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By: **Delegates Bozman, C. Davis, and Finifter**  
Introduced and read first time: February 8, 2001  
Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Telecommunications Taxation**

3 FOR the purpose of repealing the public service company franchise tax as to persons  
4 engaged in a telephone business in the State; imposing the State sales and use  
5 tax on the sale of certain telecommunications services; providing that certain  
6 Internet access is not a taxable service for purposes of the sales and use tax;  
7 altering for certain sellers the calculation of a certain credit allowed to certain  
8 persons for the expense of collecting and paying the sales and use tax; providing  
9 a credit against the sales and use tax for certain tax paid in another State on the  
10 sale of certain telecommunications service; providing that the sale of mobile  
11 telecommunications services are taxable in this State under certain  
12 circumstances; providing that nontaxable charges that are aggregated with  
13 taxable charges are included in the taxable price for sales and use tax purposes  
14 under certain circumstances; defining certain terms under the sales and use tax;  
15 exempting from the sales and use tax the sale of certain machinery and  
16 equipment to a telecommunications provider for use in the conduct of certain  
17 businesses; requiring the Comptroller to implement a certain pilot direct  
18 payment permit program; providing for the effective date of this Act; and  
19 generally relating to the taxation of telecommunications and  
20 telecommunications companies in the State.

21 BY repealing and reenacting, with amendments,  
22 Article - Tax - General  
23 Section 8-401, 8-402, 8-406, 8-409, 11-101(c-1) and (k), 11-105, 11-210, and  
24 11-407  
25 Annotated Code of Maryland  
26 (1997 Replacement Volume and 2000 Supplement)

27 BY repealing  
28 Article - Tax - General  
29 Section 8-407  
30 Annotated Code of Maryland  
31 (1997 Replacement Volume and 2000 Supplement)

1 BY adding to  
2 Article - Tax - General  
3 Section 11-101(a-1), (b-2), (b-3), (b-4), (b-5), (b-6), (c-1), (h-1), and (k-1),  
4 11-109, and 11-110  
5 Annotated Code of Maryland  
6 (1997 Replacement Volume and 2000 Supplement)

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

9 **Article - Tax - General**

10 8-401.

11 (a) In this subtitle the following words have the meanings indicated.

12 (b) "Delivered for final consumption" means delivered by a public service  
13 company in its service area as measured at the customer meter or other point of final  
14 delivery.

15 (c) (1) "Gross receipts" means total operating revenue.

16 (2) "Gross receipts" includes:

17 (i) gross or total earnings and total receipts;

18 [(ii) for a telephone company, the full amount of approved and  
19 applicable federal and State tariff charges for telephone lifeline service without the  
20 discount provided by § 8-201(c) of the Public Utility Companies Article; and

21 (iii) for a telecommunications company providing interstate long  
22 distance telecommunications service, the gross charges from the sale of long distance  
23 telecommunications service that originates or terminates in the State and for which a  
24 charge is made to a service address located in the State, regardless of where the  
25 amount is billed or paid.

26 (3) "Gross receipts" does not include:

27 (i) any revenue that a public service company derives from an  
28 activity other than an electric, gas, or telephone business; or

29 (ii) net uncollectible revenue.

30 (4) For a public service company engaged in a telephone business in the  
31 State, gross receipts does not include:

32 (i) gross charges from the sale by the public service company to  
33 another public service company subject to the tax imposed by this subtitle of a service  
34 or product for resale;

1 (ii) gross charges from the sale by the public service company of  
2 Internet access service by which a connection is provided between a computer and the  
3 Internet; or

4 (iii) gross charges from the sale of telecommunications service  
5 obtained by using a prepaid telephone calling arrangement, as defined in § 11-101 of  
6 this article.

7 (5) For a public service company engaged in the transmission,  
8 distribution, or delivery of electricity or gas in the State:

9 (i) "gross receipts" includes:

10 1.] (II) except as provided in [item (ii)2 and 3 of this  
11 paragraph] PARAGRAPH (3)(IV) AND (V) OF THIS SUBSECTION, gross charges for the  
12 transmission, distribution, or delivery of electricity or natural gas or for distribution  
13 or delivery-related services; and

14 [2.] (III) competitive transition charges, intangible transition  
15 charges, and any other surcharge or other cost-recovery mechanism authorized for  
16 recovery of transition costs or the costs of demand side management or other energy  
17 conservation programs, universal service or other public purpose programs, or  
18 consumer education programs[; and].

