

701—26.19(422) Excavating and grading. Persons engaged in the business of excavating and grading for purposes other than new construction, reconstruction, alteration, expansion or remodeling are rendering, furnishing or performing a service, the gross receipts from which are subject to tax.

26.19(1) For purposes of this rule, “*excavation*” shall mean the digging, hauling, hollowing out, scooping out or making of a cut or hole in the earth. The word excavate ordinarily comprehends not only the digging down into the earth but also the removal of whatever material or substance is found beneath the surface. *Rochez Brothers v. Duricka*, 374 Pa. 262, 97 A.2d 825 (1953).

26.19(2) “*Grading*” shall mean, in its commonly accepted sense, a physical change of the earth’s structure by scraping and filling in the surface to reduce it to a common level; the reducing of the surface of the earth to a given line fixed as the grade, involving excavating or filling or both.

When it is determined that the enumerated service of excavating or grading is present, the situation must be further examined to determine if the new construction exemption applies. See chapter 248(9), Acts of the Sixty-third General Assembly.