

## **Sales Tax Bulletin 2003-01 (REVISED)**

This informational bulletin was developed by the Pennsylvania Department of Revenue in accordance with Act 23 of 2000 (the act of May 24, 2000, P.L. 106, No. 23).

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

The value of a trade-in by a prebuilt housing purchaser to a prebuilt housing builder in connection with the purchase of housing may not be used to reduce the purchase price upon which the prebuilt housing builder is required to pay tax. Sales tax is not imposed upon the purchase price of used prebuilt housing.

Although the law requires the prebuilt housing builder to pay tax directly to the Department, the law also provides that the prebuilt housing manufacturer has the option to collect tax from the prebuilt housing builder at the time of the purchase of the prebuilt housing by the prebuilt housing builder from the prebuilt housing manufacturer. If the prebuilt housing manufacturer elects to collect tax, the prebuilt housing manufacturer is required to use either of the following to establish the purchase price: (i) 60% of the prebuilt housing manufacturer's selling price or (ii) 100% of the prebuilt housing manufacturer's cost of materials and equipment incorporated into or as a component of the housing.

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

The changes in the law as outlined in this bulletin relate only to prebuilt housing as that term is defined in the law. Therefore, the sale and installation of prefabricated buildings, components and accessories which do not qualify as prebuilt housing are governed by the provisions of 61 Pa. Code § 31.11 (relating to definitions). Sales of prefabricated buildings, components and accessories, which do not include installation, qualify as sales of tangible personal property. Examples include construction site trailers, travel trailers and modular space units.

The changes in the law relate only to prebuilt housing sales and do not apply to the repair and maintenance of prebuilt housing. The repair and maintenance of prebuilt housing is considered the repair and maintenance of real property. The application of tax upon charges made for the repair and maintenance of prefabricated housing is governed by the provisions of 61 Pa. Code § 31.11.

### **Act 23 of 2000**

### **Additional Information**