19 [(ii)] (3) ["gross] "GROSS receipts" does not include:

20 (I) ANY REVENUE THAT A PUBLIC SERVICE COMPANY DERIVES  
21 FROM AN ACTIVITY OTHER THAN AN ELECTRIC OR GAS BUSINESS;

22 (II) NET UNCOLLECTIBLE REVENUE;

23 [1.] (III) gross charges from the sale of electricity or natural  
24 gas;

25 [2.] (IV) gross charges from the transmission, distribution, or  
26 delivery of electricity or natural gas to another public service company subject to the  
27 tax imposed under § 8-402 of this subtitle if the buyer intends to resell the electricity  
28 or natural gas; or

29 [3.] (V) gross charges from an interstate transmission  
30 network or from the transmission, distribution, or delivery of electricity or natural  
31 gas to a customer located in another state.

32 [(d) "Long distance telecommunications service" means telecommunications  
33 service for a telecommunication that does not originate and terminate in the same  
34 local calling area.]

35 [(e)] (D) "Production activity" has the meaning stated in § 11-101 of this  
36 article.

1 [(f)] (E) "Public service company" means a person[:  
2 (1) engaged in a telephone business in the State; or  
3 (2)] engaged in the transmission, distribution, or delivery of electricity or  
4 natural gas in the State.

5 8-402.

6 (a) A franchise tax, measured by gross receipts, is imposed, for each calendar  
7 year, on each public service company[:

8 (1) engaged in a telephone business in the State; or  
9 (2)] engaged in the transmission, distribution, or delivery of electricity or  
10 natural gas in the State.

11 (b) The tax imposed under subsection (a) of this section does not apply to a  
12 public service company that is:

13 (1) a county;  
14 (2) a municipal corporation; or  
15 (3) a nonprofit electric cooperative.

16 8-406.

17 (a) A public service company may claim a credit against the public service  
18 company franchise tax equal to the estimated tax paid under § 8-405(b) of this  
19 subtitle.

20 (b) A public service company, including any multijurisdictional public service  
21 company, may claim a credit against the public service company franchise tax in the  
22 amount of \$3 for each ton of Maryland-mined coal that the public service company  
23 purchased in the calendar year.

24 [(c) (1) To prevent actual multiple taxation of the sale of interstate long  
25 distance telecommunications service, a long distance telecommunications company,  
26 upon proof that it has paid a properly due excise, sales and use, or gross receipts tax  
27 in another state on a sale the gross receipts from which are subject to taxation under  
28 this subtitle, shall be allowed a credit against the public service company franchise  
29 tax for the amount paid.

30 (2) The credit permitted under this subsection may not exceed the tax  
31 imposed under this subtitle.]

32 [8-407.

33 A telephone company may claim a credit against the public service company  
34 franchise tax equal to all approved and applicable federal and State tariff charges for

1 telephone lifeline service not billed to eligible subscribers as provided in § 8-201 of  
2 the Public Utility Companies Article.]

3 8-409.

4 [(a) The public service company franchise tax with respect to gross receipts  
5 from telecommunications service shall be added to and disclosed as an element of the  
6 public service company's charge to the customer for the service.

7 (b)] A public service company may surcharge its customers for the public  
8 service company franchise tax imposed under § 8-402.1 of this subtitle.

9 11-101.

10 (A-1) "AFFILIATED GROUP" MEANS ONE OR MORE ENTITIES CONNECTED  
11 THROUGH OWNERSHIP WITH A COMMON PARENT OR OWNER WITH AT LEAST 80%  
12 CONTROL.

13 (B-2) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
14 PARAGRAPH, "CUSTOMER" MEANS THE PERSON OR ENTITY THAT CONTRACTS WITH  
15 THE PROVIDER OF TELECOMMUNICATIONS SERVICES AND MOBILE  
16 TELECOMMUNICATIONS SERVICES.

17 (II) IF THE END USER OF TELECOMMUNICATIONS SERVICE IS NOT  
18 THE CONTRACTING PARTY, FOR THE PURPOSE OF DETERMINING THE JURISDICTION  
19 TO TAX THE TELECOMMUNICATIONS SERVICE ONLY, "CUSTOMER" MEANS THE END  
20 USER OF THE TELECOMMUNICATIONS SERVICE.

