
By: Delegates Bozman and Healey

Introduced and read first time: January 31, 1997

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **General Service Business Gross Receipts Tax**

3 FOR the purpose of imposing a tax on the gross receipts of certain persons engaged in a
4 service industry, business, calling, or profession in the State; providing certain
5 exemptions from the tax; providing for calculation of the tax; setting the rate of the
6 tax; providing for administration of the tax by the Comptroller; requiring persons
7 subject to the tax to file returns and to keep and make available certain records and
8 information; providing for distribution of the revenue from the tax; defining certain
9 terms; providing for a delayed effective date; and generally relating to a tax on the
10 gross receipts of certain persons engaged in a service industry, business, calling, or
11 profession in the State.

12 BY adding to

13 Article - Tax - General
14 Section 1-101(h-1); 2-5A-01 through 2-5A-03 to be under the new subtitle
15 "Subtitle 5A. General Service Business Tax Revenue Distribution"; and 8-501
16 through 8-505 to be under the new subtitle "Subtitle 5. General Service
17 Business Tax"
18 Annotated Code of Maryland
19 (1988 Volume and 1996 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - Tax - General
22 Section 2-102, 2-104(c)(2), 13-201(3), 13-508(a) and (c), 13-509(a), 13-825(g),
23 13-905(d), 13-1001(e), 13-1003(c), 13-1008(c), 13-1102, and 13-1104(g)
24 Annotated Code of Maryland
25 (1988 Volume and 1996 Supplement)

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

28 **Article - Tax - General**

29 1-101.

30 (H-1) "GENERAL SERVICE BUSINESS TAX" MEANS THE TAX IMPOSED UNDER
31 TITLE 8, SUBTITLE 5 OF THIS ARTICLE.

2

1 2-102.

2 In addition to the duties set forth elsewhere in this article and in other articles of
3 the Code, the Comptroller shall administer the laws that relate to:

4 (1) the admissions and amusement tax;

5 (2) the alcoholic beverage tax;

6 (3) the boxing and wrestling tax;

7 (4) THE GENERAL SERVICE BUSINESS TAX;

8 [(4)] (5) the income tax;

9 [(5)] (6) the Maryland estate tax;

10 [(6)] (7) the Maryland generation-skipping transfer tax;

11 [(7)] (8) the motor carrier tax;

12 [(8)] (9) the motor fuel tax;

13 [(9)] (10) the sales and use tax;

14 [(10)] (11) the savings and loan association franchise tax; and

15 [(11)] (12) the tobacco tax.

16 2-104.

17 (c) (2) The Comptroller shall keep a GENERAL SERVICE BUSINESS TAX
18 RETURN OR A sales and use tax return for 2 years from the date the return is filed. After
19 2 years, the Comptroller may destroy the return.

20 SUBTITLE 5A. GENERAL SERVICE BUSINESS TAX REVENUE DISTRIBUTION.

21 2-5A-01.

22 FROM THE GENERAL SERVICE BUSINESS TAX REVENUE, THE COMPTROLLER
23 SHALL DISTRIBUTE THE AMOUNT NECESSARY TO PAY REFUNDS RELATING TO THE
24 GENERAL SERVICE BUSINESS TAX TO A REFUND ACCOUNT.

25 2-5A-02.

26 AFTER MAKING THE DISTRIBUTION REQUIRED UNDER § 2-5A-01 OF THIS
27 SUBTITLE, FROM THE REMAINING GENERAL SERVICE BUSINESS TAX REVENUE, THE
28 COMPTROLLER SHALL DISTRIBUTE THE AMOUNT NECESSARY TO ADMINISTER THE
29 GENERAL SERVICE BUSINESS TAX LAWS TO AN ADMINISTRATIVE COST ACCOUNT.

30 2-5A-03.

31 AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-5A-01 AND 2-5A-02
32 OF THIS SUBTITLE, THE COMPTROLLER SHALL PAY THE REMAINING GENERAL
33 SERVICE BUSINESS TAX REVENUE INTO THE GENERAL FUND OF THE STATE.

