoists, tire spreaders, drills, sanders, lumber, nails, wrenches, brooms, welding equipment, paint brushes and sprayers
- NT - Milk strainers and strainer discs and towels (dispensers to store and dispense the discs are taxable)
- T - Motor vehicles, if required to be licensed by the Dept. of Transportation
- NT - Pest control services for agricultural purposes
- NT - Property which becomes an ingredient or constituent of a farm product or is consumed by productive animals or plant growth, such as seeds, fertilizer, chemical additives, etc., and property such as seeders, planters, plows, harrows, cultivators, sprayers

and similar equipment used to till soil, plant, seed and care for productive plants.

- NT – Property used to handle, store or preserve farm products or productive animals on farm premises such as chemicals, grooming equipment (dehorner, debeakers, hoof trimmers, calf weaners, etc.)
- T – Property used to transport or convey the farm product after the final farming operation
- NT – Refrigeration or cooling equipment used to store and preserve farm products
- NT – Replacement parts such as tires, motors, belts, cutting edges, air filters, gears and similar replacement parts installed on exempt equipment. Motor fuels, lubricants, compressed air, distilled water, abrasives and similar supplies when used in operating exempt machinery are not taxable. Tools and equipment to apply parts and supplies are taxable.
- NT – Seeds
- NT – Silos
- T – Water heater for cleaning dairy equipment and supplies
- NT – Water pump for farm use
- NT – Wrapping supplies and containers which are non-returnable to deliver self-produced farm products.

7 FLOWERS, SEEDS, FERTILIZERS, ETC.

The tax is imposed upon the sale of property which is purchased by persons not engaged in the business of farming.

- T – Fertilizer, sprays, insecticides
- T – Gardening supplies
- T – Seeds and bulbs
- T – Vegetable seeds, vegetable plants, flowers, and fruit trees
- NT – Vegetable seeds, vegetable plants, and fruit trees purchased with food stamps

8 FOOD AND BEVERAGES SOLD FROM A CATERER OR ESTABLISHMENT SELLING READY-TO-EAT FOOD

Generally, tax is imposed on food and beverages sold from a caterer or an establishment selling ready-to-eat food and beverages for consumption on or off the premises, on a take-out or to-go basis, or delivered to the purchaser or consumer. An establishment selling ready-to-eat food and beverages is defined by law to include a restaurant, cafe, lunch counter, private or social club, tavern, dining car, hotel, night club, fast food operation, pizzeria, fair, carnival, lunch cart, ice cream stand, snack bar, lunch truck, cafeteria, employee cafeteria, theatre, stadium, arena, amusement park, juice stand, carryout shop, coffee shop, popcorn stand and other establishments, whether mobile or immobile. The law specifically excludes certain businesses from this definition and these establishments are discussed in Section 9.

- NT – Alcohol and malt or brewed beverages. Tax is paid at time of purchase from a Liquor Control Board store or licensed malt beverage distributor.

- *T - All food and beverages, in any quantity, including both food and beverages prepared on the premises and prepackaged food and beverages, unless specifically exempt
- NT - Candy and gum
- T - Food supplements and substitutes
- NT - Ice
- T - Nonalcoholic beverages
- NT - Water
- *T - Wine, sold for consumption off-premises or on a to-go basis

9 FOOD AND BEVERAGES SOLD FROM A VENDING MACHINE, DELICATESSEN, GROCERY STORE, SUPERMARKET, FARMERS MARKET, BAKERY, DONUT SHOP, PASTRY SHOP, CONVENIENCE STORE AND OTHER SIMILAR ESTABLISHMENTS.

Generally, tax is not imposed on food and beverages sold from other than a caterer or establishment selling ready-to-eat food and beverages. However, tax is imposed upon selected food and beverage items listed as taxable below, when sold from the establishments listed above.

- NT - Beer, six packs (unless sold by a distributor)
- NT - Bitters and grenadine
- **T - Breath mints
- T - Brewed coffee
- NT - Candy apples
- NT - Candy and gum
- NT - Caramel corn
- NT - Coffee, cold bottled and flavored
- T - Coffee, hot
- NT - Coffee beans, whole or ground
- NT - Deli items such as meats and cheeses, potato salad, macaroni salad, etc.
- NT - Food, fruit drinks, soft drinks and sandwiches purchased with food stamps
- NT - Food supplements in any form
- NT - Fruit drinks, noncarbonated or reconstituted, containing at least 25% natural fruit juice
- T - Fruit drinks, noncarbonated or reconstituted, containing less than 25% natural fruit juice
- T - Hot beverages
- T - Hot food items
- T - Hot soup
- T - Hot pizza
- NT - Ice
- T - Ice cream, yogurt and other ice based products when hand dipped or hand served
- T - Kool Aid
- *T - Meals - not including prepackaged frozen meals or meals requiring additional preparation

- NT - Milk
- *T - Nonalcoholic beverages unless specifically exempt
- NT - Party trays, vegetable, cheese, seafood, meat
- **NT - Power / Energy Bars
- **NT - Pretzels and chips
- **NT - Protein Bars
 - T - Pumpkins - for decoration
- NT - Pumpkins - for food
 - T - Salad bars, self-service
 - T - Sandwiches
 - T - Soft drinks, bottled and non-bottled (including soft drink mixes in powder, liquid or tablet form)
- NT - Soy milk
 - T - Sports drinks
 - T - Sushi
- NT - Sweeteners, artificial
- *NT - Tea, all forms including liquid and powdered tea, except hot tea
- NT - Water, including nonflavored mineral water
 - T - Water, flavored, including vitamin water

10 HAIR GOODS AND NOTIONS

Generally, hair goods are taxable unless the item qualifies as clothing.

- **T - Blow-dryers
 - T - Hair goods and notions, such as barrettes, hair pins, hair nets, curlers, clips, hair bow holders, combs, brushes, chignons, bandeaux
- **T - Irons, curling and flat
 - T - Shower caps
 - T - Wigs and toupees (the service of cleaning, styling, etc., also is taxable)

11 HOBBY SUPPLIES, TOYS, GAMES, RADIOS, ETC.

- T - Audio players, components and accessories, records, compact discs
- T - Baseball, football cards, etc.
- T - Bicycles and parts
- T - Boats and equipment
- T - Games
- T - Hobby supplies
- T - Musical instruments and sheet music
- T - Photographic and projection equipment and supplies
- T - Photographic services, film developing, printing, processing, mounting, coloring, etc.
- T - Playing cards
- T - Pocket knives

- T - Radios, TV sets, receiving equipment
- T - Tape recorders and tapes
- T - Toys
- *T - Video cassettes and discs, recorders, players, components and accessories, and cameras

12 HOME SEWING, MILLINERY AND CRAFT SUPPLIES

Clothing is defined as articles designed for everyday wear. Goods and items which are to become a component part of clothing are not taxable. Goods and items which become a component of articles other than clothing, such as formal wear and crafts, are taxable. Equipment and supplies used in sewing are taxable.

