

SENATE BILL 528

Unofficial Copy
Q4

2002 Regular Session
2lr0604

By: **Senator Ruben (Montgomery County Administration) and Senators
Hogan and Teitelbaum**

Introduced and read first time: February 1, 2002

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax - Exemption - Biotechnology and Internet Infrastructure**

3 FOR the purpose of exempting from the sales and use tax the sale or use of certain
4 communications equipment and certain tangible personal property used to
5 construct, expand, or renovate certain biotechnology manufacturing facilities;
6 defining certain terms; providing an exception to a certain exemption for the
7 sale of certain communications equipment to certain entities; requiring a certain
8 certification prior to qualifying for a certain exemption; requiring a reduction of
9 certain amounts due under a lease agreement under certain circumstances;
10 requiring the Comptroller to issue certain regulations; and generally relating to
11 certain exemptions under the sales and use tax.

12 BY adding to
13 Article - Tax - General
14 Section 11-229 and 11-230
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2001 Supplement)

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

19 **Article - Tax - General**

20 11-229.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) (I) "COMMUNICATIONS EQUIPMENT" MEANS:

24 1. EQUIPMENT AND RELATED SOFTWARE, USED
25 SEPARATELY OR AS PART OF A SYSTEM, TO RECEIVE, STORE, PROTECT, MANAGE, OR
26 TRANSMIT INFORMATION IN ELECTRO-MAGNETIC FORM; AND

1 2. ANY ANCILLARY EQUIPMENT USED TO ENSURE THE
2 RELIABLE OPERATION, SECURITY, ACCESS, AUTHENTICATION, AND BILLING
3 RELATED TO COMMUNICATIONS EQUIPMENT.

4 (II) "COMMUNICATIONS EQUIPMENT" INCLUDES:

- 5 1. COMPUTERS;
- 6 2. FIREWALLS;
- 7 3. ANALOG-TO-DIGITAL OR DIGITAL-TO-ANALOG
8 CONVERSION EQUIPMENT;
- 9 4. MODEMS;
- 10 5. DISK OR TAPE STORAGE EQUIPMENT;
- 11 6. NETWORK MANAGEMENT SYSTEMS;
- 12 7. ROUTERS;
- 13 8. CIRCUIT, PACKET, AND OPTICAL SWITCHES;
- 14 9. TRANSMISSION AND RECEIVER EQUIPMENT;
- 15 10. WIRES AND CABLES;
- 16 11. CABLE TERMINATION AND SIGNAL GENERATION AND
17 TEST EQUIPMENT;
- 18 12. ANTENNAS;
- 19 13. UNINTERRUPTIBLE POWER SUPPLIES;
- 20 14. POWER GENERATORS;
- 21 15. ALARM SYSTEMS;
- 22 16. LEASEHOLD IMPROVEMENTS;
- 23 17. HEATING, VENTILATION, AND AIR CONDITIONING
24 SYSTEMS (HVAC); AND
- 25 18. FIRE PROTECTION EQUIPMENT.

26 (3) "INTERNET INFRASTRUCTURE FACILITY" MEANS A BUILDING OR A
27 PORTION OF A BUILDING USED OR INTENDED TO BE USED PRIMARILY TO PROVIDE:

28 (I) INTERCONNECTION OF MULTIPLE INTERNET SERVICE
29 PROVIDERS;

1 (II) INTERCONNECTION OF THE INTERNET TO TELEPHONE LINES
2 OR OTHER TELECOMMUNICATIONS CONNECTIONS, EITHER DIRECTLY OR BY WAY OF
3 A NETWORK;

4 (III) HOSTING OF CONTENT FOR THE INTERNET; OR

5 (IV) STORAGE OF DATA THAT IS AVAILABLE TO THE PUBLIC
6 INTERNET FOR REAL-TIME DOWNLOAD TO CUSTOMERS.

7 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE SALES
8 AND USE TAX DOES NOT APPLY TO THE SALE OF COMMUNICATIONS EQUIPMENT FOR
9 USE IN AN INTERNET INFRASTRUCTURE FACILITY.