3

1 SUBTITLE 5. GENERAL SERVICE BUSINESS TAX.

2 8-501.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
6 "GENERAL SERVICE BUSINESS" MEANS ANY SERVICE INDUSTRY, BUSINESS,
7 CALLING, OR PROFESSION IN THE STATE.

8 (2) "GENERAL SERVICE BUSINESS" DOES NOT INCLUDE:

9 (I) A FINANCIAL INSTITUTION BUSINESS SUBJECT TO THE
10 FINANCIAL INSTITUTION FRANCHISE TAX;

11 (II) A PUBLIC SERVICE COMPANY BUSINESS SUBJECT TO TAXATION
12 UNDER SUBTITLE 4 OF THIS TITLE;

13 (III) AN INSURANCE BUSINESS SUBJECT TO THE INSURANCE
14 PREMIUMS TAX OR GENERAL AGENTS, AGENTS, AND BROKERS OF INSURANCE;

15 (IV) EXCEPT WITH RESPECT TO COMMERCIAL LEASING ACTIVITIES,
16 A PENSION PLAN OR PROFIT-SHARING PLAN, WHETHER OR NOT REGULATED
17 UNDER § 401 OF THE INTERNAL REVENUE CODE;

18 (V) A REAL ESTATE MORTGAGE INVESTMENT CONDUIT, AS
19 DEFINED IN § 860D OF THE INTERNAL REVENUE CODE;

20 (VI) A BUSINESS TRUST OR CORPORATION REGISTERED AS AN
21 INVESTMENT COMPANY, AN INVESTMENT ADVISOR, OR A TRANSFER AGENT UNDER
22 APPLICABLE FEDERAL LAWS OR ACTING AS A PRINCIPAL UNDERWRITER AS
23 DEFINED IN § 2(A)(29) OF THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED (15
24 U.S.C. § 80A-2(A)(29)); OR

25 (VII) A HORSE RACING LICENSEE UNDER TITLE 11 OF THE BUSINESS
26 REGULATION ARTICLE.

27 (C) (1) "GROSS RECEIPTS" MEANS TOTAL CONSIDERATION FOR SERVICES
28 RENDERED OR OTHER INCOME-PRODUCING TRANSACTIONS WITHIN THIS STATE,
29 INCLUDING FEES AND COMMISSIONS, WITHOUT ANY DEDUCTION ON ACCOUNT OF
30 THE COST OF PROPERTY SOLD, THE COST OF MATERIALS USED, LABOR COSTS,
31 INTEREST, DISCOUNT PAID, DELIVERY COSTS, FEDERAL OR STATE TAXES, ANY
32 OTHER EXPENSE WHATSOEVER PAID OR ACCRUED, OR LOSSES.

33 (2) "GROSS RECEIPTS" INCLUDES:

34 (I) FOR A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
35 OTHER UNINCORPORATED BUSINESS ENTITY, THE AGGREGATE GROSS RECEIPTS OF
36 THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER UNINCORPORATED
37 BUSINESS ENTITY; AND

4

1 (II) FOR A BROKER OR REAL ESTATE BROKER, COMMISSIONS AND
2 FEES PAID TO SALESPERSONS OPERATING IN THE OFFICE OF THE BROKER OR REAL
3 ESTATE BROKER.

4 (3) "GROSS RECEIPTS" DOES NOT INCLUDE:

5 (I) ANY WAGES RECEIVED BY AN EMPLOYEE FOR SERVICES
6 PERFORMED FOR THE EMPLOYEE'S EMPLOYER, WITHIN THE MEANING OF THE
7 FEDERAL INSURANCE CONTRIBUTION ACT;

8 (II) ANY AMOUNTS RECEIVED BY A PERSON WITH RESPECT TO THE
9 PERSON'S ACTIVITIES SOLELY AS A PARTNER OR MEMBER OF A PARTNERSHIP,
10 LIMITED LIABILITY COMPANY, OR OTHER UNINCORPORATED BUSINESS ENTITY;

11 (III) AMOUNTS RECEIVED FROM AN ENTITY:

