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By: **Delegates Hixson, Kopp, and Hurson**  
Introduced and read first time: February 23, 2001  
Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Simplified Sales and Use Tax Administration Act**

3 FOR the purpose of enacting the Simplified Sales and Use Tax Administration Act;  
4 defining certain terms; stating the findings of the General Assembly; providing  
5 for certain representatives of the State to enter into certain multistate  
6 discussions concerning a Streamlined Sales and Use Tax Agreement;  
7 authorizing the Comptroller to enter into the Agreement with other states to  
8 simplify and modernize sales and use tax administration; authorizing the  
9 Comptroller to act jointly with other states that are members of the Agreement  
10 to establish certain certification and performance standards; providing that  
11 certain requirements must be in place before the State may enter into the  
12 Agreement; providing that no provision of the Agreement invalidates or amends  
13 any provision of State law; providing for certain provisions regarding certified  
14 service providers and certified automated systems; requiring the Comptroller to  
15 provide certain reports to the Governor and the General Assembly on the  
16 progress of multistate discussions; altering the termination date of a certain Act;  
17 providing for the application and termination of this Act; and generally relating  
18 to the enactment of the Simplified Sales and Use Tax Administration Act.

19 BY adding to  
20 Article - Tax - General  
21 Section 11-4A-01 through 11-4A-11 to be under the new subtitle "Subtitle 4A.  
22 Simplified Sales and Use Tax Administration Act"  
23 Annotated Code of Maryland  
24 (1997 Replacement Volume and 2000 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Chapter 698 of the Acts of the General Assembly of 2000  
27 Section 2

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

1 **Article - Tax - General**

2 SUBTITLE 4A. SIMPLIFIED SALES AND USE TAX ADMINISTRATION ACT.

3 11-4A-01.

4 THIS SUBTITLE MAY BE CITED AS THE "SIMPLIFIED SALES AND USE TAX  
5 ADMINISTRATION ACT".

6 11-4A-02.

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
8 INDICATED.9 (B) "AGREEMENT" MEANS THE STREAMLINED SALES AND USE TAX  
10 AGREEMENT AS AMENDED AND ADOPTED BY THE NATIONAL CONFERENCE OF STATE  
11 LEGISLATURES ON JANUARY 27, 2001.12 (C) "CERTIFIED AUTOMATED SYSTEM" MEANS SOFTWARE CERTIFIED  
13 JOINTLY BY THE STATES THAT ARE SIGNATORIES TO THE AGREEMENT TO  
14 CALCULATE THE TAX IMPOSED BY EACH JURISDICTION ON A TRANSACTION,  
15 DETERMINE THE AMOUNT OF TAX TO REMIT TO THE APPROPRIATE STATE, AND  
16 MAINTAIN A RECORD OF THE TRANSACTION.17 (D) "CERTIFIED SERVICE PROVIDER" MEANS AN AGENT CERTIFIED JOINTLY  
18 BY THE STATES THAT ARE SIGNATORIES TO THE AGREEMENT TO PERFORM ALL OF  
19 THE SELLER'S SALES AND USE TAX FUNCTIONS.20 (E) "PERSON" MEANS AN INDIVIDUAL, TRUST, ESTATE, FIDUCIARY,  
21 PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP,  
22 JOINT VENTURE, CORPORATION, OR ANY OTHER LEGAL ENTITY.

23 (F) "SALES AND USE TAX" MEANS THE TAX IMPOSED UNDER THIS TITLE.

24 (G) "SELLER" MEANS ANY PERSON MAKING SALES, LEASES, OR RENTALS OF  
25 PERSONAL PROPERTY OR SERVICES.26 (H) "STATE" MEANS ANY STATE OF THE UNITED STATES AND THE DISTRICT OF  
27 COLUMBIA.

28 11-4A-03.