21 (2) "CUSTOMER" DOES NOT INCLUDE:

22 (I) A RESELLER OF TELECOMMUNICATIONS SERVICE; OR

23 (II) A SERVING CARRIER UNDER AN ARRANGEMENT TO SERVE THE  
24 CUSTOMER OUTSIDE THE HOME SERVICE PROVIDER'S LICENSED SERVICE AREA.

25 (B-3) "END USER" MEANS:

26 (1) THE INDIVIDUAL WHO USES THE TELECOMMUNICATIONS SERVICE;  
27 OR

28 (2) IN THE CASE OF AN ENTITY, THE INDIVIDUAL EMPLOYEE WHO USES  
29 THE SERVICE ON BEHALF OF THE ENTITY.

30 (B-4) "HOME SERVICE PROVIDER" HAS THE MEANING STATED IN 4 U.S.C. § 124.

31 (B-5) "LICENSED SERVICE AREA" HAS THE MEANING STATED IN 4 U.S.C. § 124.

32 (B-6) "MOBILE TELECOMMUNICATIONS SERVICE" HAS THE MEANING STATED IN  
33 4 U.S.C. § 124.

1 (C-1) "PLACE OF PRIMARY USE" MEANS THE STREET ADDRESS  
2 REPRESENTATIVE OF WHERE THE CUSTOMER'S USE OF THE TELECOMMUNICATIONS  
3 SERVICE PRIMARILY OCCURS, WHICH IS:

4 (1) THE RESIDENTIAL STREET ADDRESS OR THE PRIMARY BUSINESS  
5 STREET ADDRESS OF THE CUSTOMER; AND

6 (2) IN THE CASE OF MOBILE TELECOMMUNICATIONS SERVICES, WITHIN  
7 THE LICENSE SERVICE AREA OF THE HOME SERVICE PROVIDER.

8 [(c-1)] (C-2) "Prepaid telephone calling arrangement" means the right to use  
9 telecommunications services, paid for in advance, that enables the origination of calls  
10 using an access number or authorization code, whether manually or electronically  
11 dialed.

12 (H-1) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
13 "SERVICE ADDRESS" MEANS THE LOCATION OF THE TELECOMMUNICATIONS  
14 EQUIPMENT FROM WHICH TELECOMMUNICATIONS SERVICES ARE ORIGINATED OR  
15 AT WHICH TELECOMMUNICATIONS SERVICES ARE RECEIVED BY A CUSTOMER.

16 (2) (I) IN THE CASE OF CHARGES FOR THE RIGHT TO RECEIVE  
17 TELECOMMUNICATIONS SERVICES NOT SOLD ON A CALL-BY-CALL BASIS, SUCH AS A  
18 SPECIFIED AMOUNT OF TIME REGARDLESS OF CALL ORIGINATION OR TERMINATION  
19 POINT, "SERVICE ADDRESS" MEANS THE CUSTOMER'S PLACE OF PRIMARY USE.

20 (II) IN THE CASE OF CHARGES FOR TELECOMMUNICATIONS  
21 SERVICES OBTAINED THROUGH THE USE OF A CREDIT OR PAYMENT MECHANISM  
22 SUCH AS A BANK, TRAVEL, CREDIT, OR DEBIT CARD OR IF THE SERVICE IS OBTAINED  
23 BY CHARGING TELECOMMUNICATIONS EQUIPMENT THAT IS NOT ASSOCIATED WITH  
24 THE ORIGINATION OR TERMINATION OF THE TELECOMMUNICATION, SUCH AS BY  
25 THE USE OF A CALLING CARD, "SERVICE ADDRESS" MEANS THE JURISDICTION  
26 WHOSE TERRITORIAL LIMITS ENCOMPASS THE LOCATION OF FIRST ORIGINATION  
27 POINT OF THE SIGNALS OF THE TELECOMMUNICATION AS IDENTIFIED BY THE  
28 PROVIDER OF THE TELECOMMUNICATIONS SERVICE.

