



Pennsylvania's sales tax is out of date. It has failed to keep up with changes in the economy, and is riddled with exemptions that have no discernible economic benefit. This antiquity has real consequences for the Commonwealth's ability to adequately fund education, public safety, health care and other services, and for Pennsylvania's economy.

Policymakers looking to balance the budget without imposing significant cuts to education, libraries and children's services should consider modernizing the sales tax to include higher end goods and services. This will make the tax system more equitable and strengthen the Commonwealth's ability to pay for public investments over the long term.

Sales Tax: A Relic from the Past

Pennsylvania's sales tax is largely based on the taxation of goods, while personal consumption has shifted away from the purchase of goods toward services. When the sales tax was enacted in 1954, services made up only 37% of personal consumption in the U.S. Today, services account for 60% of all dollars spent by consumers.ⁱ

Times have changed – the tax system hasn't. More people download music than buy it in stores. We get our movies through the mail or through our cable provider, rather than going to a theater. Rather than fix things ourselves, we are more likely to call a plumber or electrician. Many of the services we now use aren't subject to sales tax.

The application of the tax is inconsistent. Over time state lawmakers have enacted a laundry list of sales tax exemptions on formerly taxable items such as stair lift devices or magazines.

In other cases, the tax base has not been expanded to include emerging technologies and services, such as downloadable music or computer software. These issues create unnecessary complexity in the tax system and often unexpected tax preferences for one good or service over another. The end result is a narrow and confusing tax base.

Modernizing the Sales Tax

During this year's budget debate, lawmakers have discussed raising the sales tax rate from 6% to 7% to raise revenue and avoid service cuts. This isn't the only option available, and it has some disadvantages.

Raising the overall rate could hurt the state's competitiveness, particularly in border areas. At the current 6% rate, only eleven states have a state sales tax rate higher than Pennsylvania.ⁱⁱ Any increase in the state rate would make Pennsylvania's rate higher than neighboring Maryland and West Virginia.ⁱⁱⁱ If raised to 7%, only California would have a higher state tax rate.^{iv}

A preferable path would be to remove exemptions in the law that favor certain goods and services, broadening the base of taxable goods and services. A basic tenet of taxation is that a wide tax base with a low rate is preferable to a narrow base with a high rate. By modernizing the sales tax base, more revenue can be collected at the existing 6% rate. A broad tax base with fewer

exemptions and the capacity to adapt to new goods and technologies will help keep the tax rate lower over the long-term.

According to the 2009-10 Governor's Executive Budget, current sales tax exemptions cost \$19.6 billion per year.^v Some sales tax exemptions are good. Pennsylvania exempts a number of staples from sales tax – notably groceries, most clothing, and residential utilities. Maintaining these exemptions on these necessities makes Pennsylvania's sales tax less regressive. But most exemptions are for specific goods that enjoy favored treatment or services that are exempt from taxation but have grown in importance during the past 30 years. Many of these items could be added to the tax base without damaging the competitiveness of an industry or making a necessary good or service significantly more expensive.

Pennsylvania should especially consider modernizing the tax base in two areas: entertainment and luxury goods and administrative and business services.

Entertainment

Tickets to movies, sporting events and live theater performances are currently exempt from sales tax. A trip to the movies provides insight into the patchwork nature of Pennsylvania's sales tax. The rental of the movies by the theater, the admission ticket and candy and gum purchased at the counter are all exempt from taxation. Popcorn and soda purchased at that same counter are subject to sales tax. Adding the tax-free entertainment items could generate up to \$250 million in collections at the 6% rate.

Camping vs. hotels

Nightly stays at campgrounds or RV parks are exempt from sales tax. Other types of temporary accommodation are subject to hotel taxes, so it is unlikely that people will seek alternatives to camping if it were subject to tax. Charging sales tax on campground fees could generate slightly less than \$50 million per year.