- T - Artificial flowers
- T - Buckles for articles other than clothing
- NT - Buckles for clothing
- T - Buttons for articles other than clothing
- NT - Buttons for clothing
- T - Dress forms
- NT - Dress patterns
- NT - Dye, clothing fabric
- T - Elastics for articles other than clothing
- NT - Elastics for clothing
- T - Embroidery hoops
- NT - Embroidery of clothing
- T - Embroidery of formalwear and other items
- T - Fabrics for articles other than clothing
- NT - Fabrics for clothing
- T - Hooks and eyes for articles other than clothing
- NT - Hooks and eyes for clothing
- T - Knitting yarn for articles other than clothing
- NT - Knitting yarn for clothing
- T - Laces, ribbons, edgings, trimmings for articles other than clothing
- NT - Laces, ribbons, edgings, trimmings for clothing
- T - Needle-craft instruction books
- T - Needles
- T - Rug yarns
- T - Scissors
- T - Sewing kits
- NT - Shoulder pads
- T - Tape measures
- T - Thimbles
- T - Thread for articles other than clothing
- NT - Thread for clothing
- T - Yarn goods for articles other than clothing
- NT - Yarn goods for clothing

- T - Yarn holders
- T - Zippers for articles other than clothing
- NT - Zippers for clothing

13 HOUSEHOLD GOODS AND SUPPLIES

- T - Air fresheners
- T - Ant traps
- T - Basin stoppers
- T - Batteries
- T - Bedding
- T - Books
- T - Boot caddy
- T - Brooms
- T - Buckets
- T - Candles
- T - Charcoal
- T - Cloth laundry bags
- *T - Cloth towels, dish, bath and hand
- T - Clothesline
- T - Clothespins
- T - Coat hangers
- T - Cookware, pots and pans
- T - Cutlery
- *T - Decorations, household and yard
- T - Dinnerware
- T - Dishpans
- T - Door mat
- T - Drinking glasses
- T - Easter egg color/paint
- T - Extension cords
- T - Filters, disposable air
- T - Fire extinguishers
- T - Fly swatters
- T - Fly tapes
- T - Furnishings, appliances, fittings, ornaments, furniture, equipment and accessories. Furnishings including bedding, rugs, lamps, hardware, electrical goods, mirrors, pillows, scarves for furniture, bookends, clocks, glassware, crockery, silverware, flatware and other household wares.
- T - Fuses
- T - Glue
- *T - Grills, and replacement parts, utensils and scrapers
- T - Hardware and tools
- T - Household linens, blankets

- T - Insecticide sprays
- T - Ironing board and covers
- T - Jars for canning and jar lids
- T - Light bulbs
- T - Lubricating oils
- T - Matches
- T - Metal and plastic cooking utensils and flatware
- T - Mops
- T - Moth balls and moth flakes
- T - Mouse traps
- T - Needles
- T - Notebooks
- T - Oilcloth
- T - Paints, brushes and painting equipment
- T - Paint removers
- T - Plants, vegetable and flower (see Category 7)
- T - Polishing cloths
- T - Refrigerator deodorants
- T - Rubber gloves
- T - Rug shampoo applicators
- T - Salt, water softeners
- T - Sandpaper
- T - Scrub brushes
- T - Seeds, vegetable and flower (see Category 7)
- T - Shoe brushes
- T - Sponges
- T - Stationery
- T - Static control spray, sheets
- T - Thermometers
- **T - Thermoses
- T - Thimbles
- T - Tie racks
- T - Toothpicks
- T - Turpentine and paint thinner
- **T - Vacuum cleaners, and disposable bags, parts
- T - Ventilating fans and equipment
- T - Water filters, replacement
- T - Wax applicators
- T - Wax paraffin

A SOAPS AND DETERGENTS

- T - Bleaches
- T - Cleaner, septic tank, hand, oven, toilet bowl or tile

- T - Cleansers
- T - Detergents
- T - Drain opener
- T - Dry cleaning kits
- T - Pre-soaks
- T - Rug shampoo
- T - Soaps, scented and unscented
- T - Softeners (fabric)
- T - Spot removers and stain treatments
- T - Starch
- T - Whiteners

B CLEANING AND POLISHING PREPARATIONS

- T - Car cleaners and waxes
- T - Glass cleaner
- T - Polishes, floor, furniture, silver and similar items
- T - Removers, rust or wax
- T - Scouring pads
- T - Steel wool

C PAPER GOODS

- T - Cups, paper, plastic or Styrofoam
- NT - Disposable diapers and incontinence products
- T - Drop cloths, paper and plastic
- T - Facial tissue
- T - Filters, coffee
- T - Napkins
- T - Place mats
- T - Plates, paper, plastic or Styrofoam
- NT - Sanitary napkins, tampons or similar items used for feminine hygiene
- T - Shelf paper, liners
- *T - Straws for drinking
- T - Tablecloths
- **T - Toilet seat covers
- NT - Toilet tissue
- T - Towels
- NT - Wet-wipes

D WRAPPING SUPPLIES

- T - Aluminum foil
- T - Food bags
- T - Plastic wraps

- T - Tape, masking, scotch, plastic, freezer, duct
- T - Trash bags, paper and plastic
- T - Twine
- T - Wax paper
- T - Wrapping paper, including gift wrapping, ribbons, etc.

14 INFANT SUPPLIES

- T - Accessories, nursing bottles, nipples, teething beads, teethingers
- NT - Bibs
- T - Car seats, infant
- T - Crib blankets
- T - Diaper bags
- NT - Diaper cream
- NT - Diaper pins
- NT - Diapers, cloth and disposable
- NT - Diaper Service
- NT - Formula
- T - Furniture including cribs, high chairs and booster seats
- T - Liners, (nursing bottles)
- T - Monitors
- NT - Receiving blankets for infants
- NT - Rubber pants
- **NT - Wipes, baby

15 JEWELRY

- T - Beads - Materials used in jewelry-making
- T - Earring backs
- T - Jewelry, including those with religious symbols incorporated
- **T - Jewelry, used for body piercing
- *T - Jewelry repair services
- T - Ornaments and pins for hats and dresses

16 LUGGAGE, HANDBAGS, CARRYING BAGS, WALLETS, ETC.

- T - Bags, carrying, athletic, book, etc.
- T - Handbags, pocketbooks and purses
- T - Knitting bags
- T - Leather goods, except clothing
- T - Luggage, briefcases
- T - Wallets and billfolds

**17 MEDICINE, DRUGS AND MEDICAL SUPPLIES;
PROSTHETIC AND THERAPEUTIC DEVICES**

The tax is not imposed on prescription or nonprescription medicines and drugs or medical supplies, crutches and wheelchairs for the use of people with disabilities, 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 people with disabilities, or any other therapeutic, prosthetic or artificial device designed for the use of a particular individual to correct or alleviate a physical incapacity, including, but not limited to, hospital beds, iron lungs and kidney machines.