29 (k) (1) "Taxable service" means:

30 [(1)] (I) fabrication, printing, or production of tangible personal  
31 property by special order;

32 [(2)] (II) commercial cleaning or laundering of textiles for a buyer who is  
33 engaged in a business that requires the recurring service of commercial cleaning or  
34 laundering of the textiles;

35 [(3)] (III) cleaning of a commercial or industrial building;

36 [(4)] (IV) [cellular telephone or other mobile] telecommunications  
37 service WHERE THE SERVICE ADDRESS IS IN THE STATE, INCLUDING MOBILE  
38 TELECOMMUNICATIONS SERVICES THAT ARE BILLED TO THE CUSTOMER BY OR FOR  
39 THE CUSTOMER'S HOME SERVICE PROVIDER REGARDLESS OF WHETHER INDIVIDUAL

1 TRANSMISSIONS ORIGINATE OR TERMINATE WITHIN THE LICENSED SERVICE AREA  
2 OF THE HOME SERVICE PROVIDER;

3 [(5) "900", "976", "915", and other "900"-type telecommunications service;

4 (6) custom calling service provided in connection with basic telephone  
5 service;]

6 [(7)] (V) a telephone answering service;

7 [(8)] (VI) pay per view television service;

8 [(9)] (VII) credit reporting;

9 [(10)] (VIII) a security service, including:

10 [(i)] 1. a detective, guard, or armored car service; and

11 [(ii)] 2. a security systems service;

12 [(11)] (IX) a transportation service for transmission, distribution, or  
13 delivery of electricity or natural gas, if the sale or use of the electricity or natural gas  
14 is subject to the sales and use tax; or

15 [(12)] (X) a prepaid telephone calling arrangement.

16 (2) "TAXABLE SERVICE" DOES NOT INCLUDE INTERNET ACCESS SERVICE  
17 BY WHICH A CONNECTION IS PROVIDED BETWEEN A COMPUTER AND THE INTERNET.

18 (K-1) (1) "TELECOMMUNICATIONS SERVICE" INCLUDES:

19 (I) INTERSTATE TELECOMMUNICATIONS SERVICE ORIGINATING  
20 OR TERMINATING IN THIS STATE AND CHARGED TO A SERVICE ADDRESS IN THIS  
21 STATE;

22 (II) INTRASTATE TELECOMMUNICATIONS SERVICE; AND

23 (III) CUSTOM CALLING SERVICE PROVIDED IN CONNECTION WITH  
24 BASIC CALLING SERVICE, IF THE CUSTOM CALLING SERVICE HAS BEEN IDENTIFIED  
25 AS CUSTOM CALLING SERVICE IN A TARIFF FILED WITH THE PUBLIC SERVICE  
26 COMMISSION.

27 (2) TELECOMMUNICATIONS SERVICE DOES NOT INCLUDE:

28 (I) SERVICE USED BY A TELECOMMUNICATIONS PROVIDER WHEN  
29 THE SERVICE IS:

30 1. USED IN OPERATING A TELECOMMUNICATIONS  
31 BUSINESS;

- 1   2.            SOLD BETWEEN MEMBERS OF AN AFFILIATED GROUP;  
 2 AND
- 3   3.            USED AND CONSUMED INTERNALLY BY MEMBERS OF AN  
 4 AFFILIATED GROUP;
- 5   (II)        TELECOMMUNICATIONS SERVICE PAID FOR BY INSERTING  
 6 MONEY INTO A TELEPHONE ACCEPTING DIRECT DEPOSITS OF MONEY TO OPERATE;
- 7   (III)       PREPAID TELEPHONE CALLING ARRANGEMENTS;
- 8   (IV)        A VOLUME DISCOUNT TELECOMMUNICATIONS SERVICE WHICH  
 9 ENTITLES THE SUBSCRIBER UPON THE PAYMENT OF A PERIODIC CHARGE, TO THE  
 10 PRIVILEGE OF AN UNLIMITED NUMBER OF INBOUND CALLS TYPICALLY MARKETED  
 11 UNDER THE NAME "800", "855", "866", "877", AND "888" TOLL-FREE CALLING, OR ANY  
 12 SUBSEQUENT NUMBERS DESIGNATED BY THE FEDERAL COMMUNICATIONS  
 13 COMMISSION;
- 14                                        (V)        A PRIVATE COMMUNICATIONS SERVICE FURNISHED TO A  
 15 SUBSCRIBER WHICH ENTITLES THE SUBSCRIBER:
- 16                                        1.           REGARDLESS OF WHETHER THE CHANNEL, GROUPS OF  
 17 CHANNELS, OR INTERCOMMUNICATIONS SYSTEM MAY BE CONNECTED THROUGH  
 18 SWITCHING, TO:
- 19                                        A.         EXCLUSIVE OR PRIORITY USE OF ANY COMMUNICATIONS  
 20 CHANNEL OR GROUPS OF CHANNELS; OR
- 21                                        B.         THE USE OF AN INTERCOMMUNICATIONS SYSTEM FOR  
 22 THE SUBSCRIBER'S STATIONS;
- 23                                        2.           TO THE SWITCHING CAPACITY, EXTENSION LINES AND  
 24 STATIONS, OR OTHER ASSOCIATED SERVICES PROVIDED IN CONNECTION WITH AND  
 25 NECESSARY OR UNIQUE TO THE USE OF, CHANNELS OR SYSTEMS DESCRIBED IN  
 26 ITEM 1 OF THIS ITEM; OR
- 27                                        3.           TO ANY COMBINATION OF TUNNELING, ENCRYPTION,  
 28 AUTHENTICATION, AND ACCESS CONTROL TECHNOLOGIES AND SERVICES USED TO  
 29 CARRY TRAFFIC OVER THE INTERNET, A MANAGED IP NETWORK, OR A PROVIDER'S  
 30 BACKBONE; OR
- 31                                        (VI)       ACCESS AND UNBUNDLED NETWORK ELEMENTS FOR USE IN  
 32 THE PROVISION OF TELECOMMUNICATIONS SERVICES.