12 1. MORE THAN 80% OF THE INTEREST WHICH IS OWNED
13 DIRECTLY, INDIRECTLY, OR BENEFICIALLY BY THE SAME FIVE OR FEWER
14 INDIVIDUALS WHO DIRECTLY, INDIRECTLY, OR BENEFICIALLY OWN MORE THAN
15 80% OF THE INTEREST IN THE PERSON RECEIVING THE AMOUNTS; OR

16 2. 100% OF THE INTEREST IN WHICH IS OWNED DIRECTLY,
17 INDIRECTLY, OR BENEFICIALLY BY THE SAME INDIVIDUAL OR FAMILY, WITHIN THE
18 MEANING OF § 544(A)(2) OF THE INTERNAL REVENUE CODE, WHO DIRECTLY,
19 INDIRECTLY, OR BENEFICIALLY OWNS 100% OF THE INTEREST IN THE PERSON
20 RECEIVING THE AMOUNTS; OR

21 (IV) COMMISSIONS AND FEES OF A SALESPERSON OPERATING IN
22 THE OFFICE OF A BROKER OR REAL ESTATE BROKER.

23 (4) FOR AN ADVERTISING AGENCY, AUCTIONEER, BROKER,
24 MANUFACTURER'S AGENT OR REPRESENTATIVE, MERCANTILE AGENCY,
25 COLLECTION AGENCY, OR REAL ESTATE BROKER, "GROSS RECEIPTS" MEANS
26 COMMISSIONS AND FEES EARNED.

27 (5) FOR COMMERCIAL LESSORS:

28 (I) "GROSS RECEIPTS" MEANS THE RENTAL PAYMENT RECEIVED
29 FOR A COMMERCIAL UNIT; AND

30 (II) "GROSS RECEIPTS" DOES NOT INCLUDE:

31 1. THE AMOUNT THAT A COMMERCIAL LESSOR WHO IS
32 ALSO A SUBLESSOR PAYS TO ANOTHER LESSOR AS RENT FOR THE SAME
33 COMMERCIAL UNIT; OR

34 2. ANY RENTAL INCOME RECEIVED BY A COMMERCIAL
35 LESSOR UNDER A LEASE WITH RESPECT TO WHICH THE TRANSFER TAX UNDER
36 TITLE 13 OF THE TAX - PROPERTY ARTICLE HAS BEEN PAID.

37 8-502.

38 (A) A TAX IS IMPOSED ON THE GROSS RECEIPTS OF EACH PERSON ENGAGED
39 IN A GENERAL SERVICE BUSINESS IN THE STATE.

5

1 (B) THE GENERAL SERVICE BUSINESS TAX DOES NOT APPLY TO:

2 (1) THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

3 (2) A NONPROFIT ORGANIZATION EXEMPTED FROM FEDERAL INCOME
4 TAXATION UNDER § 501 OF THE INTERNAL REVENUE CODE.

5 8-503.

6 (A) THE GENERAL SERVICE BUSINESS TAX RATE IS 0.4% OF TAXABLE GROSS
7 RECEIPTS.

8 (B) A PERSON'S TAXABLE GROSS RECEIPTS ARE THE AGGREGATE GROSS
9 RECEIPTS PAID TO THE PERSON ATTRIBUTABLE TO THE PERSON'S GENERAL
10 SERVICE BUSINESS IN THE STATE, REDUCED BY THE DEDUCTION AMOUNTS
11 ALLOWED UNDER § 8-504 OF THIS SUBTITLE.

12 8-504.

13 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, TO
14 DETERMINE TAXABLE GROSS RECEIPTS FOR EACH MONTH A PERSON MAY DEDUCT
15 AN AMOUNT EQUAL TO \$15,000 FROM THE PERSON'S AGGREGATE GROSS RECEIPTS
16 FOR THE MONTH.

17 (B) IF A PERSON IS ALLOWED TO FILE A QUARTERLY RETURN UNDER § 8-505
18 OF THIS SUBTITLE, TO DETERMINE TAXABLE GROSS RECEIPTS FOR EACH QUARTER,
19 A PERSON MAY DEDUCT AN AMOUNT EQUAL TO \$45,000 FROM THE PERSON'S
20 AGGREGATE GROSS RECEIPTS FOR THE QUARTER.