- T - Acne cleaners and acne pads
- NT - Acne treatments, lotions, creams
- T - Adhesive removers
- NT - Adhesives used for medical treatment
- T - Air cleaners and electrostatic machines
- NT - Alcohol, rubbing, swabs and wipes
- NT - Analgesics
- NT - Antacids
- NT - Antiseptics, for external use only
- NT - Applicators (See "Cotton applicators")
- NT - Arch supports
- NT - Arm slings
- NT - Artificial eyes
- NT - Artificial limbs
- NT - Aspirin
- T - Autoclave
- NT - Automobile accessories, when noted by the Department of Transportation upon the motor vehicle operator's license of the purchaser that such accessories are necessary, and when charges for accessories are stated separately by the vendor on the sales invoice.
- NT - Automobile wheelchair lifts
- T - Baby powder
- NT - Bandages, dressings, gauze and cotton
- T - Bath tub and bathroom safety devices
- T - Batteries, unless purchased for use in medical equipment and from a medical supply house
- NT - Bed boards
- NT - Bed drain bags
- NT - Bed pans
- NT - Bed trapeze bars
- NT - Benzoin
- T - Bidet toilet seats
- T - Blankets
- T - Blood agar plates

NT - Blood glucose monitors used to treat diabetes (therapeutic devices)

NT - Blood pack units

T - Blood pressure testing apparatus

NT - Bone pins

NT - Braces and supports worn on the body to correct or alleviate a physical incapacity

NT - Braille teaching texts

T - Breast pumps

NT - Breathing units, intermittent positive pressure

NT - Burn ointment and lotion

NT - Calamine lotion

NT - Canes

NT - Cardiac emergency kit

NT - Cardiac pacemakers and electrodes

NT - Castor oil

NT - Catheters and accessories

T - Chemical agents and related supplies for analysis of patients' specimens

NT - Cod liver oil

NT - Colostomy appliances

NT - Colostomy deodorants

NT - Commodes, chair bedside

NT - Commode seats, elevated for use by incapacitated persons

NT - Contact lenses and wetting solutions

T - Contact lenses cleaning solutions

NT - Corn pads and plasters for the removal of corns

NT - Cotton applicators, cotton rolls, cotton balls and cotton swabs

NT - Cough and cold items, cough drops, cough syrups

NT - Crutches

NT - Crutch pads

NT - Defibrillators

T - Dehumidifiers

NT - Dental floss

NT - Dental materials which are transferred to the patient, including dentures, fillings, crowns, inlays, bridges and lingual or palatal bars

NT - Dental supplies used in dental treatment, including x-ray film, cotton, impression and materials

T - Dentist chair

NT - Dentist drills, disposable

T - Dentist replacement burs, drills, reusable

NT - Denture products, including denture cleaners and adhesives

T - Deodorants, personal and room

T - Diagnostic equipment

- T - Diagnostic glassware and diagnostic testing materials
- NT - Dialysis machines
- NT - Diathermy machines
- NT - Dietary supplements and substitutes, in any form
- NT - Diet pills
- T - Disinfectants
- NT - Drapes, paper
- T - Ear plugs
- T - EKG mounts and EKG paper
- NT - Elastic bandages and braces
- T - Electrocardiocorder
- NT - Emesis basins or pans
- NT - Epsom salts
- T - Esophageal dilator
- T - Eucalyptus oil
- NT - Examining table paper
- T - Exercise equipment, including exercise bikes and treadmill exercisers
- NT - Eye ointment
- NT - Eye pads
- NT - Eye washes
- NT - Eyeglasses, prescription
- NT - False teeth
- NT - First aid kits
- NT - Fluidic breathing assistor
- NT - Food substitutes
- NT - Foot pads, insoles, all types
- NT - Foot products for treatment of infections
- NT - Gauze
- NT - Gloves, surgical, disposable
- NT - Glucose tablets
- NT - Glycerin
- NT - Gowns, medical
- NT - Hearing aids and batteries
- T - Heaters, portable, room
- NT - Heating pads
- NT - Hospital beds, having side rails, electric and non-electric with attachments
- NT - Hot water bottles
- T - Humidifiers
- NT - Hygienic needs, douche powder, vaginal preparations
- NT - Hydrocortisone cream
- NT - Hydrogen peroxide
- NT - Ice bags

- NT - Ileostomy bags
- NT - Incontinence products, including incontinence pants
- NT - Infusion pumps
- NT - Inhalation therapy equipment and equipment used to provide emergency breathing assistance
- NT - Insulin
- **NT - Insulin pumps
 - T - Intravenous stand
- NT - IUD devices
 - T - Laboratory testing and analysis equipment and supplies
- NT - Lactose intolerance medication
- NT - Lamps, ultraviolet and infrared
- NT - Lancets
- NT - Laxatives and cathartics
- NT - Lice shampoo
- NT - Lifters, patient
- NT - Lubricating jelly
- NT - Lymphedema pumps
 - T - MRI equipment
 - T - Mattresses, air
- NT - Mattresses, alternating positive pressure
- NT - Mattresses and covers for hospital beds
 - T - Medical alert cards
 - T - Medical alert systems
- NT - Medicated powder
- NT - Medicine cups, disposable
 - T - Microscopes
- NT - Milk of magnesia
 - T - Mouthwashes
- NT - Muscle stimulator, electronic for physical therapy
- NT - Nasal cannula
 - T - Nasal speculum
 - T - Needle holder
- *NT - Needles and syringes, disposable
 - T - Needles and syringes, reusable
- NT - Orthodontic brackets
 - T - Orthodontic trays
- NT - Orthopedic splints
 - T - Overbed tables
- NT - Oxygen and oxygen equipment, when used for medical treatment
- NT - Pads, moist heat pad, alternating positive pressure pad, flotation pad, lamb's wool pad
- NT - Paraffin bath units, standard or portable