33 11-105.

34       (a)       Except as provided in subsection (b) OR (C) of this section, a person who  
 35 timely files a sales and use tax return is allowed, for the expense of collecting and  
 36 paying the tax, a credit equal to 0.9% of the gross amount of sales and use tax that the  
 37 person is to pay to the Comptroller.



1 (b) (1) Subject to paragraph (2) of this subsection, the credit allowed under  
2 this section is 1.2% of the first \$6,000 of the gross amount of sales and use tax that  
3 the person is to pay with each return.

4 (2) For a vendor who files or is eligible to file a consolidated return under  
5 § 11-502 of this title, the credit allowed under paragraph (1) of this subsection is 1.2%  
6 of the first \$6,000 of the gross amount of sales and use tax that the person is or would  
7 be required to pay with the consolidated return.

8 (C) FOR A SELLER WHO IS NOT REQUIRED TO COLLECT THE SALES AND USE  
9 TAX, BUT AGREES TO ACCEPT THE COLLECTION RULES AS THOUGH IT WERE  
10 REQUIRED, THE CREDIT ALLOWED UNDER THIS SECTION IS 3% OF THE GROSS  
11 AMOUNT OF SALES AND USE TAX THAT THE PERSON IS TO PAY TO THE  
12 COMPTROLLER.

13 11-109.

14 (A) TO PREVENT ACTUAL MULTIPLE TAXATION OF THE SALE OF INTERSTATE  
15 TELECOMMUNICATIONS SERVICE, A TAXPAYER, UPON PROOF THAT IT HAS PAID OR  
16 COLLECTED A PROPERLY DUE EXCISE, SALES AND USE, OR GROSS RECEIPTS TAX IN  
17 ANOTHER STATE ON THE SAME INTERSTATE TELECOMMUNICATIONS SERVICE  
18 WHICH IS SUBJECT TO TAXATION UNDER THIS TITLE, SHALL BE ALLOWED A CREDIT  
19 AGAINST THE SALES AND USE TAX FOR THE AMOUNT PAID.

20 (B) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE TAX  
21 IMPOSED UNDER THIS TITLE.

22 11-110.

23 (A) (1) (I) A HOME SERVICE PROVIDER SHALL ASCERTAIN AND MAINTAIN  
24 A RECORD OF THE CUSTOMER'S PLACE OF PRIMARY USE.

25 (II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF THE  
26 HOME SERVICE PROVIDER'S RELIANCE ON INFORMATION PROVIDED BY ITS  
27 CUSTOMER IS IN GOOD FAITH:

28 1. THE HOME SERVICE PROVIDER MAY RELY ON THE  
29 APPLICABLE RESIDENTIAL OR BUSINESS STREET ADDRESS SUPPLIED BY THE HOME  
30 SERVICE PROVIDER'S CUSTOMER; AND

31 2. THE HOME SERVICE PROVIDER IS NOT RESPONSIBLE FOR  
32 ANY ADDITIONAL TAX UNDER THIS TITLE BASED ON A DIFFERENT DETERMINATION  
33 OF THE PLACE OF PRIMARY USE.

