
By: Delegate Beck

Introduced and read first time: January 22, 1996

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Taxation of Food - State Income Tax Credit for Percentage of County**
3 **Income Tax**

4 FOR the purpose of repealing an exemption under the sales and use tax for certain sales
5 of food; allowing a credit against the State income tax for a certain percentage of
6 the county income tax imposed; defining a certain term under a provision
7 authorizing certain counties to impose a tax on the sale of certain food and
8 beverages; providing for the application of this Act; and generally relating to the
9 repeal of an exemption under the sales and use tax for certain sales of food and a
10 credit against the State income tax for a certain percentage of the county income tax
11 imposed.

12 BY adding to

13 Article - Tax - General
14 Section 10-707
15 Annotated Code of Maryland
16 (1988 Volume and 1995 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article - Tax - General
19 Section 11-206
20 Annotated Code of Maryland
21 (1988 Volume and 1995 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article 25B - Home Rule for Code Counties
24 Section 13H(a)
25 Annotated Code of Maryland
26 (1994 Replacement Volume and 1995 Supplement)

27 BY repealing and reenacting, without amendments,

28 Article 25B - Home Rule for Code Counties
29 Section 13H(c)
30 Annotated Code of Maryland

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1 (1994 Replacement Volume and 1995 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Tax - General**

5 10-707.

6 AN INDIVIDUAL MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR
7 A TAXABLE YEAR IN AN AMOUNT EQUAL TO THE LESSER OF:

8 (1) 12% OF THE COUNTY INCOME TAX IMPOSED FOR THE TAXABLE
9 YEAR; OR

10 (2) THE STATE INCOME TAX FOR THE TAXABLE YEAR, DETERMINED
11 BEFORE APPLICATION OF THE CREDIT ALLOWED UNDER THIS SECTION AND THE
12 CREDITS ALLOWED UNDER §§ 10-701 AND 10-701.1 OF THIS SUBTITLE BUT AFTER
13 APPLICATION OF OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

14 11-206.

15 (a) (1) In this section the following words have the meanings indicated.

16 [(2) "Food for immediate consumption" means:

17 (i) food obtained from a salad, soup, or dessert bar;

18 (ii) party platters;

19 (iii) heated food;

20 (iv) sandwiches suitable for immediate consumption; or

21 (v) ice cream, frozen yogurt, and other frozen desserts, sold in
22 containers of less than 1 pint.]

23 [(3)] (2) "Facility for food consumption" does not include parking spaces
24 for vehicles as the sole accommodation.

25 [(4)] (3) (i) "Food" means food for human consumption.

26 (ii) "Food" includes the following foods and their products:

27 1. beverages, including coffee, coffee substitutes, cocoa, fruit
28 juices, and tea;

29 2. condiments;

30 3. eggs;

31 4. fish, meat, and poultry;

32 5. fruit, grain, and vegetables;

33 6. milk, including ice cream; and

3

1 7. sugar.

2 (iii) "Food" does not include:

3 1. an alcoholic beverage as defined in § 5-101 of this article;

4 2. a soft drink or carbonated beverage; or

5 3. candy or confectionery.

6 [(5)] (4) "Premises" includes any building, grounds, parking lot, or other
7 area that:

8 (i) a food vendor owns or controls; or

9 (ii) another person makes available primarily for the use of the patrons
10 of 1 or more food vendors.

11 [(6) "Snack food" means:

12 (i) potato chips and sticks;

13 (ii) cornchips;

14 (iii) pretzels;

15 (iv) cheese puffs and curls;

16 (v) pork rinds;

17 (vi) extruded pretzels and chips;

18 (vii) popped popcorn;

19 (viii) nuts and edible seeds; or

20 (ix) snack mixtures that contain any 1 or more of the foods listed in
21 items (i) through (viii) of this paragraph.]

22 [(7) "Substantial grocery or market business" means a business at which at
23 least 10% of all sales of food are sales of grocery or market food items, not including food
24 normally consumed on the premises even though it is packaged to carry out.]

25 (b) The sales and use tax does not apply to a sale of food stamp eligible food, as
26 defined in 7 U.S.C. § 2012, bought with a food coupon issued in accordance with 7 U.S.C.
27 § 2016.

