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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

February 16, 2006

Honorable Gregory C. Fajt, Secretary
Department of Revenue
Strawberry Square, 11th Floor
Harrisburg, PA 17128

Re: Regulation #15-430 (IRRC #2508)
Department of Revenue
Revision of Construction Contractors; Sales Tax Requirements

Dear Secretary Fajt:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Jane M. Earll, Chairwoman, Senate Finance Committee
Honorable John N. Wozniak, Minority Chairman, Senate Finance Committee
Honorable Dennis E. Leh, Majority Chairman, House Finance Committee
Honorable David K. Levdansky, Democratic Chairman, House Finance Committee

Comments of the Independent Regulatory Review Commission

on

Department of Revenue Regulation #15-430 (IRRC #2508)

Revision of Construction Contractors; Sales Tax Requirements

February 16, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the December 17, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Revenue (Department) to respond to all comments received from us or any other source.

1. Economic or Fiscal Impact.

The Department has described this proposed rulemaking as an “administrative ‘clean up’” that will eliminate duplicative sales tax regulations that govern construction contractors. They have noted that “No parties should be adversely affected by this administrative regulation.”

Members of Pennsylvania’s banking community disagree with the Department’s description and assessment of this rulemaking. They believe that the deletion of certain language pertaining to financial institution security equipment will result in the taxation of certain equipment used for its “protection and convenience.” As a result, this rulemaking will have a negative fiscal impact on this industry.

We agree with the banking community that this rulemaking is more than just an “administrative ‘clean-up’” and it could have a negative fiscal impact on that community. However, we do not agree that it will impose sales tax on certain equipment that banks currently purchase. It is our understanding that banks pay sales tax when this equipment is purchased. Relief is provided to banks in the form of a partial sales tax refund, granted as part the appeals process by the Attorney General, not the Department of Revenue.

We believe that the Department has the statutory authority to amend its own administrative regulations. However, the lack of information contained in this regulatory package pertaining to the Department’s true intent and potential fiscal impact make it difficult for this Commission to determine if this rulemaking is in the public interest. As suggested by Senator Earll, Chairwoman of the Senate Finance Committee, we ask the Department to “more thoroughly explain the purpose and potential impact of its proposed administrative clean-ups.”

Facsimile Cover Sheet

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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

To: Mary Sprunk
Agency: Department of Revenue
Phone: 7-1382
Fax: 2-1459
Date: February 16, 2006
Pages: 3

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Revenue Department's regulation #15-430 (IRRC #2508). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: Mary R Sprunk Date: 2/16/06