10 (C) THE EXEMPTION IN SUBSECTION (B) OF THIS SECTION DOES NOT APPLY
11 TO THE SALE OF COMMUNICATIONS EQUIPMENT TO:

12 (1) A CABLE TELEVISION OPERATOR FRANCHISED BY A POLITICAL
13 SUBDIVISION OF THE STATE, OR ITS AFFILIATES OR SUBSIDIARIES;

14 (2) A TELEPHONE COMPANY, TELECOMMUNICATIONS CARRIER, OR
15 OTHER COMPANY REGULATED BY THE PUBLIC SERVICE COMMISSION, OR ITS
16 AFFILIATES OR SUBSIDIARIES;

17 (3) A CELLULAR TELEPHONE COMPANY OR ITS AFFILIATES OR
18 SUBSIDIARIES; OR

19 (4) A COMPANY THAT IS USING THE INTERNET INFRASTRUCTURE
20 FACILITY TO PROVIDE SERVICE FOR ITSELF, ITS SUBCONTRACTORS, OR ITS
21 AFFILIATES OR SUBSIDIARIES.

22 11-230.

23 (A) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF TANGIBLE
24 PERSONAL PROPERTY IF THE BUYER INTENDS TO INCORPORATE THE TANGIBLE
25 PERSONAL PROPERTY INTO REAL PROPERTY AT THE TIME OF CONSTRUCTION,
26 EXPANSION, OR RENOVATION OF A FACILITY TO BE USED PRIMARILY FOR
27 BIOTECHNOLOGY MANUFACTURING.

28 (B) SUBSECTION (A) OF THIS SECTION APPLIES ONLY TO THAT PART OF A
29 FACILITY WHERE THE OCCUPANT HAS BEEN CERTIFIED AS A QUALIFIED BUSINESS
30 ENTITY ELIGIBLE FOR A JOBS CREATION TAX CREDIT UNDER ARTICLE 83A, TITLE 5,
31 SUBTITLE 11 OF THE CODE.

32 (C) (1) UNLESS OTHERWISE AGREED TO IN WRITING, IF THE TANGIBLE
33 PERSONAL PROPERTY ELIGIBLE FOR A TAX EXEMPTION UNDER SUBSECTION (A) OF
34 THIS SECTION IS PURCHASED IN FURTHERANCE OF A LEASE WHERE THE TENANT
35 HAS BEEN CERTIFIED FOR THE JOBS CREATION TAX CREDIT SPECIFIED IN
36 SUBSECTION (B) OF THIS SECTION, THE LESSOR SHALL REDUCE BY THE AMOUNT OF
37 THE TAX EXEMPTION RECEIVED UNDER THIS SECTION THE AMOUNT OF TAXES OR

1 OTHER MONEYS FOR WHICH THE LESSEE IS CONTRACTUALLY LIABLE UNDER THE
2 LEASE AGREEMENT.

3 (2) PARAGRAPH (1) OF THIS SUBSECTION IS ENFORCEABLE ONLY BY THE
4 LESSEE AND IS NOT INTENDED TO CREATE ANY ENFORCEMENT RESPONSIBILITY ON
5 THE PART OF THE STATE.

6 (D) (1) TO QUALIFY FOR AN EXEMPTION UNDER SUBSECTION (A) OF THIS
7 SECTION, AN OWNER SHALL FILE AN APPLICATION FOR AN EXEMPTION
8 CERTIFICATE WITH THE COMPTROLLER.

9 (2) THE COMPTROLLER SHALL ESTABLISH BY REGULATION
10 PROCEDURES TO ALLOW A PERSON WHO, BECAUSE OF A CONTRACTUAL OBLIGATION
11 PURCHASES TANGIBLE PERSONAL PROPERTY TO BE INCORPORATED INTO THE REAL
12 PROPERTY OF AN EXEMPT BIOTECHNOLOGY FACILITY, TO PURCHASE THE TANGIBLE
13 PERSONAL PROPERTY TAX FREE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 July 1, 2002.