

Article - Tax - General

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§11–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Buyer” means a person who:
 - (1) acquires tangible personal property in a sale; or
 - (2) obtains a taxable service in a sale.
- (c) “Cleaning of a commercial or industrial building” means the following services performed to a commercial or industrial building:
 - (1) floor, carpet, wall, window, ceiling, and exterior cleaning; and
 - (2) janitorial services.
- (d) “Person” includes:
 - (1) this State or a political subdivision, unit, or instrumentality of this State;
 - (2) another state or a political subdivision, unit, or instrumentality of that state; and
 - (3) a unit or instrumentality of a political subdivision of this State or of another state.
- (e) “Prepaid telephone calling arrangement” means the right to use telecommunications services, paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed.
- (f) (1) “Production activity” means:
 - (i) except for processing food or a beverage by a retail food vendor, assembling, manufacturing, processing, or refining tangible personal property for resale;
 - (ii) generating electricity for sale or for use in another production activity;
 - (iii) 1. laundering, maintaining, or preparing textile products for rental; or
 - 2. laundering, maintaining, or preparing textile products in

providing the taxable service of commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles;

(iv) producing or repairing production machinery or equipment;

(v) establishing or maintaining clean rooms or clean zones as required by applicable provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Virus–Serum–Toxin Act, and the regulations adopted thereunder, pertaining to the manufacture of drugs, medical devices, or biologics;

(vi) providing for the safety of employees; or

(vii) providing for quality control.

(2) “Production activity” does not include:

(i) servicing or repairing tangible personal property, except for servicing or repairing production machinery or equipment;

(ii) maintaining tangible personal property other than textile products for rental and production machinery and equipment, except for maintaining tangible personal property in providing the taxable service of commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles;

(iii) providing for the comfort or health of employees; or

(iv) storing the finished product.

(g) “Production machinery or equipment” means machinery or equipment used in a production activity.

(h) (1) “Retail sale” means the sale of:

(i) tangible personal property; or

(ii) a taxable service.

(2) “Retail sale” includes:

(i) a sale of tangible personal property for use or resale in the form of real estate by a builder, contractor, or landowner; and

(ii) except as provided in paragraph (3)(i) of this subsection, use of tangible personal property as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, even if the buyer intends to transfer title to the property before or after that use.

(3) “Retail sale” does not include:

(i) a transfer of title to tangible personal property after its use as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, if:

1. at the time of purchase, the buyer is obligated, under the terms of a written contract, to make the transfer; and

2. the transfer is made for the same or greater consideration to the person for whom the buyer manufactures goods or performs work;

(ii) a sale of tangible personal property if the buyer intends to:

1. resell the tangible personal property in the form that the buyer receives or is to receive the property;

2. use or incorporate the tangible personal property in a production activity as a material or part of other tangible personal property to be produced for sale; or

3. transfer the tangible personal property as a part of a taxable service transaction; or

(iii) a sale of a taxable service if the buyer intends to resell the taxable service in the form that the buyer receives or is to receive the service.

(i) (1) “Sale” means a transaction for a consideration whereby:

(i) title or possession of property is transferred or is to be transferred absolutely or conditionally by any means, including by lease, rental, royalty agreement, or grant of a license for use; or

(ii) a person performs a service for another person.

(2) “Sale” does not include a transaction whereby an employee performs a service for the employee’s employer.

(j) “Sale for use” means a sale in which tangible personal property or a taxable service that is consumed, possessed, stored, or used in the State is acquired.

(k) (1) “Tangible personal property” means:

(i) corporeal personal property of any nature; or

(ii) a right to occupy a room or lodgings as a transient guest.

(2) “Tangible personal property” includes:

- (i) farm equipment;
- (ii) wall-to-wall carpeting that is installed into real estate, regardless of the purpose, method, or permanency of its installation; and
- (iii) coal, electricity, oil, nuclear fuel assemblies, steam, and artificial or natural gas.

(l) (1) “Taxable price” means the value, in money, of the consideration of any kind that is paid, delivered, payable, or deliverable by a buyer to a vendor in the consummation and complete performance of a sale without deduction for any expense or cost, including the cost of:

- (i) any labor or service rendered;
- (ii) any material used; or
- (iii) any property sold.

(2) “Taxable price” includes, for tangible personal property acquired by a sale for use in the State by the person who assembles, fabricates, or manufactures the property, only the price of the raw materials and component parts contained in the property.