21 (C) ALL BRANCHES OR ENTITIES COMPRISING AN ENTERPRISE WITH
22 COMMON OWNERSHIP OR COMMON DIRECTION AND CONTROL SHALL BE ALLOWED
23 ONLY 1 MONTHLY OR QUARTERLY DEDUCTION UNDER THIS SECTION FROM THE
24 AGGREGATE GROSS RECEIPTS OF THE ENTIRE ENTERPRISE.

25 8-505.

26 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON
27 SHALL COMPLETE AND FILE WITH THE COMPTROLLER A GENERAL SERVICE
28 BUSINESS TAX RETURN AND PAY THE GENERAL SERVICE BUSINESS TAX ON OR
29 BEFORE THE 21ST DAY OF THE MONTH THAT FOLLOWS THE MONTH IN WHICH THE
30 PERSON RECEIVES AGGREGATE GROSS RECEIPTS ATTRIBUTABLE TO A GENERAL
31 SERVICE BUSINESS IN THE STATE.

32 (B) FOR ANY CALENDAR YEAR, IF A PERSON'S TAXABLE GROSS RECEIPTS
33 FOR THE 12-MONTH PERIOD BETWEEN JULY 1 AND JUNE 30 THAT ENDED IN THE
34 PRECEDING CALENDAR YEAR DID NOT EXCEED \$750,000, THE RETURN AND
35 PAYMENT OF THE GENERAL SERVICE BUSINESS TAX IS DUE ON OR BEFORE THE 21ST
36 DAY OF THE 1ST MONTH THAT FOLLOWS THE END OF THE CALENDAR QUARTER IN
37 WHICH THE PERSON RECEIVES AGGREGATE GROSS RECEIPTS ATTRIBUTABLE TO A
38 GENERAL SERVICE BUSINESS IN THE STATE.

39 (C) A RETURN SHALL BE IN THE FORM AND INCLUDE THE INFORMATION
40 THAT THE COMPTROLLER REQUIRES.

6

1 (D) A PERSON ENGAGED IN A GENERAL SERVICE BUSINESS IN THE STATE
2 SHALL:

3 (1) KEEP:

4 (I) COMPLETE AND ACCURATE RECORDS OF ALL RECEIPTS
5 ATTRIBUTABLE TO ITS GENERAL SERVICE BUSINESS IN THE STATE; AND

6 (II) OTHER RECORDS IN THE FORM THAT THE COMPTROLLER
7 REQUIRES BY REGULATION, INCLUDING BILLS OF LADING AND INVOICES;

8 (2) MAKE THE RECORDS REQUIRED UNDER THIS SUBSECTION
9 AVAILABLE FOR INSPECTION AND EXAMINATION BY THE COMPTROLLER AT ANY
10 TIME DURING BUSINESS HOURS; AND

11 (3) KEEP THE RECORDS REQUIRED UNDER THIS SUBSECTION FOR 4
12 YEARS, UNLESS THE COMPTROLLER:

13 (I) CONSENTS IN WRITING TO AN EARLIER DESTRUCTION OF THE
14 RECORDS; OR

15 (II) REQUIRES IN WRITING THAT THE RECORDS BE KEPT LONGER.

16 (E) IF THE COMPTROLLER APPROVES, A PERSON ENGAGING IN MORE THAN
17 ONE GENERAL SERVICE BUSINESS IN THE STATE MAY FILE A CONSOLIDATED
18 RETURN COVERING THE ACTIVITIES OF THE BUSINESSES.

19 13-201.

20 In this subtitle, "tax information" means:

21 (3) any information contained in:

22 (i) an admissions and amusement tax return;

23 (II) A GENERAL SERVICE BUSINESS TAX RETURN; or

24 [(ii)] (III) a sales and use tax return.

25 13-508.

26 (a) Within 30 days after the date on which a notice of assessment of the
27 admissions and amusement tax, GENERAL SERVICE BUSINESS TAX, income tax, motor
28 carrier tax, motor fuel tax, public service company franchise tax, financial institution
29 franchise tax, sales and use tax, or tobacco tax is mailed, a person or governmental unit
30 against which the assessment is made may submit to the tax collector:

31 (1) an application for revision of the assessment; or

32 (2) except for the public service company franchise tax, if the assessment is
33 paid, a claim for refund.