28 [(c) (1) Except as provided in paragraph (2) of this subsection, the sales and use
29 tax does not apply to a sale of food for consumption off the premises by a food vendor
30 who operates a substantial grocery or market business at the same location where the
31 food is sold.

32 (2) The exemption under paragraph (1) of this subsection does not apply to:

33 (i) food that the vendor serves for consumption on the premises of the
34 buyer or of a third party;

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1 (ii) food for immediate consumption; or

2 (iii) snack food.]

3 [(d)] (C) The sales and use tax does not apply to:

4 (1) a sale of food:

5 (i) to patients in a hospital when the food charge is included in the
6 regular room rate;

7 (ii) by a church or religious organization;

8 (iii) by a school other than an institution of postsecondary education,
9 including sales at a school by a food concessionaire that is under contract with the school
10 or with its designated contract agent, but not including sales at events that are not
11 sponsored by the school or are not educationally related;

12 (iv) to students at an institution of postsecondary education if the food
13 charge is for a meal plan or is included in the regular charge for room and board; or

14 (v) by a nonprofit food vendor if there are no facilities for food
15 consumption on the premises, unless the food is sold within an enclosure for which a
16 charge is made for admission;

17 (2) if the proceeds of the sale are used to support a bona fide nationally
18 organized and recognized organization of veterans of the armed forces of the United
19 States or auxiliary of the organization or 1 of its units, a sale of food or meals for
20 consumption only on the premises, served by the organization or auxiliary; or

21 (3) if the proceeds of the sale are used to support a volunteer fire company
22 or department or its auxiliary or a volunteer ambulance company or rescue squad or its
23 auxiliary, a sale of food served by the company, department, squad, or auxiliary.

24 [(e)] (D) The sales and use tax does not apply to a sale of food or any beverage in
25 a vehicle that is being operated in the State while in the course of interstate commerce.

26 [(f)] (E) The sales and use tax does not apply to a sale for consumption off the
27 premises of:

28 (1) crabs; or

29 (2) seafood that is not prepared for immediate consumption.

30 **Article 25B - Home Rule for Code Counties**

31 13H.

32 (a) (1) In this section the following words have the meanings indicated.

33 (2) "Food"[,] AND "premises"[,] and "substantial grocery or market
34 business"] have the meanings stated in § 11-206 of the Tax - General Article.

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1 (3) "Beverage" does not include an alcoholic beverage, as defined in § 5-101
2 of the Tax - General Article, if the alcoholic beverage is sold for consumption off the
3 premises.

4 (4) "Convention center facility" means a convention center of at least
5 150,000 net square feet, that is used for the holding of conventions, trade shows,
6 meetings, displays, entertainment shows, or similar events but does not have lodging
7 facilities.

8 (5) "Resort area" means any portion or portions of a county, as specified by
9 the county commissioners of the county, that:

10 (i) By reason of natural, scenic, or man-made attractions or
11 development, has or have an unusual influx of visitors, sojourners, and temporary
12 residents; and

13 (ii) By reason of the influx requires municipal services in unusual
14 number or magnitude.

15 (6) "SUBSTANTIAL GROCERY OR MARKET BUSINESS" MEANS A
16 BUSINESS AT WHICH AT LEAST 10% OF ALL SALES OF FOOD ARE SALES OF GROCERY
17 OR MARKET FOOD ITEMS, NOT INCLUDING FOOD NORMALLY CONSUMED ON THE
18 PREMISES EVEN THOUGH IT IS PACKAGED TO CARRY OUT.

19 [(6)] (7) "Taxable price" has the meaning stated in § 11-101 of the Tax -
20 General Article.

21 (c) A tax imposed under this section does not apply to:

22 (1) A sale of food that is exempt from the State sales and use tax under §
23 11-206 of the Tax - General Article;

24 (2) A sale of food or beverages for consumption off the premises if sold by
25 a vendor that operates a substantial grocery or market business at the same location
26 where the food is sold, even if the sale is subject to the State sales and use tax under Title
27 11 of the Tax - General Article; or

28 (3) A sale of food or beverages in vending machines.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the income tax credit
30 under § 10-707 of the Tax - General Article as enacted under this Act shall be applicable
31 to all taxable years beginning after December 31, 1996.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 1996.