34 (2) A HOME SERVICE PROVIDER MAY USE THE ADDRESS IT CURRENTLY  
35 USES FOR THIS TITLE FOR ANY CUSTOMER UNDER A SERVICE CONTRACT OR  
36 AGREEMENT IN EFFECT ON JULY 28, 2002, AS THAT CUSTOMER'S PLACE OF PRIMARY  
37 USE FOR THE REMAINING TERM OF THAT SERVICE CONTRACT OR AGREEMENT,  
38 EXCLUDING ANY EXTENSION OR RENEWAL OF THE SERVICE CONTRACT OR  
39 AGREEMENT, FOR PURPOSES OF DETERMINING THE TAXING JURISDICTIONS TO

1 WHICH TAXES, CHARGES, OR FEES ON CHARGES FOR MOBILE  
2 TELECOMMUNICATIONS SERVICES ARE REMITTED.

3 (3) (I) IF THE COMPTROLLER DETERMINES THAT THE ADDRESS USED  
4 BY A HOME SERVICE PROVIDER AS A CUSTOMER'S PLACE OF PRIMARY USE IS NOT  
5 THE CUSTOMER'S PLACE OF PRIMARY USE, THE COMPTROLLER SHALL NOTIFY THE  
6 CUSTOMER OF THAT DETERMINATION AND PROVIDE THE CUSTOMER AN  
7 OPPORTUNITY TO DEMONSTRATE THAT THE ADDRESS IS THE PLACE OF PRIMARY  
8 USE.

9 (II) IF THE CUSTOMER FAILS TO DEMONSTRATE THAT THE  
10 ADDRESS IS THE CUSTOMER'S PLACE OF PRIMARY USE:

11 1. THE COMPTROLLER SHALL PROVIDE THE HOME SERVICE  
12 PROVIDER WITH THE PROPER ADDRESS TO BE USED AS THE CUSTOMER'S PLACE OF  
13 PRIMARY USE; AND

14 2. THE HOME SERVICE PROVIDER SHALL BEGIN USING THE  
15 ADDRESS AS THE CUSTOMER'S PLACE OF PRIMARY USE WITHIN 120 DAYS.

16 (B) (1) NOTWITHSTANDING § 11-101(J) OF THIS SUBTITLE, IF NONTAXABLE  
17 CHARGES ARE AGGREGATED WITH AND NOT SEPARATELY STATED FROM TAXABLE  
18 CHARGES FOR TELECOMMUNICATIONS SERVICES, THE NONTAXABLE CHARGES ARE  
19 INCLUDED IN THE TAXABLE PRICE UNLESS THE PROVIDER CAN REASONABLY  
20 IDENTIFY NONTAXABLE CHARGES FROM ITS BOOKS AND RECORDS THAT ARE KEPT  
21 IN THE REGULAR COURSE OF BUSINESS.

22 (2) A CUSTOMER MAY NOT RELY UPON THE NONTAXABILITY OF  
23 CHARGES FOR TELECOMMUNICATIONS SERVICES UNLESS:

24 (I) THE CUSTOMER'S PROVIDER SEPARATELY STATES THE  
25 CHARGES FOR NONTAXABLE TELECOMMUNICATIONS SERVICES FROM TAXABLE  
26 CHARGES; OR

27 (II) THE PROVIDER ELECTS, AFTER RECEIVING WRITTEN REQUEST  
28 FROM THE CUSTOMER IN THE FORM REQUIRED BY THE PROVIDER, TO PROVIDE  
29 VERIFIABLE DATA BASED UPON THE PROVIDER'S BOOKS AND RECORDS THAT ARE  
30 KEPT IN THE REGULAR COURSE OF BUSINESS THAT REASONABLY IDENTIFIES THE  
31 NONTAXABLE CHARGES.

32 11-210.

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

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

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

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

1 (1) tangible personal property used directly and predominantly in a  
2 production activity at any stage of operation on the production activity site from the  
3 handling of raw material or components to the movement of the finished product, if  
4 the tangible personal property is not installed so that it becomes real property;

5 (2) a melting, smelting, heating, or annealing coke oven, aluminum  
6 furnace, anode bake oven, electrolytic pot, cathode, refractory, or other material used  
7 in relining and rebuilding a furnace or oven; or

8 (3) a foundation to support other machinery or equipment or an item  
9 required to conform to an air or water pollution law and normally considered part of  
10 real property.

