



PENNSYLVANIA ASSOCIATION OF COMMUNITY BANKERS

Original: 2508

2405 N. Front Street • P.O. Box 5319 • Harrisburg, PA 17110-5319
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Website: www.pacb.org

February 13, 2006

Mr. Scott Schalles
Independent Regulatory Review Commission (IRRC)
14th Floor
Harristown 2
333 Market Street
Harrisburg, PA 17101

INDEPENDENT REGULATORY
REVIEW COMMISSION

2006 FEB 13 PM 2:02

RECEIVED

Re: Pennsylvania Association of Community Bankers
Proposed Repeal of 61 PA. Code §46.9
File No: 269-06(2)

Dear Mr. Schalles:

On behalf of the Pennsylvania Association of Community Bankers (PACB), we respectfully present to you our response to your recent request for quantification by our membership of the economic impact of the Pennsylvania Department of Revenue's draft proposal to repeal, inter alia, its regulation on "Financial Institution Security Equipment" at 61 PA Code §46.9.

PACB is unable, due to the limited time constraint of your recent request, to present quantification of the future negative financial impact on its members if the Revenue Department's repeal of Section 46.9 and the intended transfer of less than all of the therein defined "security equipment" to Chapters 31 and 46 of the PA Code is successful.

The Pennsylvania Department of Revenue has stated, without quantification, that the proposed repeal will have no fiscal impact on the Commonwealth. The Department of Revenue has submitted no data as part of their proposed rule-making which would "quantify" their revenue neutral fiscal impact of the requested repeal. The removal of this regulation and the definition of Financial Institution Security Equipment, as advanced by the Department of Revenue, cannot be revenue neutral because the following purchases, which are now subject to exemption or exclusion, will become taxable if the Department of Revenue is successful:

Scott Schalles
Independent Regulatory Review Commission
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- Computer hardware:
 - Mainframe computer containing customer records
 - Teller machines
 - Proof Machines and Encoders
 - Data Lines
- Customer related software
- Banking telephone system
- Banking LAN and WAN
- All maintenance of the above software and hardware.

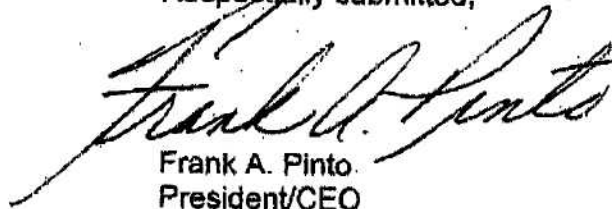
More importantly, the Department of Revenue, by its proposed rule-making, is usurping the authority of the legislature by subjecting to sales tax the systems, devices, equipment and their components utilized by a financial institution for its protection or convenience in conducting financial transactions, which the legislature has directed in 61 PA Code §46.9 be tax free.

It is clear that the proposed repeal by the Department of Revenue under the guise of redundancy and the requested transfer of less than all the existing tax free systems, devices and equipment and their components is in truth an attempt to legislate, which is solely a function of the Pennsylvania Legislature, not the Department of Revenue.

By copy of this letter, we are informing the House and Senate Finance Committees of our objection to this proposed regulation and our belief that Revenue is usurping legislative authority and sharing with the committees our original comment letter to the Department of Revenue in this matter.

If you have any questions, please do not hesitate to contact our General Counsel's office, Shumaker Williams, P.C., Attorney Jim Reid. He may be reached at 717-763-1121.

Respectfully submitted,



Frank A. Pinto
President/CEO

Cc: Members, Senate Finance Committee
Members, House Finance Committee



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January 4, 2006

COPY

Mary R. Sprunk
Office of Chief Counsel
Pennsylvania Department of Revenue
Department 281061
Harrisburg, PA 17128-1061

RE: Pennsylvania Association of Community Bankers
Proposed Repeal of 61 PA. Code Section 46.9
File No: 217-05(2)

Dear Mrs. Sprunk,

On behalf of the Pennsylvania Association of Community Bankers (PACB), we respectfully present to you our comments regarding the Pennsylvania Department of Revenue's draft proposal to repeal, inter alia, its regulation on Financial Institution Security Equipment at 61 PA. Code §46.9.