Bottled water and juices

Sodas, sports drinks and other drinks containing less than 25% juice all are subject to sales tax, but the healthier items, water and fruit juice are not. Water has become a luxury purchase, as tap water is readily available in most places. With estimated 2008 bottled water sales in Pennsylvania of \$458 million, the sales tax that could be generated from bottled water, alone, equals \$27.5 million. These estimates could grow as sales of bottled water are forecasted to increase much more quickly than other drink categories in the U.S.^{vi}

Internet/catalog shopping

Sales tax is collected on purchases in "bricks and mortar" stores, but sales tax is not collected on many catalog and online purchases. It is not that these purchases are tax free; other than clothing, most should be taxed.^{vii} Originally, taxation of internet purchases was a tax administration issue. However, computerized accounting systems can relatively easily handle the complexity of complying with differing state sales tax laws. Taxing internet sales is an issue of fairness; adding sales tax to these items levels the playing field for in-state companies and for local merchants.

The Amazon Scam

While Congress banned sales taxes on electronic commerce through 2014, states can still (and often do) collect sales taxes on internet sales when the retailer has a physical presence in the same state as where the customer resides. This means if you buy a book from Barnes & Noble online, you pay sales tax on the purchase, just as you would had you bought the book in one of their stores in the state. This eliminates the tax incentive for using one method or the other.

However, this is not always the case. There are loopholes that some internet retailers use to avoid collecting the tax, and to create an unfair price advantage over local goods. In May 2008, the Harrisburg *Patriot-News* ran a story showing how Amazon was able to exploit a loophole to legally avoid collecting sales tax in Pennsylvania despite having warehouses in the state.^{viii} They created separate companies that were 100% owned and controlled by Amazon to build and operate their warehouses in the state, warehouses that were subsidized with tax dollars. Since the parent company legally had no physical presence in Pennsylvania, Amazon would not collect sales tax on sales to Pennsylvanians.

Amazon has the technology to collect the tax. In fact, the company operates the online sales of Target.com, which rightfully charges sales tax to Pennsylvania residents.

New York has recently enacted legislation to close this loophole that allows online-only firms to claim they have no legal basis to collect the tax.^{ix} The new law requires any internet seller with at least \$10,000 in sales from affiliates^x located in New York to collect sales taxes on all sales in New York. The law is expected to generate \$33 million in new sales tax revenue in 2010. Such a measure could be enacted in Pennsylvania.

Business and professional services

While many business and professional services are not paid by average Pennsylvanians on a regular basis, they could be considered in a discussion of making the tax base more even across income groups. These include advertising, legal, accounting, consulting, and architectural services. Estimates of the state's sales tax expenditures (collections lost due to specific types of tax exemptions) suggest that if all business and professional services were added to the sales tax base, collections could increase by almost \$3 billion per year.^{xi}

The main concern about taxing goods and services purchased by businesses is "tax pyramiding." This occurs when tax is collected on goods or services that are used directly by businesses to produce other taxable goods and services. As the tax on the "inputs" increases the price to businesses, it increases the final price of the good or service to consumers. According to a 2003 report from the Center on Budget and Policy Priorities, the impact of this type of pyramiding may be overstated.^{xii} Many goods and services used by business are used to produce a non-taxable item or services. When this happens, no pyramiding occurs. The increase in the number of self-employed people has blurred the line between business and personal use, so attempting to provide a business with a sales tax break on buying a computer, cell phone, or car repair can lead to subsidizing personal use by business owners. Finally, a number of items purchased predominantly by businesses are really a disguised form of compensation – including company cars, country club memberships, corporate luxury box rentals at sporting facilities, and season tickets purchases.

Pennsylvania taxes fewer items than neighboring states

It is important to consider cross-border tax interactions, as both businesses and individuals can tax purchase goods and services from other states. A comparison of the taxation of services in Pennsylvania and our neighboring states can be found in Appendix 1. Currently Pennsylvania applies the sales tax to 69 of 163 services, fewer than New York, New Jersey, Ohio, West Virginia and Delaware, and more than Maryland.

