

BY: Budget and Taxation Committee

AMENDMENTS TO SENATE BILL NO. 190
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike in their entirety lines 2 and 3 and substitute:

“Sales and Use Tax - Property Used in a Production Activity”;

strike in their entirety lines 4 through 6, inclusive, and substitute:

“FOR the purpose of providing a credit against the sales and use tax for certain sales and use tax paid on certain tangible personal property; altering certain definitions under the sales and use tax; altering an exemption under the sales and use tax for certain property used in a production activity; providing for the effective dates of this Act; providing for the termination of part of this Act; and generally relating to the sales and use taxation of certain property used in a production activity.”;

after line 6, insert:

“BY adding to
Article - Tax - General
Section 11-107
Annotated Code of Maryland
(1988 Volume and 1995 Supplement)”;

and in line 9, after “Section” insert “11-101(d), (f)(3)(ii), and (l)(3)(ii) and”.

AMENDMENT NO. 2

On page 1, after line 13, insert:

(Over)

“Article - Tax - General

11-107.

(A) IN THIS SECTION, “TANGIBLE PERSONAL PROPERTY USED IN A MANUFACTURING PROCESS” MEANS:

(1) NONCAPITALIZED MACHINERY OR EQUIPMENT THAT WOULD QUALIFY FOR THE EXEMPTION UNDER § 11-210(B)(1) OF THIS TITLE IF IT WERE CAPITALIZED;

(2) TANGIBLE PERSONAL PROPERTY THAT WOULD BE PROPERTY DESCRIBED UNDER § 11-101(F)(3)(II)3 AND (L)(3)(II)3 OF THIS SUBTITLE BUT FOR THE FACT THAT IT IS NOT CONSUMED WITHIN 1 YEAR AFTER THE PROPERTY IS FIRST USED IN A PRODUCTION ACTIVITY;

(3) EQUIPMENT THAT IS USED PHYSICALLY TO MOVE A FINISHED PRODUCT ON THE PRODUCTION ACTIVITY SITE;

(4) MACHINERY AND EQUIPMENT THAT IS USED TO MAINTAIN MACHINERY AND EQUIPMENT THAT IS EXEMPT UNDER § 11-210(B)(1) OF THIS TITLE;

(5) SAFETY EQUIPMENT USED ON THE PRODUCTION ACTIVITY SITE; OR

(6) MACHINERY AND EQUIPMENT USED IN QUALITY CONTROL ON A PRODUCTION ACTIVITY SITE.

(B) A PERSON IS ALLOWED A CREDIT AGAINST THE SALES AND USE TAX THAT THE PERSON IS REQUIRED TO PAY TO THE COMPTROLLER IN AN AMOUNT EQUAL TO 50% OF THE SALES AND USE TAX THAT THE PERSON PAYS AS SALES AND USE TAX ON THE PURCHASE OF TANGIBLE PERSONAL PROPERTY USED IN A MANUFACTURING PROCESS.

(C) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PERSON SHALL CLAIM THE CREDIT UNDER SUBSECTION (B) OF THIS SECTION ON THE PERSON’S SALES AND USE TAX RETURN WITHIN 4 YEARS AFTER THE DUE DATE OF THE SALES AND USE TAX RETURN FOR THE PERIOD DURING WHICH THE SALES AND

USE TAX ON THE PURCHASE WAS PAID.

(2) A CLAIM FOR A CREDIT UNDER THIS SECTION SHALL BE MADE IN THE MANNER THAT THE COMPTROLLER REQUIRES BY REGULATION.

(D) THE COMPTROLLER BY REGULATION SHALL PROVIDE FOR REFUNDS IN LIEU OF THE CREDIT ALLOWED UNDER THIS SECTION FOR PERSONS WHOSE ANNUAL SALES AND USE TAX PAYMENTS TO THE COMPTROLLER ARE INSUFFICIENT TO USE THE FULL AMOUNT OF THE CREDIT WITHIN 1 YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:”.

AMENDMENT NO. 3

On page 1, after line 14, insert:

“11-101.

(d) (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;

(iii) laundering, maintaining, or preparing textile products for rental;

(iv) producing or repairing production machinery or equipment; [or]

(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;

(Over)

(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, except textile products for rental AND PRODUCTION MACHINERY AND EQUIPMENT; [or]

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

(IV) STORING THE FINISHED PRODUCT.

(f) (3) "Retail sale" does not include:

(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. consume the tangible personal property directly and predominantly in a production activity by destroying, using up, or wearing out the property, other than through obsolescence, to the extent that the property cannot be rendered fit for further use in a production activity, if the consumption occurs within 1 year after the property is first used in a production activity; or]

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

(1)(3) “Use” does not include:

(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. consume the tangible personal property directly and predominantly in a production activity by destroying, using up, or wearing out the property, other than through obsolescence, to the extent that the property cannot be rendered fit for further use in a production activity, if the consumption occurs within 1 year after the property is first used in a production activity; or]

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

On pages 1 and 2, strike beginning with the first “machinery” in line 17 on page 1 through “property” in line 2 on page 2 and substitute “TANGIBLE PERSONAL PROPERTY USED DIRECTLY AND PREDOMINANTLY IN A PRODUCTION ACTIVITY AT ANY STAGE OF OPERATION ON THE PRODUCTION ACTIVITY SITE FROM THE HANDLING OF RAW MATERIAL OR COMPONENTS TO THE MOVEMENT OF THE FINISHED PRODUCT”.

AMENDMENT NO. 4

On page 2, after line 2, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take

(Over)

effect July 1, 1997. It shall remain effective for a period of 2 years and, at the end of June 30, 1999, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.”;

in line 3, strike “2.” and substitute “4.”; in the same line, after “That” insert “Section 2 of”; and in line 4, strike “1996” and substitute “1999”.