29 (A) THE GENERAL ASSEMBLY FINDS THAT A SIMPLIFIED SALES AND USE TAX  
30 SYSTEM WILL REDUCE AND OVER TIME ELIMINATE THE BURDEN AND COST FOR ALL  
31 VENDORS TO COLLECT THIS STATE'S SALES AND USE TAX.32 (B) THE GENERAL ASSEMBLY FURTHER FINDS THAT THIS STATE SHOULD  
33 PARTICIPATE IN MULTISTATE DISCUSSIONS TO REVIEW AND/OR AMEND THE TERMS  
34 OF THE AGREEMENT TO SIMPLIFY AND MODERNIZE SALES AND USE TAX

1 ADMINISTRATION IN ORDER TO SUBSTANTIALLY REDUCE THE BURDEN OF TAX  
2 COMPLIANCE FOR ALL SELLERS AND FOR ALL TYPES OF COMMERCE.

3 11-4A-04.

4 (A) FOR THE PURPOSES OF REVIEWING AND/OR AMENDING THE AGREEMENT  
5 EMBODYING THE SIMPLIFICATION REQUIREMENTS AS CONTAINED IN § 11-4A-07 OF  
6 THIS SUBTITLE, THE STATE SHALL ENTER INTO MULTISTATE DISCUSSIONS.

7 (B) FOR PURPOSES OF THE DISCUSSIONS, THE STATE SHALL BE  
8 REPRESENTED BY NO MORE THAN FOUR REPRESENTATIVES, APPOINTED AS  
9 FOLLOWS:

10 (1) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE  
11 SPEAKER OF THE HOUSE;

12 (2) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE  
13 PRESIDENT OF THE SENATE;

14 (3) ONE INDIVIDUAL APPOINTED BY THE GOVERNOR; AND

15 (4) THE COMPTROLLER OR THE DESIGNEE OF THE COMPTROLLER.

16 (C) EACH REPRESENTATIVE:

17 (1) MAY NOT RECEIVE COMPENSATION; BUT

18 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
19 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

20 11-4A-05.

21 (A) THE COMPTROLLER MAY ENTER INTO THE AGREEMENT WITH ONE OR  
22 MORE STATES TO SIMPLIFY AND MODERNIZE SALES AND USE TAX ADMINISTRATION  
23 IN ORDER TO SUBSTANTIALLY REDUCE THE BURDEN OF TAX COMPLIANCE FOR ALL  
24 SELLERS AND FOR ALL TYPES OF COMMERCE.

25 (B) IN FURTHERANCE OF THE AGREEMENT, THE COMPTROLLER IS  
26 AUTHORIZED TO ACT JOINTLY WITH OTHER STATES THAT ARE MEMBERS OF THE  
27 AGREEMENT TO ESTABLISH STANDARDS FOR CERTIFICATION OF A CERTIFIED  
28 SERVICE PROVIDER AND CERTIFIED AUTOMATED SYSTEM AND ESTABLISH  
29 PERFORMANCE STANDARDS FOR MULTISTATE SELLERS.

30 (C) (1) THE COMPTROLLER IS FURTHER AUTHORIZED TO TAKE OTHER  
31 ACTIONS REASONABLY REQUIRED TO IMPLEMENT THE PROVISIONS SET FORTH IN  
32 THIS SUBTITLE.

33 (2) OTHER ACTIONS AUTHORIZED BY THIS SECTION INCLUDE, BUT ARE  
34 NOT LIMITED TO, THE ADOPTION OF RULES AND REGULATIONS AND THE JOINT  
35 PROCUREMENT, WITH OTHER MEMBER STATES, OF GOODS AND SERVICES IN  
36 FURTHERANCE OF THE COOPERATIVE AGREEMENT.

1 (D) THE COMPTROLLER OR THE COMPTROLLER'S DESIGNEE IS AUTHORIZED  
2 TO REPRESENT THIS STATE BEFORE THE OTHER STATES THAT ARE SIGNATORIES TO  
3 THE AGREEMENT.

4 11-4A-06.

5 (A) NO PROVISION OF THE AGREEMENT AUTHORIZED BY THIS SUBTITLE IN  
6 WHOLE OR IN PART INVALIDATES OR AMENDS ANY PROVISION OF THE LAW OF THIS  
7 STATE.