An important source of revenue for education, public safety and health care

Adding a number of these goods and services to the tax base could have a substantial impact on sales tax collections. According to estimates published in the Governor's Executive Budget, the exemption of twelve types of goods and services listed in Table 1 decrease sales tax collections by about \$930 million per year. This compares favorably with the \$1 billion that could be added by taxing all clothing and shoes.

Table 1. Modernizing the Sales Tax Base
Eliminating special interest exemptions in the sales tax

Exemption	Exemption cost (in millions)	
	2009-10	2010-11
Candy and gum	\$101.0	\$105.8
Basic television cable and satellite service	\$113.6	\$119.3
Magazines	\$24.1	\$24.7
Catalogs/direct mail advertising	\$123.6	\$127.3
Storage (other than self)	\$117.7	\$122.7
Commercial film rental	\$37.2	\$38.6
Recreational parks/Campgrounds	\$47.1	\$49.3
Dry cleaning	\$57.1	\$59.6
Personal care services (hair, nail, & tanning salons)	\$119.8	\$125.4
Admissions-spectator sports	\$62.4	\$65.3
Admissions-theater, music, and dance	\$99.8	\$102.0
Bottled water and juices (1)	\$30.0	\$30.0
Total	\$933.4	\$970.0
Clothing and shoes	\$1,006.9	\$1,054.8

(For comparison only)

(1) PBPC estimate based on bottled water tax of \$27.5 million.

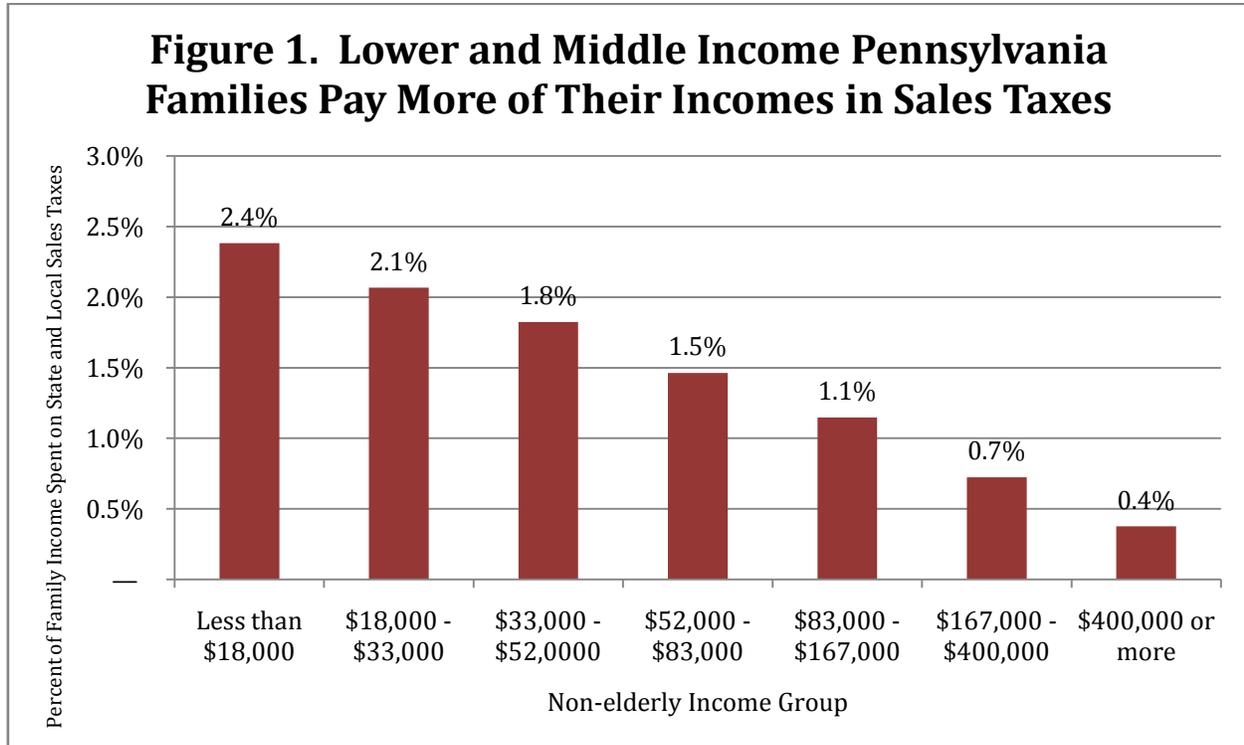
Source. Commonwealth of Pennsylvania, *Governor's Executive Budget 2009-10*, Tax Expenditure Analysis section, pages D37-D59.

