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**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF REVENUE  
Office of Chief Counsel  
July 6, 1998**

**TO:** John H. Jewett  
Regulatory Analyst  
Independent Regulatory  
Review Commission

**FROM:** Douglas A. Berguson *DAB*  
Regulatory Coordinator

**RE:** Department of Revenue  
Lawn Care Services  
Draft Proposed Rulemaking

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Please find attached a draft proposed rulemaking relating to lawn care services. This draft will be discussed at our meeting scheduled for Tuesday, July 7, 1998, at 2 p.m., Department of Revenue, Office of Chief Counsel, 10th Floor, Strawberry Square.

The Department has initially made the following revisions to the final-form rulemaking that was withdrawn from the regulatory review process:

(1) The definition of "lawn" has been revised and specific examples have been deleted.

(2) The phrase "trimming shrubbery" is deleted from the definition of lawn care service in subsection (a).

(3) Under subsection (c) which provides examples of taxable services, paragraph (5) is amended by deleting raking leaves as a taxable service.

(4) Also under subsection (c), paragraph (11) is amended by adding "sodding or grass plugging" as a taxable service. Paragraph (12) providing for renovating lawns is deleted from the list of taxable services.

(5) Finally subsection (c), paragraph (12) is amended by providing that the trimming or pruning of shrubbery is a taxable service when performed in conjunction with other lawn care services.

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John H. Jewett  
Lawn Care Services  
July 6, 1998  
Page Two

(6) Subsection (f)(2)(i)(B) relating to exclusions is amended by adding "Grass seed, sod, grass plugs, straw" to the list of examples of property that may be purchased exempt for resale when transferred to the purchaser in the performance of lawn care services. This language was previously listed under (f)(2)(ii)(A) as an example of property that is taxable when used in the performance of lawn care services.

(7) Subsection (f)(2)(ii) is amended by deleting "Shrubbery or trees" from the list of examples of property that are taxable when used in the performance of lawn care services.

If you have any questions concerning this matter, please contact me at 7-1382.

Attachment

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CONTINUATION SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part I. Department of Revenue, Article II.  
Sales and Use Tax, Chapter 55. Services.

§ 55.6. Lawn Care Services.

(a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Lawn - Any residential or non-residential maintained area covered with grass.

Lawn care service - Providing services for lawn upkeep including fertilizing, mowing or performing other lawn treatment services.

(b) Scope. The sale at retail or use of lawn care services performed in this Commonwealth is subject to tax. Lawn care services became taxable October 1, 1991.

(c) Examples of taxable services. The following are examples of taxable lawn care services:

- (1) Fertilizing lawns.
- (2) Mowing, trimming, cutting or edging lawns.

- (3) Dethatching lawns.
- (4) Applying herbicides, insecticides or fungicides to lawns.
- (5) Raking grass on lawns.
- (6) Applying treatments for weed, pest, insect or disease control to lawns.
- (7) Watering lawns.
- (8) Applying lime to lawns.
- (9) Aerating lawns.
- (10) Providing lawn evaluation, consultation or soil testing services on lawns, if purchased in conjunction with other lawn care services, regardless of whether the costs of the lawn evaluation, consultation or soil testing services are separately stated on the invoice.
- (11) Overseeding, sodding or grass plugging of lawns.
- (12) Trimming or pruning shrubbery when performed in conjunction with other lawn care services. —

(d) Examples of nontaxable services. The following are examples of services which are not taxable lawn care services:

- (1) Seeding, sodding or grass plugging new lawns.
- (2) Trimming, pruning or fertilizing trees.
- (3) Planting or removing shrubbery or trees.

(4) Providing lawn evaluation, consultation or soil testing services, if not purchased in conjunction with other lawn care services.

(5) Designing lawns or landscapes.

(6) Applying herbicides or fungicides to shrubbery, trees, flowers or vegetables.

(7) Maintaining shrubbery, flower or vegetable beds, such as by mulching, tilling, weeding or fertilizing.

(e) Purchase Price. Tax shall be imposed on the total charge for lawn care services. The failure to separately state charges for lawn care services from other nontaxable charges on the invoice requires the charging of tax on the total invoice amount.

(f) Exclusions.

(1) Lawn care services are exempt if purchased by qualified charitable organizations, volunteer fire companies, religious organizations and nonprofit educational institutions, except if used in an unrelated trade or business; the Federal government or its instrumentalities; or the Commonwealth, its instrumentalities or subdivisions, including public school districts. The manufacturing, mining, processing, public utility,

farming, dairying, agriculture, horticulture or floriculture exclusion does not apply.

(2) The vendor of lawn care services may claim the resale exemption upon its purchase of tangible personal property that is transferred to the purchaser or a third party in the performance of the lawn care services. The vendor may also purchase lawn care services from another provider and subsequently resell the services to its customer. The vendor may not claim the resale exemption upon its purchase of administrative supplies or the purchase of other taxable services that it may use in the performance of its lawn care services.

(i) The following are examples of property that may be purchased exempt for resale when transferred to the purchaser in the performance of lawn care services:

(A) Herbicides, insecticides, fungicides or other chemicals that are applied to lawns.

(B) Grass seed, sod, grass plugs, straw, fertilizers or lime applied to lawns.

(ii) The following are examples of property that are taxable when used in the performance of lawn care services:

(A) Mowers; edgers; or pruning, dethatching, aerating or mulching equipment.

(B) Rakes, shovels or hoes.

(C) Spray applicators.

(D) Testing kits.

(E) Lawn sweepers.

(F) Other tangible personal property and services used in connection with the performance of lawn care services such as invoices, sales receipts, contracts, estimate sheets, confirmations and other similar items.

Chapter 60. Sales and Use Tax Pronouncements - Statements of Policy.

§ 60.2. Reserved.

06/29/98