8 (B) ADOPTION OF THE AGREEMENT DOES NOT AMEND OR MODIFY ANY LAW  
9 OF THIS STATE.

10 (C) IMPLEMENTATION OF ANY CONDITION OF THE AGREEMENT IN THIS  
11 STATE, WHETHER ADOPTED BEFORE, AT, OR AFTER MEMBERSHIP OF THIS STATE IN  
12 THE AGREEMENT, MUST BE BY THE ACTION OF THIS STATE.

13 11-4A-07.

14 THE COMPTROLLER MAY NOT ENTER INTO THE AGREEMENT UNLESS THE  
15 AGREEMENT REQUIRES EACH STATE TO ABIDE BY THE FOLLOWING REQUIREMENTS:

16 (1) THE AGREEMENT MUST SET RESTRICTIONS TO LIMIT OVER TIME  
17 THE NUMBER OF STATE RATES;

18 (2) THE AGREEMENT MUST ESTABLISH UNIFORM STANDARDS FOR THE  
19 FOLLOWING:

20 (I) THE SOURCING OF TRANSACTIONS TO TAXING JURISDICTIONS;

21 (II) THE ADMINISTRATION OF EXEMPT SALES; AND

22 (III) SALES AND USE TAX RETURNS AND REMITTANCES;

23 (3) THE AGREEMENT MUST PROVIDE A CENTRAL, ELECTRONIC  
24 REGISTRATION SYSTEM THAT ALLOWS A SELLER TO REGISTER TO COLLECT AND  
25 REMIT SALES AND USE TAXES FOR ALL SIGNATORY STATES;

26 (4) THE AGREEMENT MUST PROVIDE THAT REGISTRATION WITH THE  
27 CENTRAL REGISTRATION SYSTEM AND THE COLLECTION OF SALES AND USE TAXES  
28 IN THE SIGNATORY STATES WILL NOT BE USED AS A FACTOR IN DETERMINING  
29 WHETHER THE SELLER HAS NEXUS WITH A STATE FOR ANY TAX;

30 (5) THE AGREEMENT MUST PROVIDE FOR REDUCTION OF THE BURDENS  
31 OF COMPLYING WITH LOCAL SALES AND USE TAXES THROUGH THE FOLLOWING:

32 (I) RESTRICTING VARIANCES BETWEEN THE STATE AND LOCAL  
33 TAX BASES;

34 (II) REQUIRING STATES TO ADMINISTER ANY SALES AND USE  
35 TAXES LEVIED BY LOCAL JURISDICTIONS WITHIN THE STATE SO THAT SELLERS

1 COLLECTING AND REMITTING THESE TAXES WILL NOT HAVE TO REGISTER OR FILE  
2 RETURNS WITH, REMIT FUNDS TO, OR BE SUBJECT TO INDEPENDENT AUDITS FROM  
3 LOCAL TAXING JURISDICTIONS;

4 (III) RESTRICTING THE FREQUENCY OF CHANGES IN THE LOCAL  
5 SALES AND USE TAX RATES AND SETTING EFFECTIVE DATES FOR THE APPLICATION  
6 OF LOCAL JURISDICTIONAL BOUNDARY CHANGES TO LOCAL SALES AND USE TAXES;  
7 AND

8 (IV) PROVIDING NOTICE OF CHANGES IN LOCAL SALES AND USE  
9 TAX RATES AND OF CHANGES IN THE BOUNDARIES OF LOCAL TAXING  
10 JURISDICTIONS;

11 (6) THE AGREEMENT MUST OUTLINE ANY MONETARY ALLOWANCES  
12 THAT ARE TO BE PROVIDED BY THE STATES TO SELLERS OR CERTIFIED SERVICE  
13 PROVIDERS;

14 (7) THE AGREEMENT MUST ALLOW FOR A JOINT PUBLIC AND PRIVATE  
15 SECTOR STUDY OF THE COMPLIANCE COST ON SELLERS AND CERTIFIED SERVICE  
16 PROVIDERS TO COLLECT SALES AND USE TAXES FOR STATE AND LOCAL  
17 GOVERNMENTS UNDER VARIOUS LEVELS OF COMPLEXITY TO BE COMPLETED BY  
18 JULY 1, 2002;