A broader base may reduce tax collection volatility

Adding goods and services to the sales tax base may help reduce swings in sales tax collections due to changes in the economy. A large portion of sales tax collections come from the sale of big-ticket items, such as appliances and vehicles. Sales tax collections plummet during an economic downturn when individuals delay the purchase of these more expensive goods. Adding goods and services that people buy in good times and bad could reduce the severity of increases and decreases in overall sales tax collections.

The Current System Not Fair to Lower- and Middle-Income Pennsylvanians

Despite the exemption of staple items like clothing and groceries, the Pennsylvania sales tax still falls heavier on lower- and middle-income families than wealthier families (see Figure 1). Increasing the rate with the current tax base will not improve the situation.



Source: Institute on Taxation and Economic Policy^{xiii}

There are several reasons for this inequality across income groups. First, families with lower levels of income tend to spend a much larger share of their income on taxable goods, while wealthier families are able to save and invest a larger portion of their income. As the sales tax is a tax on consumption, the larger the portion of a family's income that is spent on goods and services, the more tax they are likely to pay.

In addition, wealthier families are often more able to afford more costly, and non-taxable, services, while less wealthy families continue to purchase the taxable goods. An example of this would be dry cleaning and laundry detergent. Wealthier families take more clothes to the cleaner, while less wealthy families wash their own clothes. Middle-income families buy software to prepare their income taxes, while wealthier families go to their accountant.

Many luxury services are exempt from sales tax – including swimming pool maintenance and cleaning, health club memberships, spa and massage services, and golf lessons. Adding these types of services to the tax base could make the tax more even across income levels.

Conclusion

Under the current Pennsylvania sales tax system, those with less income pay a larger share of it in sales taxes than their wealthier neighbors. As the 2009-10 budget is resolved, Pennsylvanians would be better served by adding non-staple goods and selected services to the tax base, rather than raising the sales tax rate. Making these changes could improve the fairness of the overall tax system and if carefully selected, could be done in a way that is not damaging to the state's competitiveness.

Taxation of Services in Pennsylvania and Neighboring States, 2007

Services	DE*	MD	NJ	NY	OH	PA	WV	States Where
								Taxable
Basic Sales Tax Rate	0.384	6	7	4	5.5	6	6	
Agricultural Services								
Soil prep., custom baling, other ag. services	T							4
Veterinary services (both large and small animal)	T							5
Horse boarding and training (not race horses)	T		T	T			T	9
Pet grooming	T		T	T		T	T	18
Landscaping services (including lawn care)	T		T	T	T	T	T	21
Industrial and Mining Services								
Metal, non-metal and coal mining services	T							5
Seismograph & Geophysical Services	T							6
Oil Field Services	T							10
Typesetting service; platemaking for the print trade	T						T	21
Construction								
Gross Income of Construction Contractors	T							12
Carpentry, painting, plumbing and similar trades.	T						T	13
Construction service (grading, excavating, etc.)	T		T					12
Water well drilling	T							10
Transportation Services								
Income from intrastate transportation of persons					T			11
Local transit (intra-city) buses								5
Income from taxi operations					T			8
Intrastate courier service	T							7
Interstate air courier (billed in-state)								1
Storage								
Automotive storage	T		T	T	T		T	19
Food storage	T		T				T	10
Fur storage	T		T	T	T		T	16
Household goods storage	T		T	T			T	13
Mini -storage	T		T	T	T		T	14
Cold storage	T		T		T		T	13
Marina Service (docking, storage, cleaning, repair)	T		T	T		T	T	17
Marine towing service (incl. tugboats)	T			T			T	8
Travel agent services							T	4
Packing and crating	T	T				T	T	10
Utility Service - Industrial Use								
Intrastate telephone & telegraph	T		T	T	T	T		43
Interstate telephone & telegraph			T		T	T		27
Cellular telephone services	T	T	T	T	T	T		43
Electricity	T	T	T			T	T	36
Water							T	18
Natural gas	T	T	T			T	T	37
Other fuel (including heating oil)	T	T			T	T	T	38
Sewer and refuse, industrial	T		T					15
- Residential Use								
Intrastate telephone & telegraph			T	T	T	T		41
Interstate telephone & telegraph			T		T	T		27
Cellular telephone services	T	T	T	T	T	T		44
Electricity			T				T	22
Water							T	12
Natural gas			T				T	22
Other fuel (including heating oil)	T				T		T	23
Sewer and refuse, residential	T		T					11