PACB represents, exclusively, the interests of almost 260 community banks, consisting of commercial banks, savings banks and thrifts within the Commonwealth of Pennsylvania.

PACB believes the Revenue Department's repeal of Section 46.9 and the intended transfer of less than all of the therein defined "security equipment" to Chapters 31 and 46 of the PA Code will alter the intention of the existing regulation. The current regulation at Section 46.9 includes in the definition of "*security equipment*" *systems, devices and equipment and their components* utilized by a financial institution for its *protection or convenience* in conducting financial transactions. The Revenue Department proposes to substitute a limited list of "security equipment" to Chapters 31 and 46 of the PA Code by deleting the following purchases from the definition:

Mary R. Sprunk
Pennsylvania Department of Revenue
January 4, 2006
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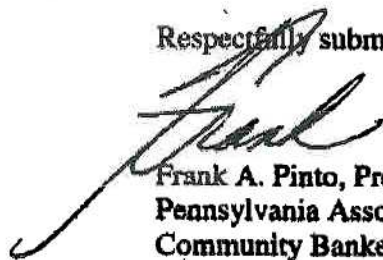
- Customer related software
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- All maintenance of the above software and hardware

Contrary to the current definition of "security equipment" inherent in the proposed repeal by the Revenue Department, is that only permanently installed equipment under a construction contract, on their list, will be deemed sales and use tax free. This is contrary to the mandate of Section 46.9.

Furthermore, the definition of "installation", as currently provided in Section 46.9, will be eliminated by the proposed repeal and no such definition currently exists in Chapter 31 of the P.A. Code. The proposed repeal of the definition of "installation" by the Revenue Department will result in the imposition of tax on activities previously deemed sales and use tax free. This also is contrary to the mandate of Section 46.9.

For the reasons above stated, PACB objects to the repeal of Section 46.9 of the PA. Code as proposed by the Revenue Department.

Respectfully submitted,



Frank A. Pinto, President
Pennsylvania Association of
Community Bankers

raf:184765



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FAX COVER SHEET

TO: SCOTT SCHALLER, IRCC
DATE: 2/13/06
FAX #: 783-2664
FROM: JANE TRANSLUE
RE: RESERVE REGULATION -

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MESSAGE: PLEASE CALL ME OR OUR
ATTORNEY, JIM REID, IF YOU
HAVE ANY QUESTIONS -
THANK YOU -

PACB UPCOMING EVENTS & PROGRAMS

Security Seminar

March 14 - Radisson Penn Harris, Camp Hill

Board Meeting

March 20- PACB Headquarters, Harrisburg

Long-Term Care Insurance Seminar

March 22 - PACB headquarters, Harrisburg

Leadership Conference

April 20 & 21- Radisson Penn Harris, Camp Hill

Spring Directors' Symposiums

May 8 - Radisson, Camp Hill

May 9 - Inn at Nichols Village, Clarks Summit

May 16 - Sheraton Inn Pittsburgh North, Mars

May 17 - Ramada Inn, Altoona

May 31 - Radisson, Valley Forge

Human Resources Conference

May 11 & 12- Radisson Penn Harris, Camp Hill

Strategies For The Present Environment-

A Current Events Investment Seminar

May 31- Sheraton Pittsburgh North, Mars

June 1- Hilton Garden Inn, Hershey

Western Golf Outing

June 12- Shannopin Country Club, Pittsburgh

6th Annual Spring Directors' Conference

June 16 & 17- The Mayflower Hotel, Washington, DC

Board Meeting

June 19- PACB Headquarters, Harrisburg



visit our Website at www.pacb.org for more events!