
By: Delegates Campbell and Healey

Introduced and read first time: January 29, 1996

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax - Exemptions**

3 FOR the purpose of repealing certain exemptions under the sales and use tax; altering
4 the definition of "taxable price" under the sales and use tax; repealing a special
5 sales and use tax rate for the first retail sale of a mobile home; altering certain
6 exemptions under the sales and use tax; and generally relating to the repeal of
7 certain exemptions under the sales and use tax.

8 BY repealing and reenacting, with amendments,
9 Article - Tax - General
10 Section 11-101(j)(3), 11-204, 11-208, 11-209, 11-215, and 11-216
11 Annotated Code of Maryland
12 (1988 Volume and 1995 Supplement)

13 BY repealing
14 Article - Tax - General
15 Section 11-104(d), 11-202, 11-210, 11-212, 11-213, 11-214.1, 11-217, and 11-222
16 Annotated Code of Maryland
17 (1988 Volume and 1995 Supplement)

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

20 **Article - Tax - General**

21 11-101.

22 (j) (3) "Taxable price" does not include:

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

25 [1.] (I) a delivery, freight, or other transportation service for
26 delivery directly to the buyer by the vendor or by another person acting for the vendor;

27 [2.] (II) a finance charge, interest, or similar charge for credit
28 extended to the buyer;

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1 [3.] (III) a labor or service for application or installation;

2 [4.] (IV) a mandatory gratuity or service charge in the nature of a
3 tip for serving food or beverage to a group of 10 or fewer individuals for consumption on
4 the premises of the vendor;

5 [5.] (V) a professional service;

6 [6.] (VI) a tax:

7 [A.] 1. imposed by a county on the sale of coal, electricity, oil,
8 nuclear fuel assemblies, steam, or artificial or natural gas;

9 [B.] 2. imposed under § 3-302(a) of the Natural Resources
10 Article, as a surcharge on the generation of electricity, and added to an electric bill; or

11 [C.] 3. imposed under §§ 6-201 through 6-203 of the Tax -
12 Property Article, on tangible personal property subject to a lease that is for an initial
13 period that exceeds 1 year and is noncancellable except for cause; OR

14 [7.] (VII) any service for the operation of equipment used for the
15 production of audio, video, or film recordings; or

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

18 1. an air brake system;

19 2. an engine;

20 3. a rear axle carrier; or

21 4. a transmission].

22 11-104.

23 [(d) The sales and use tax rate for the first retail sale of a mobile home, as defined
24 in Article 83B, § 6-202(g) of the Code, is the rate imposed under subsection (a) of this
25 section applied to 60% of the taxable price.]

26 [11-202.

27 The sales and use tax does not apply to a sale in the form of a demurrage charge
28 made in the nature of a penalty for failure to return a gas cylinder within a designated
29 period.]

30 11-204.

31 (a) The sales and use tax does not apply to:

32 [(1) a sale to a cemetery company, as described in § 501(c)(13) of the
33 Internal Revenue Code in effect on July 1, 1987;

34 (2) a sale to a credit union organized under the laws of the State or of the
35 United States;]

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1 [(3)] (1) a sale to a nonprofit organization made to carry on its work, if the
2 organization:

- 3 (i) 1. is located in the State; or
- 4 2. is located in an adjacent jurisdiction and provides its services
5 within the State on a routine and regular basis;
- 6 (ii) is a charitable, educational, or religious organization;
- 7 (iii) is not the United States; and
- 8 (iv) except for the American National Red Cross, is not a unit or
9 instrumentality of the United States;

10 [(4)] (2) a sale, not exceeding \$500, to a nonprofit incorporated senior
11 citizens' organization made to carry on its work, if the organization:

- 12 (i) is located in the State; and
- 13 (ii) receives funding from the State or a political subdivision of the
14 State;

15 [(5)] (3) a sale to a volunteer fire company or department or volunteer
16 ambulance company or rescue squad located in the State made to carry on the work of the
17 company, department, or squad; or

18 [(6)] (4) a sale of tangible personal property to a nonprofit parent-teacher
19 association located in the State if the association makes the purchase to contribute the
20 property to a school to which a sale is exempt under item (3) of this subsection or §
21 11-220 of this subtitle.

22 (b) The sales and use tax does not apply to a sale by:

23 (1) a bona fide church or religious organization, if the sale is made for the
24 general purposes of the church or organization;

25 (2) [a gift shop at a mental hospital that the Department of Health and
26 Mental Hygiene operates;

27 (3)] a hospital thrift shop that:

- 28 (i) is operated by all volunteer staff;
- 29 (ii) sells only donated articles;
- 30 (iii) contributes the profits from sales to the hospital with which the
31 shop is associated; and
- 32 (iv) is not operated in conjunction with a gift shop or another retail
33 establishment; or

34 [(4)] (3) a vending facility operated under the Maryland Vending Program
35 for the Blind if:

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1 (i) the facility is located on property held or acquired by or for the use
2 of the United States for any military or naval purpose; and

3 (ii) a post exchange or other tax exempt concession is located and
4 operated on the same property.