Services	DE*	MD	NJ	NY	OH	PA	WV	States Where Taxable
Finance, Insurance and Real Estate								
Service charges of banking institutions								3
Insurance services							T	6
Investment counseling	T							6
Loan broker fees								3
Property sales agents (real estate or personal)	T							5
Real estate management fees (rental agents)	T							5
Real estate title abstract services	T							5
Tickertape reporting (financial reporting)	T						T	8
Services								
Personal Services								
Barber shops and beauty parlors	T				T			7
Carpet and upholstery cleaning	T		T	T	T	T	T	19
Dating services	T						T	8
Debt counseling	T						T	7
Diaper service	T				T		T	23
Income from funeral services	T						T	13
Fishing and hunting guide services	T						T	11
Garment services (altering & repairing)	T				T		T	20
Personal Services (continued)								
Gift and package wrapping service	T				T	T	T	21
Health clubs, tanning parlors, reducing salons	T		T		T		T	22
Laundry and dry cleaning services, coin-op	T						T	6
Laundry and dry cleaning services, non-coin op	T	T			T		T	22
Massage services	T		T		T			11
900 Number services	T	T	T	T	T	T		29
Personal instruction (dance, golf, tennis, etc.)	T						T	6
Shoe repair	T				T		T	20
Swimming pool cleaning & maintenance	T		T	T	T		T	17
Tax return preparation	T						T	6
Tuxedo rental	T	T		T	T	T	T	38
Water softening and conditioning	T					T	T	13
Business Services								
Sales of advertising time or space:								
Billboards	T							4
Radio & television, national advertising	T							2
Radio & television, local advertising	T							4
Newspaper	T							4
Magazine	T							4
Advertising agency fees (not ad placement)	T	T					T	11
Armored car services	T	T	T	T	T		T	16
Bail bond fees	T						T	4
Check & debt collection	T					T	T	8
Commercial art and graphic design.	T		T				T	23
Commercial linen supply	T	T	T		T	T	T	33
Credit information, credit bureaus	T	T	T			T	T	13
Employment agencies	T				T	T	T	11
Interior design and decorating	T			T			T	10
Maintenance and janitorial services	T	T	T	T	T	T	T	19
Lobbying and consulting	T					T		7
Marketing	T						T	6
Packing and crating	T		T				T	11
Exterminating (includes termite services)	T		T	T	T	T	T	21
Photocopying services	T	T	T	T	T	T	T	43
Photo finishing	T	T	T	T	T	T	T	44
Printing		T	T	T	T	T	T	45
Private investigation (detective) services	T	T	T	T	T		T	16