- T - Percussors
- NT - Pet medicines
- NT - Petroleum jelly
- NT - Physical therapy equipment, when designed exclusively for use in correcting or alleviating a physical incapacity
- T - Plaque remover
- T - Pore cleaners, medicated, pore strips
- NT - Postural drainage boards
- NT - Postural support chairs
- **NT - Prefilled syringes for injection
- NT - Pre-moistened wipes
- NT - Prophylactics
- NT - Prostheses (mammary, malar, chin, urinary, incontinence, etc.)
- T - Pumice powder
- NT - Pump, diaphragm, pressure vacuum
- T - Razor blades, unless disposable and used for medical procedure preparation
- NT - Rectal preparations
- T - Safety grab bars
- NT - Sanitary napkins, tampons and similar items
- T - Sanitizer, air
- T - Sauna baths
- T - Scissors
- T - Shaving products
- T - Sheets, cloth
- NT - Sheets, disposable
- NT - Shoe insoles, orthopedically designed
- NT - Sitz bath
- NT - Smoking deterrents, gum and patch
- T - Soaps
- NT - Specimen containers, disposable
- T - Sphygmomanometer
- T - Sphygmostat
- NT - Stair gliders for persons having a physical disability, installed in the purchaser's home and pursuant to a physician's prescription
- T - Stethoscope
- NT - Styptic pencils
- T - Suction machines and pumps
- NT - Sunburn treatment lotions or creams
- T - Sunglasses (unless prescription)
- T - Suntan lotion, sunblock
- NT - Suppositories
- T - Surgical instruments
- NT - Surgical instruments and supplies, single use disposable

- NT - Surgical masks, disposable
- NT - Sutures
- T - Tables, bedside
- T - Tables, examining
- T - Talcum powder
- T - Teeth whitening strips
- T - Telecaption equipment
- NT - Test strips used in treatment of diabetes
- T - Testing kits, pregnancy, UTI
- NT - Thermal pads, disposable
- T - Thermometer, medical
- NT - Thermometer covers, disposable
- NT - Tongue depressor, disposable
- T - Tooth whitening kits
- NT - Toothache drops
- NT - Toothbrushes
- NT - Toothpaste
- NT - Tourniquets
- NT - Trachea tubes
- NT - Traction units, including bed stand, anklet, extension, pelvic or cervical units, head holder, fracture unit with trapeze bar set, weights, weight bags, pelvic lacing belt, and over door traction equipment
- NT - Tubing, intravenous
- NT - Urine drain bag
- T - Vacutainers
- NT - Vaginal diaphragms
- T - Vapona strips
- T - Vaporizers
- NT - Vitamins
- NT - Walking bars and walkers
- NT - Wheelchairs, manual and motorized, scooters and batteries
- T - Whirlpool baths and whirlpool pumps
- T - Wigs
- T - X-ray equipment and machines
- T - X-ray film and chemicals not used by dentists

18 MISCELLANEOUS

- **NT - Acupuncture and massage services
- T - Antiques
- *NT - Body tattooing and piercing services
- NT - Bullion, investment metal
- **T - Car wash, automated or self-serve

- *NT - Caskets, burial vaults, markers, interred cremation urns and tombstones for human graves, including foundations
 - T - Christmas trees
 - T - Coin banks and coin holders
- NT - Coins, investment (numismatic coins and legal tender)
 - T - Compressed air, dispensed
 - T - Corkage fee
- NT - Coupon books sold to individual consumers
- **T - Cremation urns, not interred
 - T - Dry ice, except when sold as an internal packaging material to retailer, manufacturer or processor
- NT - Safety equipment and devices designed and worn by production personnel employed in manufacturing, processing, mining, public utility, farming and dairying. Examples: asbestos suits, gloves, aprons, boots, masks, helmets, goggles and similar items
 - T - Equipment and devices worn by nonproduction personnel
 - T - Fencing materials
- NT - Flags of the U.S. and Commonwealth. Bunting and other flags are taxable.
 - T - Flag kits, that include poles or brackets
 - T - Fuel for motor vehicles, except when subject to Liquid Fuel or Fuel Use Tax
- NT - Gift cards
- **NT - Golf green fees
- NT - Health club membership fees
 - T - Hot tubs and spas, regardless of physician recommendation
 - T - Lunch kits, Thermoses and replacement parts
 - T - Motor vehicle repair services (including labor), accessories, parts, supplies, lubricants, equipment, vehicle and emission inspection
 - T - Paper money, which is not legal tender in U.S.A., is taxable on full purchase price
 - T - Paper money, which is legal tender in U.S.A., is taxable on amount in excess of face value
- NT - Parking fees
 - T - Party favors
- NT - Pony rides and trail rides
 - T - Prepaid telephone cards
- **NT - Retail Club memberships
 - T - Scout supplies and training manuals, except when sold to a scout troop
 - T - Sheds, unless purchaser has a building permit
 - T - Souvenirs
 - T - Stamps, uncanceled U.S.A. stamps are taxable on amount in excess of face value
 - T - Stamps, cancelled U.S.A. stamps and all foreign stamps are taxable on the full purchase price

- NT - Tanning booth fees
- **NT - Tickets for admission to the theater, concerts, sporting events, amusements parks, and amusement or activity complexes
- T - Trading stamp redemption for taxable property

19 OPTICAL GOODS

- *NT - Contact lenses, prescription, and wetting solutions
 - T - Contact lenses cleaning solutions
- NT - Eyeglasses, prescription
 - T - Magnifying glasses
 - T - Opera glasses and field glasses
 - T - Sunglasses (prescription sunglasses are exempt)

20 PETS

- NT - Boarding, sitting or walking
 - T - Clippers and clipper lubricants
 - T - Equipment (collars, leashes, etc.)
 - T - Farrier services for pet horses
- NT - Flea collars, flea powder, flea and tick soap and tick sprays
 - T - Food, including food supplements and prescription food
 - T - Grooming, unless performed by a veterinarian for the purpose of or incidental to medical treatment
- NT - Medicines and medical supplies
 - T - Pet caskets and urns
- NT - Pet cremation and burial services
 - T - Sale or rental of pets, or adoption from shelters, which includes fees for shots and spaying or neutering
 - T - Shampoo
 - T - Veterinarian equipment
- NT - Veterinarian services
 - T - Vitamins

21 RELIGIOUS ARTICLES

Bibles, religious publications and religious articles are subject to tax unless purchased by organizations qualifying as institutions of purely public charities which hold an exemption number prefixed by the number **75**, and government entities.

- T - Bibles
- T - Candles used in religious worship
- T - Clergy vestments and choir and altar server clothing
- T - Holy water bottles
- T - Nativity scenes
- T - Religious statues, medals and symbols used in religious worship
- T - Religious publications sold by religious groups

- T - Rosaries
- T - Wines used in religious services

22 RESTAURANT EQUIPMENT AND SUPPLIES

Equipment, implements and similar property for use in the preparation and service of food is taxable.

- NT - Carbon dioxide for soda fountain
- T - Carbonator for soda fountain operation
- NT - Chef Hats
- T - Disposable trays
- T - Equipment used to prepare and serve food and beverages
- T - Ice making equipment
- T - Latex gloves
- T - Napkins, wooden or plastic spoons, forks, straws and similar articles for use in restaurants, vending machines and other eating places
- T - Placemats
- T - Toothpicks
- T - Vending machines and equipment
- NT - Work uniforms
- NT - Wrapping supplies, paper or plastic plates, cups and similar articles for the delivery of food, used by restaurants or in vending machines

23 SHOES AND SHOE ACCESSORIES

Generally, shoes designed for everyday wear are exempt. However, shoes designed for formal wear or sporting activities are taxable.

