
By: **Senator Neall**

Introduced and read first time: February 9, 2001

Assigned to: Rules

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 (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.