Services	DE*	MD	NJ	NY	OH	PA	WV	States Where	
								Taxable	
Business Services (continued)									
Process server fees	T							T	6
Public relations, management consulting	T							T	7
Secretarial and court reporting services	T					T		T	8
Security services	T	T	T	T	T			T	18
Sign construction and installation	T	T	T	T	T	T			31
Telemarketing services on contract	T							T	6
Telephone answering service	T	T	T	T		T		T	20
Temporary help agencies	T				T	T		T	10
Test laboratories (excluding medical)	T							T	8
Tire recapping and repairing	T		T	T	T	T		T	28
Window cleaning	T	T	T	T	T	T		T	19
Computer:									
Software - package or canned program	T	T	T	T	T	T		T	47
Software - modifications to canned program	T	T						T	29
Software - custom programs - material	T							T	24
Software - custom programs - professional serv.	T							T	14
Internet Service Providers-Dialup						T		n/a	9
Internet Service Providers-DSL or other broadband						T		n/a	12
Information services	T		T	T	T			T	13
Data processing services	T				T				9
Mainframe computer access and processing serv.	T				T	T			11
Computer Online Services:									
Online Data processing services					T				7
Software - Downloaded			T	T	T	T		T	28
Books - Downloaded			T					T	15
Music - Downloaded			T					T	15
Movies/Digital Video - Downloaded			T					T	16
Other Electronic Goods - Downloaded								T	14
Automotive Services									
Automotive washing and waxing.	T		T	T	T	T		T	21
Automotive road service and towing services	T		T	T	T	T		T	19
Auto service. except repairs, incl. painting & lube	T		T	T	T	T		T	25
Parking lots & garages	T		T	T				T	21
Automotive rustproofing & undercoating.	T		T	T	T	T		T	25
Admissions & Amusements									
Pari-mutuel racing events.		T		T				T	29
Amusement park admission & rides	T	T	T	T				T	36
Billiard parlors	T	T						T	27
Bowling alleys	T							T	27
Cable TV services	T	T						T	26
Direct Satellite TV					T	T		n/a	24
Circuses and fairs -- admission and games		T	T					T	34
Coin operated video games	T	T						T	17
Admission to school and college sports events		T	T					T	22
Membership fees in private clubs.				T	T			T	23
Admission to cultural events	T	T	T					T	31
Pinball and other mechanical amusements	T	T						T	19
Admission to professional sports events	T	T	T	T				T	37
Rental of films and tapes by theaters	T			T					8
Rental of video tapes for home viewing	T	T	T	T	T	T		T	45

Services	DE*	MD	NJ	NY	OH	PA	WV	States Where Taxable
Professional Services								
Accounting and bookkeeping	T							5
Architects	T						n/a	5
Attorneys	T							5
Dentists	T							4
Engineers	T							5
Land surveying	T						T	7
Medical test laboratories	T							4
Nursing services out-of-hospital	T							4
Physicians	T							4
Leases and Rentals								
Personal property, short term (generally)	T	T	T	T	T	T	T	45
Personal property, long term (generally)	T	T	T	T	T	T	T	45
Bulldozers, draglines and const. mach., short term	T	T	T	T	T	T	T	45
Bulldozers, draglines and const. mach., long term	T	T	T	T	T	T	T	45
Rental of hand tools to licensed contractors.	T	T	T	T	T	T	T	45
Short term automobile rental	T	T	T	T	T	T	T	48
Long term automobile lease	T		T	T	T	T		40
Limousine service (with driver)	T		T		T		T	16
Aircraft rental to individual pilots, short term	T	T	T	T	T	T	T	40
Aircraft rental to individual pilots, long term	T	T	T	T	T	T	T	39
Chartered flights (with pilot)	T				T			9
Hotels, motels, lodging houses	T	T	T	T	T	T	T	50
Trailer parks - overnight							T	29
Fabrication, Installation and Repair Services								
Custom fabrication labor	T	T	T	T	T	T	T	38
Repair material, generally	T	T	T	T	T	T	T	47
Repair labor, generally	T		T	T	T	T	T	24
Labor charges on repair of aircraft	T		T		T	T		16
Labor charges - repairs to interstate vessels	T					T		11
Labor charges - repairs to intrastate vessels	T		T	T	T	T		20
Labor - repairs to commercial fishing vessels	T					T		15
Labor charges on repairs to railroad rolling stock	T		T					11
Labor charges on repairs to motor vehicles	T		T	T	T	T	T	21
Labor on radio/TV repairs; other electronic equip.	T		T	T	T	T	T	24
Labor charges - repairs other tangible property	T		T	T	T	T	T	24
Labor - repairs or remodeling of real property	T		T	T			T	15
Labor charges on repairs delivered under warranty	T					T		5
Service contracts sold at the time of sale of TPP.	T		T	T	T	T	T	32
Installation charges by persons selling property	T		T	T	T	T	T	23
Installation charges - other than seller of goods	T		T	T	T		T	18
Custom processing (on customer's property)	T	T	T	T		T	T	26
Custom meat slaughtering, cutting and wrapping	T			T			T	14
Taxidermy	T	T	T	T	T	T	T	26
Welding labor (fabrication and repair)	T	T	T	T	T	T	T	31
Total Services Taxed	153	49	88	69	81	69	123	183
Source. Federation of Tax Administrators http://www.taxadmin.org/fta/pub/services/services2007.xls								Total Number of Services
* - Businesses in Delaware pay a gross receipts tax of 0.384% on most sales. No direct sales tax is charged to customers, but the gross receipts tax is thought to be passed on in the price of many goods or services.								