19 (8) THE AGREEMENT MUST REQUIRE EACH STATE TO CERTIFY  
20 COMPLIANCE WITH THE TERMS OF THE AGREEMENT PRIOR TO JOINING AND TO  
21 MAINTAIN COMPLIANCE, UNDER THE LAWS OF THE MEMBER STATE, WITH ALL  
22 PROVISIONS OF THE AGREEMENT WHILE A MEMBER;

23 (9) THE AGREEMENT MUST REQUIRE EACH STATE TO ADOPT A UNIFORM  
24 POLICY FOR CERTIFIED SERVICE PROVIDERS THAT PROTECTS THE PRIVACY OF  
25 CONSUMERS AND MAINTAINS THE CONFIDENTIALITY OF TAX INFORMATION; AND

26 (10) THE AGREEMENT MUST PROVIDE FOR THE APPOINTMENT OF AN  
27 ADVISORY COUNCIL OF PRIVATE SECTOR REPRESENTATIVES AND AN ADVISORY  
28 COUNCIL OF NONMEMBER STATE REPRESENTATIVES TO CONSULT WITH IN THE  
29 ADMINISTRATION OF THE AGREEMENT.

30 11-4A-08.

31 (A) THE AGREEMENT AUTHORIZED BY THIS SUBTITLE IS AN ACCORD AMONG  
32 INDIVIDUAL COOPERATING SOVEREIGNS IN FURTHERANCE OF THEIR  
33 GOVERNMENTAL FUNCTIONS.

34 (B) THE AGREEMENT PROVIDES A MECHANISM AMONG THE MEMBER STATES  
35 TO ESTABLISH AND MAINTAIN A COOPERATIVE, SIMPLIFIED SYSTEM FOR THE  
36 APPLICATION AND ADMINISTRATION OF SALES AND USE TAXES UNDER THE DULY  
37 ADOPTED LAW OF EACH MEMBER STATE.

1 11-4A-09.

2 (A) (1) THE AGREEMENT AUTHORIZED BY THIS SUBTITLE BINDS AND  
3 INURES ONLY TO THE BENEFIT OF THIS STATE AND THE OTHER MEMBER STATES.

4 (2) NO PERSON, OTHER THAN A MEMBER STATE, IS AN INTENDED  
5 BENEFICIARY OF THE AGREEMENT.

6 (3) ANY BENEFIT TO A PERSON OTHER THAN A STATE IS ESTABLISHED  
7 BY THE LAW OF THIS STATE AND THE OTHER MEMBER STATES AND NOT BY THE  
8 TERMS OF THE AGREEMENT.

9 (B) (1) NO PERSON SHALL HAVE ANY CAUSE OF ACTION OR DEFENSE  
10 UNDER THE AGREEMENT OR BY VIRTUE OF THE STATE'S APPROVAL OF THE  
11 AGREEMENT.

12 (2) NO PERSON MAY CHALLENGE, IN ANY ACTION BROUGHT UNDER ANY  
13 PROVISION OF LAW, ANY ACTION OR INACTION BY ANY DEPARTMENT, AGENCY, OR  
14 OTHER INSTRUMENTALITY OF THIS STATE, OR ANY POLITICAL SUBDIVISION OF THIS  
15 STATE, ON THE GROUND THAT THE ACTION OR INACTION IS INCONSISTENT WITH  
16 THE AGREEMENT.

17 (C) NO LAW OF THIS STATE, OR THE APPLICATION THEREOF, MAY BE  
18 DECLARED INVALID AS TO ANY PERSON OR CIRCUMSTANCE ON THE GROUND THAT  
19 THE PROVISION OR APPLICATION IS INCONSISTENT WITH THE AGREEMENT.

20 11-4A-10.