11 (c) The sales and use tax does not apply to a sale of equipment that is used by  
12 a retail food vendor to manufacture or process bread or bakery goods for resale if:

13 (1) the taxable price of each piece of equipment is at least \$2,000; and

14 (2) the retail food vendor operates a substantial grocery or market  
15 business, as defined in § 11-206(a) of this subtitle, at the same location where the  
16 food is sold.

17 (d) The sales and use tax does not apply to the sale, on or after January 1,  
18 2000 but before January 1, 2008, of machinery or equipment:

19 (1) that enables a television or radio station to originate and broadcast or  
20 to receive and broadcast digital signals; and

21 (2) that was or is purchased to comply with or to facilitate compliance  
22 with the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56.

23 (E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE  
24 MEANINGS INDICATED.

25 (II) "INTERNET" MEANS COLLECTIVELY THE COMPUTER AND  
26 TELECOMMUNICATIONS FACILITIES, INCLUDING EQUIPMENT AND OPERATING  
27 SOFTWARE, THAT COMPRISE THE INTERCONNECTED WORLDWIDE NETWORK OF  
28 NETWORKS THAT EMPLOY THE TRANSMISSION CONTROL PROTOCOL/INTERNET  
29 PROTOCOL, OR ANY PREDECESSOR OR SUCCESSOR PROTOCOLS TO THE PROTOCOL.

30 (III) "INTERNET SERVICE" MEANS THE OFFERING OR PROVISION OF  
31 USE OF THE INTERNET.

32 (IV) 1. "MACHINERY OR EQUIPMENT" INCLUDES OPERATING  
33 SOFTWARE, REPLACEMENT PARTS AND SUPPLIES, AND MAINTENANCE SUPPLIES.

34 2. "MACHINERY OR EQUIPMENT" DOES NOT INCLUDE:

35 A. OFFICE FURNITURE AND EQUIPMENT;

36 B. MOTOR VEHICLES; OR

1 C. UPGRADES TO A SYSTEM THAT WAS NOT ORIGINALLY  
2 DESIGNED TO PROVIDE TELECOMMUNICATIONS, UNLESS THE PURPOSE OF THE  
3 UPGRADE IS TO ALLOW THE SYSTEM TO PROVIDE TELECOMMUNICATIONS OR  
4 INTERNET SERVICE OR TO MODIFY THE TELECOMMUNICATIONS FUNCTIONS OF THE  
5 SYSTEM.

6 (V) "TELECOMMUNICATIONS" MEANS TELECOMMUNICATIONS  
7 SERVICE AS DEFINED IN § 11-101(K-1)(1) OF THIS TITLE, WITHOUT REGARD TO THE  
8 EXCLUSIONS UNDER § 11-101(K-1)(2) OF THIS TITLE.

9 (VI) 1. "TELECOMMUNICATIONS PROVIDER" MEANS A PROVIDER  
10 OF TELECOMMUNICATIONS FOR A FEE DIRECTLY TO THE PUBLIC, OR SUCH CLASSES  
11 OF USERS AS TO BE EFFECTIVELY AVAILABLE DIRECTLY TO THE PUBLIC,  
12 REGARDLESS OF THE FACILITIES USED.

13 2. "TELECOMMUNICATIONS PROVIDER" INCLUDES:

14 A. A WHOLESALE PROVIDER OF TELECOMMUNICATIONS;  
15 AND

16 B. ALL PARTICIPANTS SUPPORTING THE PROVISION OF  
17 TELECOMMUNICATIONS, INCLUDING SUBSIDIARIES, AFFILIATES, AND PARTNERS,  
18 FOR EQUIPMENT SOLD TO OR USED BY THOSE PARTICIPANTS TO CONSTRUCT,  
19 ESTABLISH, OR MAINTAIN TELECOMMUNICATIONS SYSTEMS OR TO UPGRADE OTHER  
20 SYSTEMS TO ALLOW FOR THE PROVISION OF TELECOMMUNICATIONS.