- T - Bathing (swimming) shoes
- NT - Overshoes
- NT - Safety shoes
- T - Shoe brushes, applicators and shoe trees
- T - Shoe clips
- NT - Shoe dye
- NT - Shoe laces
- NT - Shoe polish
- NT - Shoe repairs
- NT - Shoe soles and heels for shoe repair
- T - Shoes for baseball, bowling, football, golf, soccer, hockey, dance, etc.
- T - Shoes for formal wear, such as metallic cloth, brocade, satin or silver leather, primarily for formal wear.
- NT - Shower clogs
- NT - Slippers
- NT - Sneakers, jogging, tennis and aerobic shoes
- NT - Toe sneakers

24 SPORTING EQUIPMENT, CLOTHING, SUPPLIES AND RECREATIONAL EQUIPMENT

Tax is imposed on sporting and recreational equipment, clothing and supplies which are designed to be worn and are normally worn only when engaged in sports.

T - Accessories such as ammunition belts, hip waders and fly vests

T - Ballet shoes

NT - Baseball caps and tee shirts

T - Bathing caps

T - Bathing suits

T - Beach coats

T - Bicycles, parts, accessories and supplies

T - Boats, pleasure boats and equipment and parts

NT - Bowling shirts

T - Bowling shoes, purchase and rental

T - Equipment and supplies for baseball, football, hockey, basketball and other sports

T - Exercise equipment

T - Guns and ammunition

NT - Gym suits, outfits

T - Helmets

T - Hunting accessories

NT - Hunting clothing, including camouflage and blaze orange

NT - Jogging outfits, running shoes

T - Mats, floor

T - Protective equipment, knee pads, elbow pads, forearm pads, etc.

T - Sleeping bags

NT - Sneakers, jogging, tennis and aerobic shoes, etc.

NT - Snowmobile suits

T - Uniforms, baseball, football, soccer, basketball, hockey etc.

NT - Warm-up suits, cloth sweat suits

T - Weights

*T - Skates, ice, roller, in-line and sharpening and rental

25 TOBACCO PRODUCTS

T - Chewing tobacco, all types

T - Cigarettes, little cigars

T - Cigars, all types

**T - Electronic cigarettes and vaporizers, and accessories

*T - Smoking accessories, including lighters

T - Tobacco, all types

26 UTILITIES AND FUEL

**T - Cellphone services

- NT - Coal
- NT - Coin-operated telephone charges
- T - Corn and corn pellets
- T - Fire logs, processed
- NT - Firewood, kindling and wood pellets for residential use
- NT - Fuel oil, gas, steam or electricity purchased for residential use
- T - Fuel oil, gas, steam or electricity purchased for commercial use
- T - Interstate and intrastate telephone services for residential or commercial use
- NT - Basic telephone service and subscriber line charges for residential use
- T - Basic telephone service and subscriber line charges for commercial use
- T - Utilities for office or business within home

**27 TIRES AND MOTOR VEHICLE LEASES AND RENTALS
SUBJECT TO PUBLIC TRANSPORTATION ASSISTANCE
FUND TAXES AND FEES (PTA) (61 Pa. Code § 47.19)**

The following items are subject to Public Transportation Assistance Fund Taxes or Fees as indicated below. The tax or fee is IN ADDITION TO any Sales or Use Tax which may be due. However, the Sales, Use, PTA Taxes or PTA Fees shall not be included within the tax base when imposing such taxes or fees.

| ITEM | PTA TAX/FEE | EXEMPTION |
|--|--|---|
| Tires, new tires for highway use (used tires and tires for off highway use are not subject to the fee) | \$1 fee upon the sale of each new tire | Exempt only if purchased by a government entity |
| Rentals of Motor Vehicles (the term rental shall mean the transfer of the possession of a motor vehicle for a period of less than 30 days) | \$2 fee upon each rental day or part thereof | Exempt, if lessee qualifies for Sales Tax Exemption |
| Leases of Motor Vehicles (the term lease shall mean the transfer of possession of a motor vehicle for a period of 30 or more days) | 3 percent tax upon the total lease payment including down payment and accelerated lease payments | Exempt, if lessee qualifies for Sales Tax Exemption |

28 VEHICLE RENTAL TAX (VRT) (61 Pa. Code § 47.20)

Rental companies that have available for rental five or more motor vehicles designed to carry 15 or less passengers, or a truck, trailer or semi-trailer

used in the transportation of property, other than commercial freight that is rented without a driver, are responsible for collecting an additional 2 percent tax. This tax is imposed on the purchase price, as calculated for Sales Tax purposes, of each rental contract for a period of 29 consecutive days or less. The VRT is separate from, and in addition to, any applicable state or local Sales Tax or the \$2 daily PTA fee.

Rental companies may claim a refund up to the amount of tax remitted for licensing and titling fees paid to the Commonwealth during a previous calendar year.