21 (A) (1) A CERTIFIED SERVICE PROVIDER IS THE AGENT OF A SELLER, WITH  
22 WHOM THE CERTIFIED SERVICE PROVIDER HAS CONTRACTED, FOR THE COLLECTION  
23 AND REMITTANCE OF SALES AND USE TAXES.

24 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE CERTIFIED  
25 SERVICE PROVIDER IS LIABLE FOR SALES AND USE TAX DUE EACH MEMBER STATE  
26 ON ALL SALES TRANSACTIONS IT PROCESSES FOR THE SELLER.

27 (3) A SELLER THAT CONTRACTS WITH A CERTIFIED SERVICE PROVIDER  
28 IS NOT LIABLE TO THE STATE FOR SALES OR USE TAX DUE ON TRANSACTIONS  
29 PROCESSED BY THE CERTIFIED SERVICE PROVIDER UNLESS THE SELLER  
30 MISREPRESENTED THE TYPE OF ITEMS IT SELLS OR COMMITTED FRAUD.

31 (4) IN THE ABSENCE OF PROBABLE CAUSE TO BELIEVE THAT THE  
32 SELLER HAS COMMITTED FRAUD OR MADE A MATERIAL MISREPRESENTATION, THE  
33 SELLER IS NOT SUBJECT TO AUDIT ON THE TRANSACTIONS PROCESSED BY THE  
34 CERTIFIED SERVICE PROVIDER.

35 (5) A SELLER IS SUBJECT TO AUDIT FOR TRANSACTIONS NOT  
36 PROCESSED BY THE CERTIFIED SERVICE PROVIDER.

1 (6) THE MEMBER STATES ACTING JOINTLY MAY PERFORM A SYSTEM  
2 CHECK OF THE SELLER AND REVIEW THE SELLER'S PROCEDURES TO DETERMINE IF  
3 THE CERTIFIED SERVICE PROVIDER'S SYSTEM IS FUNCTIONING PROPERLY AND THE  
4 EXTENT TO WHICH THE SELLER'S TRANSACTIONS ARE BEING PROCESSED BY THE  
5 CERTIFIED SERVICE PROVIDER.

6 (B) (1) A PERSON THAT PROVIDES A CERTIFIED AUTOMATED SYSTEM IS  
7 RESPONSIBLE FOR THE PROPER FUNCTIONING OF THAT SYSTEM AND IS LIABLE TO  
8 THE STATE FOR UNDERPAYMENTS OF TAX ATTRIBUTABLE TO ERRORS IN THE  
9 FUNCTIONING OF THE CERTIFIED AUTOMATED SYSTEM.

10 (2) A SELLER THAT USES A CERTIFIED AUTOMATED SYSTEM REMAINS  
11 RESPONSIBLE AND IS LIABLE TO THE STATE FOR REPORTING AND REMITTING TAX.

12 (C) A SELLER THAT HAS A PROPRIETARY SYSTEM FOR DETERMINING THE  
13 AMOUNT OF TAX DUE ON TRANSACTIONS AND HAS SIGNED AN AGREEMENT  
14 ESTABLISHING A PERFORMANCE STANDARD FOR THAT SYSTEM IS LIABLE FOR THE  
15 FAILURE OF THE SYSTEM TO MEET THE PERFORMANCE STANDARD.

16 11-4A-11.

17 THE COMPTROLLER SHALL PROVIDE SEMIANNUAL REPORTS TO THE  
18 GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE  
19 LEGISLATIVE POLICY COMMITTEE AND THE FISCAL COMMITTEES OF THE GENERAL  
20 ASSEMBLY ON THE PROGRESS OF THE MULTISTATE DISCUSSIONS.

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

23 **Chapter 698 of the Acts of 2000**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 July 1, 2000. It shall remain effective for a period of [2 years] 1 YEAR and, at the end  
26 of June 30, [2002] 2001, with no further action required by the General Assembly, this  
27 Act shall be abrogated and of no further force and effect.

28 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
29 remain effective for a period of 2 years and, at the end of June 30, 2003, with no  
30 further action required by the General Assembly, Section 1 of this Act shall be  
31 abrogated and of no further force and effect.

32 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 July 1, 2001.