21 3. "TELECOMMUNICATIONS PROVIDER" DOES NOT INCLUDE  
22 A PERSON WHO PROVIDES TELECOMMUNICATIONS SERVICE PREDOMINANTLY FOR  
23 USE IN FACILITIES OWNED BY THE PERSON OR ONE OR MORE AFFILIATES OF THE  
24 PERSON, OTHER THAN FOR USE IN PROVIDING TELECOMMUNICATIONS SERVICE TO  
25 UNAFFILIATED PERSONS WHO ARE NOT LOCATED IN THOSE FACILITIES.

26 (VII) "WEB HOSTING" MEANS SUPPLYING THE MEMORY SPACE  
27 WHERE INTERNET WEB SITES ARE STORED IN THE HARD DISK OF A SERVER,  
28 SUPPLYING SECURE SPACE AND REDUNDANT POWER SUPPLIES FOR CUSTOMER  
29 OWNED HOST SERVERS, CONNECTION OF THOSE SERVERS TO THE INTERNET, AND  
30 OTHER ATTENDANT SERVICES.

31 (2) THE SALES AND USE TAX DOES NOT APPLY TO:

32 (I) THE SALE OF ANY MACHINERY OR EQUIPMENT TO A  
33 TELECOMMUNICATIONS PROVIDER FOR USE IN THE CONDUCT OF A  
34 TELECOMMUNICATIONS BUSINESS, AN INTERNET SERVICE BUSINESS, OR A WEB  
35 HOSTING BUSINESS; OR

36 (II) THE SERVICE OF ASSEMBLING, FABRICATING, OR  
37 MAINTAINING MACHINERY OR EQUIPMENT DESCRIBED IN ITEM (I) OF THIS  
38 PARAGRAPH.

1 11-407.

2 (a) (1) [On] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,  
3 ON or after July 1, 1993, the Comptroller may not:

4 (i) grant the authority to make direct payment, to the Comptroller,  
5 of sales and use tax due on purchases by a vendor; or

6 (ii) issue permits evidencing such authority.

7 (2) Notwithstanding the provisions of paragraph (1) of this subsection,  
8 the Comptroller may continue to administer direct payment permits issued to vendors  
9 before July 1, 1993.

10 (3) The Comptroller may:

11 (i) allow the use of the permit subject to reasonable and necessary  
12 terms and conditions; and

13 (ii) revoke the direct payment permit at any time for cause.

14 (b) A vendor who receives evidence that the buyer has a direct payment  
15 permit is discharged from:

16 (1) the duty to collect the sales and use tax; and

17 (2) the liability for the sales and use tax.

18 (C) (1) ON OR BEFORE JANUARY 1, 2002, THE COMPTROLLER SHALL  
19 IMPLEMENT A PILOT DIRECT PAYMENT PERMIT PROGRAM AS A MEANS OF  
20 COLLECTING THE SALES AND USE TAX.

21 (2) THE COMPTROLLER SHALL WORK WITH MARYLAND BUSINESS  
22 TAXPAYERS AND THEIR REPRESENTATIVES TO IMPLEMENT THE PILOT PROGRAM  
23 AND TO SET STANDARDS FOR PARTICIPATION IN THE PILOT PROGRAM.

24 (3) (I) THE COMPTROLLER SHALL SELECT THE PARTICIPANTS FOR  
25 THE PILOT PROGRAM.

26 (II) PARTICIPATION IN THE PILOT PROGRAM SHALL BE  
27 VOLUNTARY.

28 (III) THE COMPTROLLER SHALL SELECT A SUFFICIENT NUMBER OF  
29 TAXPAYERS TO PARTICIPATE IN THE PILOT PROGRAM TO EVALUATE THE VALUE OF A  
30 DIRECT PAYMENT SYSTEM.

31 (4) (I) ON OR BEFORE JANUARY 1, 2003, THE COMPTROLLER SHALL  
32 REPORT ON THE PILOT PROGRAM TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF  
33 THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

1 (II) THE REPORT SHALL INCLUDE A RECOMMENDATION AS TO  
2 WHETHER A DIRECT PAYMENT PERMIT PROGRAM SHOULD BE IMPLEMENTED.

3 (III) IF THE COMPTROLLER RECOMMENDS THAT A DIRECT  
4 PAYMENT PERMIT PROGRAM BE IMPLEMENTED, THE REPORT SHALL ALSO INCLUDE  
5 RECOMMENDED LEGISLATION TO IMPLEMENT THAT PROGRAM.

6 (5) THE PILOT PROGRAM SHALL END NO LATER THAN JULY 1, 2003.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 January 1, 2002.