5 (c) To qualify as an organization to which a sale is exempt under subsection
6 [(a)(3) or (5)] (A)(1) OR (3) of this section, the organization shall file an application for
7 an exemption certificate with the Comptroller.

8 (d) The Comptroller may treat the possession of an effective determination letter
9 of status under § 501(c)(3) [or (13)] of the Internal Revenue Code from the Internal
10 Revenue Service as evidence that an organization qualifies under subsection [(a)(3) or
11 (5) or (1)] (A) (1) OR (3) of this section[, respectively].

12 11-208.

13 (a) The sales and use tax does not apply to:

14 (1) a sale of equipment or machinery that is used only to load, unload, and
15 handle cargo of ocean going vessels within an international marine terminal; or

16 (2) a rental of equipment or machinery that:

17 (i) is owned by the Maryland Port Administration; and

18 (ii) is used only to load and unload ocean going vessels.

19 [(b) The sales and use tax does not apply to a sale of film or videotape for use only
20 in television broadcasting by a television station that the Federal Communications
21 Commission licenses specifically to broadcast to a city or town outside the State.]

22 [(c)] (B) The sales and use tax does not apply [:

23 (1) to a sale of an aircraft, motor vehicle, railroad rolling stock, or vessel
24 that is used principally to cross State lines in interstate or foreign commerce;

25 (2) to a sale of a replacement part or other tangible personal property to be
26 used physically in, on, or by a conveyance described in item (1) of this subsection; or

27 (3) except for a rental,] to a sale, OTHER THAN A RENTAL, of a motor
28 vehicle, other than a house or office trailer, that will be titled or registered in another
29 state.

30 11-209.

31 [(a)] The sales and use tax does not apply to a casual and isolated sale by a person
32 who regularly does not sell tangible personal property or a taxable service if:

33 (1) the sale price is less than \$1,000; and

34 (2) the sale is not made through an auctioneer or a dealer.

35 [(b) The sales and use tax does not apply to a distribution of tangible personal
36 property by:

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1 (1) a corporation or joint-stock company to its stockholders as a liquidating
2 distribution;

3 (2) a partnership to a partner; or

4 (3) a limited liability company to a member.

5 (c) (1) The sales and use tax does not apply to a transfer of tangible personal
6 property:

7 (i) under a reorganization within the meaning of § 368(a) of the
8 Internal Revenue Code;

9 (ii) on organization of a corporation or joint-stock company, to the
10 corporation or company principally in consideration for the issuance of its stock;

11 (iii) to a partnership only as a contribution to its capital or in
12 consideration for a partnership interest in the partnership; or

13 (iv) to a limited liability company only as a capital contribution or in
14 consideration for an interest in the limited liability company.

15 (2) For a transfer that would qualify as a casual and isolated sale under
16 subsection (a) of this section if the sale price limitation were disregarded, the amount of
17 liability transferred to or assumed by a corporation, joint-stock company, partnership, or
18 limited liability company shall be excluded from the consideration transferred by the
19 corporation, joint-stock company, partnership, or limited liability company in exchange
20 for the tangible personal property to determine whether the transfer is made:

21 (i) principally in consideration for the issuance of stock of a
22 corporation or joint-stock company;

23 (ii) only as a contribution to the capital of a partnership or in
24 consideration for a partnership interest; or

25 (iii) only as a capital contribution to a limited liability company or in
26 consideration for an interest in a limited liability company.]

27 [11-210.

28 (a) The sales and use tax does not apply to a sale of:

29 (1) machinery or equipment used to produce bituminous concrete; or

30 (2) electricity, fuel, and other utilities used to operate that machinery or
31 equipment.

32 (b) The sales and use tax does not apply to a sale of:

33 (1) machinery or equipment, a replacement part of machinery or
34 equipment, or a service for the assembly or fabrication of machinery or equipment or
35 replacement part that:

36 (i) is capitalized to claim depreciation, using acceptable and
37 consistent accounting standards;

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1 (ii) is not used in administration, management, sales, or any other
2 nonoperational activity;

3 (iii) at any stage of operation from the handling of raw material or
4 components on the production activity site to the time the product is ready for delivery or
5 storage, is used in a production activity; and

6 (iv) except for a foundation to support other machinery or equipment
7 or for an item required to conform to an air or water pollution law and normally
8 considered part of real property, is not installed so that it becomes real property; or

9 (2) a melting, smelting, heating, or annealing coke oven, aluminum furnace,
10 anode bake oven, electrolytic pot, cathode, refractory, or other material used in relining
11 and rebuilding a furnace or oven.]

12 [11-212.

13 The sales and use tax does not apply to a sale of:

14 (1) fabrication, processing, or service, by a sawmill, of wood products for
15 mine use in which the miner retains title; or

16 (2) diesel fuel for use in reclamation of land that has been mined for coal by
17 strip or open-pit mining.]

