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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

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August 17, 1999

Mr. Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

Dear Bob:

I am forwarding a copy of a letter from one of my constituents which was written to Anita M. Doucette of the Department of Revenue. I had shared a copy of the proposed rulemaking on sales and use tax for lawn care services with Scott Chambers, Viking Lawn Service Company, Berks County. He reviewed the proposed regulations and forwarded his comments to the Department earlier this month.

I felt it would be helpful for you to have a copy of his letter as your agency prepares its comments and recommended changes.

Sincerely,

A handwritten signature in cursive script that reads "Sheila Miller".

SHEILA MILLER
State Representative
129th Legislative District

Enclosure

cc - Mark Ryan
Hbg office

Phone
(610) 678-5599

Viking
LAWN SERVICE COMPANY



P.O. Box 6215

Wyoming

Pa. 19610

Anita M. Doucette
Office of Chief Counsel
Dept. of Revenue Dept 281061
Harrisburg, PA 17128-1061

Anita Doucette:

I am writing in reference to the proposed rulemaking on sales and use tax for lawn care services (61 PA. Code chs. 55 and 60). I own and operate a small lawn care service in the Reading, Berks County area. I am also serving as the president of the Lawn Care Association of PA (LCAP). Our industry has always been opposed to the lawn care tax. The industry feels that it is selective, and many other service industries that had the sales tax had had the sales tax repealed. If the lawn care industry is going to have the tax, we would like a much better clarification than what is being proposed in this new rulemaking.

Some problems that I see in this rulemaking include the statement that a field is not a lawn. Is a two-acre yard that is in a countryside area a field? Can a person with a yard say that they just cut the yard when it needs it call their yard a field? A field is an area that can be without trees, or used for a special purpose (a lawn). Athletic fields and golf courses are probably the highest maintenance turf areas, needing the most attention and mowing, but not requiring a tax. A Company would be able to apply a fertilizer to an athletic field and not charge the tax, then apply the same fertilizer to a home lawn and charge a sales tax.

Another area of confusion exists where I also don't understand how a company could apply an insect or disease control to a tree which wouldn't be taxed, then turn around and apply the same material to the lawn and have to collect the tax. A Company could apply a fertilizer to a yard and collect the tax, but then could use the same fertilizer for fertilizing a tree or landscape bed and not charge a tax.

While not being in the business of trimming, I have often heard of people trimming large shrubs, then stating on the invoice that it was a tree so not to charge the tax. Clarification on what constitutes a tree from a large shrub would be helpful. For larger jobs, this can create a significant difference in a job bid. If the trimming is not in conjunction with other lawn care services, does the company not charge the tax? (Ex. would a company be able to cut one day and charge the tax, then come back two days later to trim and not charge the tax?) I feel that it would be best to get rid of the subtle differences in the taxable trimming.

Would a landscaper be able to edge a landscape bed in the turf area and not charge the tax, then edge a sidewalk or driveway and have to charge the tax?

Many lawn and landscape companies do various services, and separating these taxable from non-taxable services has become a difficult chore. Because of these differences, companies can make mistakes in interpretation of taxable services. Thank you very much for your time, and I hope that you would consider these points before changing or revising the 6% sales tax on lawn care services.

Sincerely,

A handwritten signature in black ink that reads "Scott R. Chambers". The signature is written in a cursive, somewhat stylized font.

Scott R. Chambers

Cc: Representative Sheila Miller
Rick Russell-Pugliese Assoc.
John Jewett-Indep. Reg. Rev. Commission