(3) “Taxable price” does not include:

(i) a charge that is made in connection with a sale and is stated as a separate item of the consideration for:

1. a delivery, freight, or other transportation service for delivery directly to the buyer by the vendor or by another person acting for the vendor, unless the transportation service is a taxable service;

2. a finance charge, interest, or similar charge for credit extended to the buyer;

3. a labor or service for application or installation;

4. a mandatory gratuity or service charge in the nature of a tip for serving food or beverage to a group of 10 or fewer individuals for consumption on the premises of the vendor;

5. a professional service;

6. a tax:

A. imposed by a county on the sale of coal, electricity, oil, nuclear fuel assemblies, steam, or artificial or natural gas;

B. imposed under § 3–302(a) of the Natural Resources Article, as a surcharge on electricity, and added to an electric bill;

C. imposed under §§ 6–201 through 6–203 of the Tax – Property Article, on tangible personal property subject to a lease that is for an initial period that exceeds 1 year and is noncancellable except for cause; or

D. imposed under § 4–102 of this article on the gross receipts derived from an admissions and amusement charge;

7. any service for the operation of equipment used for the production of audio, video, or film recordings; or

8. reimbursement of incidental expenses paid to a third party and incurred in connection with providing a taxable detective service;

(ii) the value of a used component or part (core value) received from a purchaser of the following remanufactured truck parts:

1. an air brake system;
2. an engine;
3. a rear axle carrier; or
4. a transmission; or

(iii) a charge for a nontaxable service that is made in connection with a sale of a taxable communication service, even if the nontaxable charges are aggregated with and not separately stated from the taxable charges for communications services, if the vendor can reasonably identify charges not subject to tax from its books and records that are kept in the regular course of business.

(4) “Taxable price” includes, for a short–term vehicle rental as defined under § 11–104(c) of this subtitle, all sales and charges made in connection with the short–term vehicle rental, including insurance, freight handling, equipment and supplies, delivery and pickup, cellular telephone, and other accessories, but not including sales of motor fuel subject to the motor fuel tax.

(m) “Taxable service” means:

(1) fabrication, printing, or production of tangible personal property by special order;

(2) commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles;

- (3) cleaning of a commercial or industrial building;
 - (4) cellular telephone or other mobile telecommunications service;
 - (5) “900”, “976”, “915”, and other “900”–type telecommunications service;
 - (6) custom calling service provided in connection with basic telephone service;
 - (7) a telephone answering service;
 - (8) pay per view television service;
 - (9) credit reporting;
 - (10) a security service, including:
 - (i) a detective, guard, or armored car service; and
 - (ii) a security systems service;
 - (11) a transportation service for transmission, distribution, or delivery of electricity or natural gas, if the sale or use of the electricity or natural gas is subject to the sales and use tax;
 - (12) a prepaid telephone calling arrangement; or
 - (13) the privilege given to an individual under Article 2B, § 12–107(b)(10) of the Code to consume wine that is not purchased from or provided by a restaurant, club, or hotel.
- (n) (1) “Use” means an exercise of a right or power to use, consume, possess, or store that is acquired by a sale for use of:
- (i) tangible personal property; or
 - (ii) a taxable service.
- (2) “Use” includes an exercise of a right or power to use, consume, possess, or store that is acquired by a sale for use of tangible personal property:
- (i) for use or resale in the form of real estate by a builder, contractor, or landowner; or
 - (ii) except as provided in paragraph (3)(i) of this subsection, as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, even if the buyer intends to transfer title to the property before or after that use.
- (3) “Use” does not include:

(i) a transfer of title to tangible personal property after its use as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, if:

1. at the time of purchase, the buyer is obligated, under the terms of a written contract, to make the transfer; and

2. the transfer is made for the same or greater consideration to the person for whom the buyer manufactures goods or performs work;

(ii) an exercise of a right or power over tangible personal property acquired by a sale for use if the buyer intends to:

1. resell the tangible personal property in the form that the buyer receives or is to receive the property;

2. use or incorporate the tangible personal property in a production activity as a material or part of other tangible personal property to be produced for sale; or

3. transfer the tangible personal property as part of a taxable service transaction; or

(iii) an exercise of a right or power over a taxable service acquired by a sale for use if the buyer intends to resell the taxable service in the form that the buyer receives or is to receive the service.

(o) (1) “Vendor” means a person who:

(i) engages in the business of an out-of-state vendor, as defined in § 11-701 of this title;

(ii) engages in the business of a retail vendor, as defined in § 11-701 of this title; or

(iii) holds a special license issued under § 11-707 of this title.

(2) “Vendor” includes, for an out-of-state vendor, a salesman, representative, peddler, or canvasser whom the Comptroller, for the efficient administration of this title, elects to treat as an agent jointly responsible with the dealer, distributor, employer, or supervisor:

(i) under whom the agent operates; or

(ii) from whom the agent obtains the tangible personal property or taxable service for sale.

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