SALES AND USE TAX RATES

| 6% RATES | | | | | |
|----------|---------|-----|---------------|------------|-----|
| From | Through | Tax | From | Through | Tax |
| \$.01 | .10 | .00 | | | |
| .11 | .17 | .01 | 7.11 | 7.17 | .43 |
| .18 | .34 | .02 | 7.18 | 7.34 | .44 |
| .35 | .50 | .03 | 7.35 | 7.50 | .45 |
| .51 | .67 | .04 | 7.51 | 7.67 | .46 |
| .68 | .84 | .05 | 7.68 | 7.84 | .47 |
| .85 | 1.10 | .06 | 7.85 | 8.10 | .48 |
| 1.11 | 1.17 | .07 | 8.11 | 8.17 | .49 |
| 1.18 | 1.34 | .08 | 8.18 | 8.34 | .50 |
| 1.35 | 1.50 | .09 | 8.35 | 8.50 | .51 |
| 1.51 | 1.67 | .10 | 8.51 | 8.67 | .52 |
| 1.68 | 1.84 | .11 | 8.68 | 8.84 | .53 |
| 1.85 | 2.10 | .12 | 8.85 | 9.10 | .54 |
| 2.11 | 2.17 | .13 | 9.11 | 9.17 | .55 |
| 2.18 | 2.34 | .14 | 9.18 | 9.34 | .56 |
| 2.35 | 2.50 | .15 | 9.35 | 9.50 | .57 |
| 2.51 | 2.67 | .16 | 9.51 | 9.67 | .58 |
| 2.68 | 2.84 | .17 | 9.68 | 9.84 | .59 |
| 2.85 | 3.10 | .18 | 9.85 | 10.00 | .60 |
| 3.11 | 3.17 | .19 | | | |
| 3.18 | 3.34 | .20 | Amount | Tax | |
| 3.35 | 3.50 | .21 | \$ 10 | \$.60 | |
| 3.51 | 3.67 | .22 | 20 | 1.20 | |
| 3.68 | 3.84 | .23 | 30 | 1.80 | |
| 3.85 | 4.10 | .24 | 40 | 2.40 | |
| 4.11 | 4.17 | .25 | 50 | 3.00 | |
| 4.18 | 4.34 | .26 | 60 | 3.60 | |
| 4.35 | 4.50 | .27 | 70 | 4.20 | |
| 4.51 | 4.67 | .28 | 80 | 4.80 | |
| 4.68 | 4.84 | .29 | 90 | 5.40 | |
| 4.85 | 5.10 | .30 | 100 | 6.00 | |
| 5.11 | 5.17 | .31 | 200 | 12.00 | |
| 5.18 | 5.34 | .32 | 300 | 18.00 | |
| 5.35 | 5.50 | .33 | 400 | 24.00 | |
| 5.51 | 5.67 | .34 | 500 | 30.00 | |
| 5.68 | 5.84 | .35 | 600 | 36.00 | |
| 5.85 | 6.10 | .36 | 700 | 42.00 | |
| 6.11 | 6.17 | .37 | 800 | 48.00 | |
| 6.18 | 6.34 | .38 | 900 | 54.00 | |
| 6.35 | 6.50 | .39 | 1000 | 60.00 | |
| 6.51 | 6.67 | .40 | 2000 | 120.00 | |
| 6.68 | 6.84 | .41 | 3000 | 180.00 | |
| 6.85 | 7.10 | .42 | | | |

If the purchase price is more than \$10, 6 percent and 1 percent or 2 percent county tax (if applicable), of each dollar plus the above bracket charges upon any fractional part of a dollar must be collected.

REV-221 AS+ (08-16)

CONTINUED ON PAGE 40

**SALES AND USE TAX RATES** (Continued)

| 1% RATES | | | 2% RATES | | |
|-----------------|----------------|------------|-----------------|----------------|------------|
| From | Through | Tax | From | Through | Tax |
| \$.51 | 1.50 | .01 | \$.26 | .75 | .01 |
| 1.51 | 2.50 | .02 | .76 | 1.25 | .02 |
| 2.51 | 3.50 | .03 | 1.26 | 1.75 | .03 |
| 3.51 | 4.50 | .04 | 1.76 | 2.25 | .04 |
| 4.51 | 5.50 | .05 | 2.26 | 2.75 | .05 |
| 5.51 | 6.50 | .06 | 2.76 | 3.25 | .06 |
| 6.51 | 7.50 | .07 | 3.26 | 3.75 | .07 |
| 7.51 | 8.50 | .08 | 3.76 | 4.25 | .08 |
| 8.51 | 9.50 | .09 | 4.26 | 4.75 | .09 |
| 9.51 | 10.00 | .10 | 4.76 | 5.25 | .10 |
| | | | 5.26 | 5.75 | .11 |
| | | | 5.76 | 6.25 | .12 |
| | | | 6.26 | 6.75 | .13 |
| | | | 6.76 | 7.25 | .14 |
| | | | 7.26 | 7.75 | .15 |
| | | | 7.76 | 8.25 | .16 |
| | | | 8.26 | 8.75 | .17 |
| | | | 8.76 | 9.25 | .18 |
| | | | 9.26 | 9.75 | .19 |
| | | | 9.76 | 10.00 | .20 |



**3% RATE TABLE FOR CALCULATION OF
THE MOTOR VEHICLE LEASE ADDITIONAL TAX**

| FROM | TO | TAX |
|-------------|-----------|------------|
| \$.17 | .49 | .01 |
| .50 | .83 | .02 |
| .84 | 1.16 | .03 |
| 1.17 | 1.49 | .04 |
| 1.50 | 1.83 | .05 |
| 1.84 | 2.16 | .06 |
| 2.17 | 2.49 | .07 |
| 2.50 | 2.83 | .08 |
| 2.84 | 3.16 | .09 |
| 3.17 | 3.49 | .10 |
| 3.50 | 3.83 | .11 |
| 3.84 | 4.16 | .12 |
| 4.17 | 4.49 | .13 |
| 4.50 | 4.83 | .14 |
| 4.84 | 5.16 | .15 |
| 5.17 | 5.49 | .16 |
| 5.50 | 5.83 | .17 |
| 5.84 | 6.16 | .18 |
| 6.17 | 6.49 | .19 |
| 6.50 | 6.83 | .20 |
| 6.84 | 7.16 | .21 |
| 7.17 | 7.49 | .22 |
| 7.50 | 7.83 | .23 |
| 7.84 | 8.16 | .24 |
| 8.17 | 8.49 | .25 |
| 8.50 | 8.83 | .26 |
| 8.84 | 9.16 | .27 |
| 9.17 | 9.49 | .28 |
| 9.50 | 9.83 | .29 |
| 9.84 | 10.16 | .30 |

| AMOUNT | TAX | AMOUNT | TAX |
|---------------|------------|---------------|------------|
| \$10 | .30 | \$60 | 1.80 |
| \$20 | .60 | \$70 | 2.10 |
| \$30 | .90 | \$80 | 2.40 |
| \$40 | 1.20 | \$90 | 2.70 |
| \$50 | 1.50 | \$100 | 3.00 |

If the purchase price is more than \$10, 3 percent of each dollar plus the above charges upon any fractional part of a dollar must be collected.

REV-954 AS (08-16)

NOTES

NOTES



pennsylvania

DEPARTMENT OF REVENUE

www.revenue.pa.gov

REV-65 (BA+) 04-17



pennsylvania
DEPARTMENT OF REVENUE
BOARD OF APPEALS
PO BOX 281021
HARRISBURG PA 17128-1021
717-783-3664

BOARD OF APPEALS PETITION FORM

FOR INTERNAL USE ONLY

SECTION 1.**TAX INFORMATION**

☒ Sales/Use Tax ☐ Employer Withholding ☐ Corporation Tax ☐ Personal Income Tax ☐ Other _____

Account ID _____ Federal Employer ID (FEIN) _____ Revenue ID _____

Tax Period: Begin _____ End _____

Is this a petition for refund? ☒ Yes ☐ No If yes, ☐ Cash ☐ Credit Total Refund Requested \$ 4.51

If petition is in regard to sales tax, please list amount(s) below:

PA Tax Refund \$ 3.87 Philadelphia Tax Refund \$ _____ Allegheny County Tax Refund \$ 0.64

Are there any current appeals or audits for this taxpayer or tax period? ☐ Yes ☒ No

If yes, please provide relevant docket number _____ assessment number _____
and/or audit assignment number _____

Is this a petition for reassessment/review of tax, penalty and/or interest? ☐ Yes ☒ No

Notice Number _____ Notice Mail Date _____ Tax Assessment Amount \$ _____

Penalty/Fees Assessment Amount \$ _____ Paid ☐ Yes ☐ No If paid, date paid _____

SECTION 2.**PETITIONER INFORMATION**

☐ Corporation ☒ Individual ☐ Partnership (Attach a list of partners and addresses.) ☐ Other _____

☐ Estate Date of Death _____ (required for estates & personal income tax fiduciary appeals.)