18 [11-213.

19 Except for the 1st retail sale of the mobile home, the sales and use tax does not
20 apply to a sale of a mobile home, as defined in Article 83B, § 6-202(g) of the Code.]

21 [11-214.1.

22 (a) In this section:

23 (1) "precious metal bullion or coins" means:

24 (i) any precious metal that has gone through a refining process and is
25 in a state or condition such that its value depends on its precious metal content and not
26 on its form; or

27 (ii) except as provided in paragraph (2) of this subsection, monetized
28 bullion, coins, or other forms of money that:

29 1. are manufactured from precious metals; and

30 2. are or have in the past been used as a medium of exchange
31 under the laws of the State, the United States, or a foreign nation; and

32 (2) "precious metal bullion or coins" does not include jewelry or a work of
33 art made of precious metal bullion or coins.

34 (b) The sales and use tax does not apply to a sale of precious metal bullion or
35 coins if the sale price is greater than \$1,000.]

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1 11-215.

2 [(a) The sales and use tax does not apply to a sale of photographic material for use
3 in the production of an item that is used in:

4 (1) composition or printing; or

5 (2) production of another item used in printing.

6 (b) (1) The sales and use tax does not apply to a sale of art works,electros,
7 electrotypes, hand or machine compositions, lithographic plates or negatives, mats,
8 photoengravings, stereotypes, or typographies:

9 (i) to a person engaged in the printing of tangible personal property
10 for sale; and

11 (ii) for direct use by the person to produce that propertyfor sale.

12 (2) A vendor who sells any item under paragraph (1) of this subsection is
13 not entitled to any exclusion under § 11-101(e)(3)(ii) or (k)(3)(ii) ofthis title for material
14 that the vendor buys to produce that item.

15 (c) (1) The sales and use tax does not apply to the printing and sale of
16 newspapers that are distributed by the publisher at no charge.

17 (2) A publication is not a newspaper unless it is published anddistributed at
18 least once per month and it meets other criteria as defined by the Comptroller.

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

20 (1) a sale of direct mail advertising literature and mail ordercatalogues that
21 will be distributed outside the State, and a sale of computerized mailing lists to the extent
22 used for the purpose of providing addresses to which direct mail advertising literature and
23 mail order catalogues will be distributed outside the State; or

24 (2)] a sale of government documents, publications, records, or copies by the
25 federal or State or a local government or an instrumentality of the federal or State or a
26 local government.

27 11-216.

28 (a) The sales and use tax does not apply to:

29 [(1) a sale for use of tangible personal property that:

30 (i) is bought outside this State;

31 (ii) is intended solely for use in another state; and

32 (iii) is stored in this State pending shipment to another state;

33 (2)] (1) a sale of tangible personal property to a person obligated under a
34 contract to incorporate that property into real property located in another state where the
35 purchase or use of that property would not be subject to a sales tax, use tax, or similar tax;
36 or

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1 [(3)] (2) except for that portion of the purchase price allocable to intended
2 viewing in this State, a sale of a series of images stored on video tape or in other optical
3 or digital forms or electronic signals generated from these images to cable or other
4 nonbroadcast television network, if the images are intended for viewing by television
5 viewers located outside the State.

6 (b) The sales and use tax shall be paid[:

7 (1) on a sale under subsection (a)(1) of this section, when the tangible
8 personal property is imported or stored in the State; and

9 (2)] on a sale under subsection [(a)(2)] (A)(1) of this section[,] when the
10 sale is made.

11 (c) A person who pays the sales and use tax under subsection (b) of this section
12 may obtain the exemption by:

13 (1) filing a claim for refund with the Comptroller when the property is
14 removed from the State; and

15 (2) providing the Comptroller with the evidence that the Comptroller
16 requires by regulation, including:

17 (i) evidence of use or removal of the property from the State; and

18 (ii) satisfactory proof of entitlement to exemption in another state.

19 [11-217.

20 (a) (1) In this section, "research and development" means:

21 (i) basic and applied research in the sciences and engineering; and

22 (ii) the design, development, and governmentally required pre-market
23 testing of prototypes, products, and processes.

24 (2) "Research and development" does not include:

25 (i) market research;

26 (ii) research in the social sciences or psychology and other
27 nontechnical activities;

28 (iii) routine product testing;

29 (iv) sales services; or

30 (v) technical and nontechnical services.

31 (b) The sales and use tax does not apply to a sale of tangible personal property for
32 use or consumption in research and development.]

33 [11-222.

34 The sales and use tax does not apply to a sale of deliverable end item testing
35 equipment that is used to perform a contract for the United States Department of

HOUSE BILL 416

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1 Defense and that, under the terms of the contract, is to be transferred to the federal
2 government, if the contract is awarded as a result of a bid submitted after June 1, 1986.]

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 1996.