34 (c) The Comptroller or an employee of the Comptroller's office expressly
35 designated by the Comptroller promptly:

7

1 (1) (i) shall hold an informal hearing on a person's or governmental unit's
2 admissions and amusement tax, GENERAL SERVICE BUSINESS TAX, income tax, motor
3 carrier tax, motor fuel tax, sales and use tax, or tobacco tax application for revision or
4 claim for refund under subsection (a) of this section; and

5 (ii) after the hearing:

6 1. shall act on the application for revision; and

7 2. may assess any additional tax, penalty, and interest due; and

8 (2) shall mail to the person or governmental unit a notice of final
9 determination.

10 13-509.

11 (a) Notwithstanding a person's failure to file a timely application for revision or
12 claim for refund of an assessment of the admissions and amusement tax, GENERAL
13 SERVICE BUSINESS TAX, income tax, motor carrier tax, motor fuel tax, sales and use tax,
14 or tobacco tax under § 13-508(a) of this subtitle, the Comptroller or the Comptroller's
15 designee may issue an order decreasing or abating an assessment to correct an erroneous
16 assessment.

17 13-825.

18 (g) The Comptroller may require a person subject to the GENERAL SERVICE
19 BUSINESS TAX OR sales and use tax to post security for the tax in the amount that the
20 Comptroller determines.

21 13-905.

22 (d) For a claim of refund for GENERAL SERVICE BUSINESS TAX OR sales and
23 use tax, the Comptroller shall either:

24 (1) pay the refund; or

25 (2) allow a credit of the amount of the refund on subsequent GENERAL
26 SERVICE BUSINESS TAX PAYMENTS OR sales and use tax payments due from the
27 claimant.

28 13-1001.

29 (e) A person, including an officer of a corporation, who is required to file A
30 GENERAL SERVICE BUSINESS TAX RETURN OR a sales and use tax return and who
31 willfully fails to file the return as required under TITLE 8, SUBTITLE 5 OR Title 11 of this
32 article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding
33 \$5,000 or imprisonment not exceeding 5 years or both.

34 13-1003.

35 (c) A person, including an officer of a corporation, who is required to file A
36 GENERAL SERVICE BUSINESS TAX RETURN OR a sales and use tax return and who
37 willfully makes a false statement or misleading omission on the return required under
38 Title 11 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine
39 not exceeding \$5,000 or imprisonment not exceeding 5 years or both.

8

1 13-1008.

2 (c) A person, including an officer of a corporation, who is required to keep
3 records under TITLE 8, SUBTITLE 5 OR Title 11 of this article or under GENERAL
4 SERVICE BUSINESS TAX OR sales and use tax regulations and who willfully fails to keep
5 the records is guilty of a misdemeanor and, on conviction, is subject to a fine not
6 exceeding \$1,000 or imprisonment not exceeding 1 year or both.

7 13-1102.

8 (a) Except as provided in subsection (b) of this section, an action to recover
9 admissions and amusement tax, boxing and wrestling tax, motor fuel tax, GENERAL
10 SERVICE BUSINESS TAX, or sales and use tax may not be brought after 4 years from the
11 date on which the tax is due.

12 (b) (1) (i) An action to recover admissions and amusement tax, boxing and
13 wrestling tax, GENERAL SERVICE BUSINESS TAX, or sales and use tax may be brought at
14 any time if there is proof that the tax is not paid due to fraud or gross negligence.

15 (ii) An underpayment of 25% or more of the GENERAL SERVICE
16 BUSINESS TAX OR sales and use tax due is prima facie evidence of gross negligence.

17 (2) An action to recover motor fuel tax may be brought at any time if there
18 is proof that the tax is not paid due to fraud.

19 13-1104.

20 (g) Except as provided in § 13-508 of this title, a claim for refund of GENERAL
21 SERVICE BUSINESS TAX OR sales and use tax may not be filed after 4 years from the date
22 the tax was paid.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 January 1, 1998.