Business Name _____

Trade Name _____

Individual Last Name Buchanan First Name Laura MI _____

Social Security Number _____ **PRIVACY NOTIFICATION:** The department is authorized under federal law, 42 U.S.C. § 405 (c), to use your Social Security number in administering state tax law. The department uses your Social Security number to establish your identity and to process your appeal.

Street Address REDACTED City Pittsburgh State PA

Country USA ZIP Code +4 15238-6130 Website _____

Telephone REDACTED Fax _____ Email REDACTED

Contact Person Me Contact Phone Number REDACTED

SECTION 3.**REPRESENTATIVE INFORMATION**

Representation by an attorney, CPA or other person is not required. However, if so represented, complete this area.

Business Name _____

Individual Last Name _____ First Name _____ MI _____

Street Address _____ City _____ State _____

Country _____ ZIP Code +4 _____ Website _____

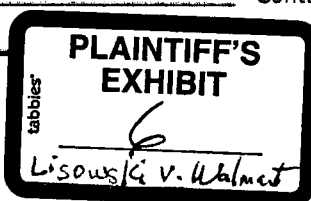
Telephone _____ Fax _____ Email _____

Contact Person _____ Contact Phone Number _____

FOR INTERNAL USE ONLY

DOCKET # _____ EXAMINER _____

PETITION DUE _____



SECTION 4.**SCHEDULING REQUEST**

- ☐ Hearing requested.
- ☒ No hearing requested. Please decide on basis of the petition and record.
- ☐ This case to be held pending action on the same issue(s).

Case Number _____ Court Citation Number _____

SECTION 5.**CORRESPONDENCE WITH THE BOARD OF APPEALS**

Communication, including the board's final decision and order, may be transmitted to you or your representative via email, should you elect so below. If you elect to receive communications via email, you and your representatives assume the responsibility for the confidentiality of the information contained in emails sent to and from the Board of Appeals. The commonwealth will not be held liable for the disclosure of any confidential information sent via email.

Send correspondence to (select only one): ☒ Petitioner or ☐ Representative

Send correspondence via (select only one): ☐ U.S. Mail or ☒ Email

Send Decision and Order via (select only one): ☐ U.S. Mail or ☒ Email

SECTION 6.**ISSUES**

Itemize the issue(s) involved. What is the subject of appeal?

I recently bought Fiver Hour Energy at Sunoco and was charged sales tax. I don't believe these items are taxable. I've attached my receipts.

SECTION 7.**ARGUMENTS**

I looked online and dietary supplements are not taxable in Pennsylvania.

I saw this (<https://www.revenue.pa.gov/FormsandPublications/FormsforBusinesses/SUT/Documents/rev-717.pdf>) and it says that dietary supplements shouldn't be taxed.

The Fiver Hour Energy bottles I bought say DIETARY SUPPLEMENT on them. I've included a photo of the bottle.

SECTION 8.**COMPROMISE**

The Board of Appeals will consider compromises of assessment and refund appeals. If you wish to propose a compromise, please complete and submit a Request for Compromise (DBA-10) with your petition or within 30 days from the date the petition is filed.

SECTION 9.**SIGNATURES**

All petitions must be signed by the petitioner or authorized representative. If signed only by an authorized representative, written authorization must accompany the petition. If the petitioner is a corporation, a corporate officer must sign.

Under penalties prescribed by law, I hereby certify this petition has been examined by me, and to the best of my knowledge, information and belief, the facts contained in the petition are true, correct and complete and the petition is not made for the purpose of delay. Also, if this is a petition for refund, I certify that the refund requested has not been granted in an audit report, nor has it been included in any other petition for refund.

Petitioner's Name and Title _____

Petitioner's Signature _____ Date _____

Representative's Name and Title _____

Representative's Signature _____ Date _____



Pennsylvania Department of Revenue

Instructions for REV-65

Board of Appeals Petition Form

REV-65 IN (BA+) 04-17

GENERAL INFORMATION

- Please type or print neatly in blue or black ink.
- Please attach a copy of the notice being appealed.
- Petitions should be sent directly to the Board of Appeals by mail, online or fax.
- The preferred method of filing is online because this method provides a confirmation number. Online petitions are filed through the Board of Appeals website at www.boardofappeals.state.pa.us.
- The Board of Appeals fax number for petitions is (717) 346-2011. The Board cannot confirm receipt of faxes.
- The mailing address for the Board of Appeals is:
BOARD OF APPEALS
P.O. BOX 281021
HARRISBURG PA 17128-1021
 - Petition is considered filed as of the postmark date.
 - Meter dates or any other mark (except the USPS postmark) is not recognized.
 - Failure to include any required information may result in a dismissal of your appeal.

SPECIFIC INSTRUCTIONS

Sections 1 and 2: Tax Information and Petitioner Information

- Please identify tax type being appealed. Administrative Appeals

of Record such as revocation of a lottery license can be identified in Other.

- Account ID Number is the number used to identify the tax account being appealed. Examples include the Sales Tax License Number, the Corporate Box Number, Estate File Number or Control Number.
- Federal Employer Identification Number is a number issued by the IRS to business entities. Please complete this number if one has been assigned to you.
- Revenue ID number: Departmental issued number assigned to each business entity with a filing requirement in PA.
- Please clearly identify the tax period being appealed.
- Please clearly identify the type of appeal by checking whether it is a petition for refund or a petition for reassessment/review (do not check both).
- Please identify the refund amount in the appropriate space.
- Please identify the tax assessment amount and penalty/fees assessment amount in the appropriate space.
- Please identify any audit assignment numbers, if applicable.

Sections 3, 4 and 5: Representative Information, Scheduling Request and Correspondence

- Please complete Representative information only if Petitioner is represented by another person.

- Hearings, if requested, are held in Harrisburg. Petitioner may request a phone conference in lieu of a hearing. It is at the Board's discretion whether to grant this request.
- Please check desired method of correspondence.