ⁱ Data from U.S. Bureau of Economic Analysis, *Personal Income and Outlays, Table 2.3.5 Personal Consumption Expenditures by Major Type of Product*, August 2008, <http://www.bea.gov/national/nipaweb/TableView.asp?SelectedTable=65&ViewSeries=NO&Java=no&Request3Place=N&3Place=N&FromView=YES&Freq=Year&FirstYear=2007&LastYear=2009&3Place=N&AllYearsChk=YES&Update=Update&JavaBox=no#Mid>.

ⁱⁱRIA Thomson Reuters, *2009 All States Tax Handbook*, New York, NY.

ⁱⁱⁱ The current 6% rate already exceeds neighboring Ohio (5.5%) and Delaware (no sales tax directly paid by consumers).

^{iv} In many states, local governments are also able to levy sales taxes – sometimes significant. For example, in New York, the state tax rate is 4%, but with the local rate can be as high as 8.375%.

^v Figure derived by adding all sales tax expenditures listed on pages D37 to D59 of the 2009-10 Governor’s Executive Budget. There is likely overlap between some of the expenditure items, which would overstate the total.

^{vi} Estimate based on Pennsylvania having 4.1% of U.S. bottled water consumption – the same percentage as Pennsylvania’s share of the U.S. population in 2008. U.S. bottled water revenue data from the International Bottled Water Association, *2008 Market Report*

<http://www.bottledwater.org/public/2008%20Market%20Report%20Findings%20reported%20in%20April%202009.pdf>

^{vii} When purchases of taxable items or services are made from catalogs or online and the tax is not collected, the purchaser is legally responsible to pay the tax, called “use tax.” However, very little use tax is collected each year.

^{viii} David DeKok, “Sales tax or no sales tax: an online dilemma,” *Harrisburg Patriot-News*, May 26, 2008,

http://www.pennlive.com/midstate/index.ssf/2008/05/sales_tax_or_no_sales_tax_an_o.html.

^{ix} Michael Mazerov, “New York’s ‘Amazon Law’: An Important Tool for Collecting Taxes Owed on Internet Purchases.” Center on Budget and Policy Priorities, Washington, DC, July 23, 2009,

<http://www.cbpp.org/cms/index.cfm?fa=view&id=2876>.

^x Affiliates in this case mean persons or companies that have listings on host’s website. When the affiliate makes a sale on the internet-based retailer’s website, the affiliate pays a commission to the retailer. Often, the customer cannot tell if the transaction is with the internet retailer or an affiliate.

^{xi} The Governor’s Executive Budget contains tax expenditure analysis estimates each year.

^{xii} Michael Mazerov, *Expanding Sales Taxation of Services: Options and Issues*, Center on Budget and Policy Priorities, June 2003, <http://www.cbpp.org/3-24-03sfj.htm>.

^{xiii} Figure 1 data includes state and local sales taxes. Both have the same tax base in Pennsylvania, although a local sales tax is only in effect in a few areas (notably Allegheny and Philadelphia Counties).