Sections 6 and 7: Issues and Arguments

- Briefly state the issue(s) involved.
- Explain in detail why relief should be granted.
- Any required appeal schedule should be submitted with the petition or within 30 days of the date that the petition is filed.
- Any evidence in support of the petition may be submitted with the petition but no later than 60 days from the date that the petition is filed.
- Additional pages may be attached.

Section 8: Request for Compromise

- A compromise may be proposed.
- Please submit a copy of a Request for Compromise (DBA-10) with the petition or within 30 days of the filing of a petition.

Section 9: Signature

- All petitions must be signed by the Petitioner and/or Authorized Representative
- A Power of Attorney (REV-677) must be submitted if the petition is only signed by the authorized representative.

276489
SUNOCO
304 FREEPORT RD
ASPINWALL PA 15215

<CUSTOMER COPY>

| Description | Qty | Amount |
|-------------|-----|--------|
| T SODA | 1 | 2.09 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| GROCERY NTX | 1 | 1.00 |

Subtotal 33.41
Tax 2.27

TOTAL 35.68

CREDIT \$ 35.68

SALE Receipt
AMERICAN EXPRESS USD\$35.68
Acct/Card #:
Entry Method: Chip Read
Auth #: 823965
Resp Code: 000
Stan: 0738599223
Invoice #: 952428
Shift #: 1
Store # *****
SITE ID: 276489
TERMINAL ID: 003

MODE: Issuer
AID: A000000025010801
TVR: 0000008000
IAD: 0646010360A002
TSI: F800
ARC: 00
CUSTOMER COPY

THANKS, COME AGAIN

ST# AB123 TILL XXXX DR# 1 TRAN# 1017607
CSH: 1 12/26/19 11:37:59

276489
SUNOCO
304 FREEPORT RD
ASPINWALL PA 15215

<CUSTOMER COPY>

| Description | Qty | Amount |
|-------------|-----|--------|
| T SODA | 1 | 2.09 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |
| T 5HR | 1 | 3.79 |

Subtotal 36.20
Tax 2.53

TOTAL 38.73

CREDIT \$ 38.73

SALE Receipt
AMERICAN EXPRESS USD\$38.73
Acct/Card #:
Entry Method: Chip Read
Auth #: 802102
Resp Code: 000
Stan: 0739600211
Invoice #: 953998
Shift #: 1
Store # *****
SITE ID: 276489
TERMINAL ID: 003

MODE: Issuer
AID: A000000025010801
TVR: 0000008000
IAD: 06460103602002
TSI: F800
ARC: 00
CUSTOMER COPY

THANKS, COME AGAIN

ST# AB123 TILL XXXX DR# 1 TRAN# 1017814
CSH: 1 12/27/19 15:24:15

5-hour
ENERGY.

REGULAR
STRENGTH

0g Sugar 0g Fat 0g Protein
DIETARY SUPPLEMENT

BOARD OF APPEALS
P O BOX 281021
HARRISBURG, PA 17128-1021



LAURA BUCHANAN
REDACTED
PITTSBURGH, PA 15238-6130

IN RE PETITION OF:

LAURA BUCHANAN

DOCKET NO.: 2001199
TAX TYPE: Sales/Use Tax
APPEAL TYPE: Refund
ACCOUNT NO.: NO LICENSE
REVENUE ID.:
ASSESSMENT NO.: N/A
TAX PERIOD: N/A
APPEAL FILED: 1/21/2020
EXAMINER: Crystal Hepler
Direct Dial: (717) 783-6234
Fax: (717) 787-7270
hhepler@pa.gov
MAILING DATE: June 17, 2020

DECISION AND ORDER

Upon review of the evidence submitted by Petitioner and Departmental records, it is hereby, ORDERED, that the Petitioner be granted a credit or refund in the amount of \$4.51, plus appropriate interest, all of which amount was paid within the statutory period provided for under Section 253(a) of the Tax Reform Code of 1971.

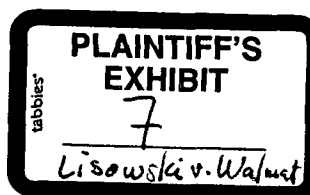
FOR THE BOARD OF APPEALS

John A. Eason, Member

A check for any refund ordered by the Board of Appeals will be mailed to you under a separate cover.

Any appeal from this decision must be filed on or before **August 17, 2020** with the Board of Finance and Revenue, 1101 South Front Street, Suite 400, Harrisburg, Pa 17104. Telephone number 717.787.2974 or, visit their website: www.patreasury.gov/bfr/petition

Please be advised that all evidence submitted in conjunction with this appeal becomes the property of the Commonwealth of Pennsylvania and **will not be returned.**



HOLD DOCUMENT TO LIGHT TO VERIFY WATERMARKS

Memo: VT: 01800001836101

REVPT Dept: 018

Warrant: 0009006327

000199

62-22
311

2398 0009006328

CHECK NUMBER

PAID BY COMMONWEALTH OF PA
DRAWN ON WELLS FARGO BANK - GENERAL DISBURSEMENT
PHILADELPHIA, PA
VERIFICATION AVAILABLE - "POSITIVE PAY" PROTECTED

Commonwealth of Pennsylvania
State Treasury Department

08/12/2020
DATE

PAY ONLY  **456**
FOUR CTS CTS

TO THE ORDER OF

VOID AFTER 180 DAYS

BUCHANAN LAURA
REDACTED
PITTSBURGH PA 15238

000199



*****4.56

Joe Torsella

Joseph M. Torsella
TREASURER OF PENNSYLVANIA

DO NOT ACCEPT WITHOUT HOLDING TO LIGHT TO VERIFY WATERMARKS.

PLAINTIFF'S
EXHIBIT

8

Lisowski v. Walmart

tabbles

VERIFICATION

I, Christopher Lisowski, verify that the statements contained in the foregoing Class Action Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements contained herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Dated: October 2, 2020

A handwritten signature in black ink, appearing to read "Chris Lisowski", written over a horizontal line.

Christopher Lisowski

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Plaintiffs

Signature: 

Name: Frank G. Salpietro

Attorney No.: 47154

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet

ALLEGHENY

County

For Prothonotary Use Only:

Docket No:

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

Christopher Lisowski, et al.

Lead Defendant's Name:

Walmart Stores, Inc., t/d/b/a Walmart

Are money damages requested? ☒ Yes ☐ No
 Dollar Amount Requested: ☐ within arbitration limits
☒ outside arbitration limits
 (check one)
Is this a Class Action Suit? ☒ Yes ☐ NoIs this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Frank G. Salpietro - Rothman Gordon, PC

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case:

Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☒ Other:
 Conversion and
 Unfair Trade Practices

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

☐ Employment Dispute:
 Discrimination
☐ Employment Dispute: Other

☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

- ☐ Zoning Board
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
 Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Says Walmart Unlawfully Charged Sales Tax on 5-hour Energy Supplements in Pennsylvania](#)
