

SENATE BILL 400

Unofficial Copy
Q4

2004 Regular Session
4r2770
CF 4r1926

By: **Senator Hogan**

Introduced and read first time: February 5, 2004

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Streamlined Sales and Use Tax Agreement**

3 FOR the purpose of adopting a certain Streamlined Sales and Use Tax Agreement,
4 subject to a certain contingency; requiring the Comptroller under certain
5 circumstances to prepare and submit certain proposed regulations and draft
6 legislation regarding changes to the State's laws, regulations, or policies needed
7 to bring the State into compliance with the Agreement and certain other
8 changes recommended by the Comptroller; and generally relating to the
9 contingent adoption by the State of the Streamlined Sales and Use Tax
10 Agreement.

11 BY repealing and reenacting, with amendments,
12 Article - Tax - General
13 Section 11-106
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 2003 Supplement)

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

18 **Article - Tax - General**

19 11-106.

20 (a) In this section, "Agreement" means the Streamlined Sales and Use Tax
21 Agreement as adopted by the member states of the Streamlined Sales and Use Tax
22 Project on November 12, 2002.

23 (b) (1) [The] SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE
24 State of Maryland hereby [acknowledges] ADOPTS the Streamlined Sales and Use
25 Tax Agreement as adopted by the member states of the Streamlined Sales and Use
26 Tax Project on November 12, 2002.

27 (2) THE ADOPTION OF THE AGREEMENT BY THE STATE OF MARYLAND
28 AS PROVIDED IN THIS SECTION IS CONTINGENT ON THE ENACTMENT OF

1 LEGISLATION BY THE U.S. CONGRESS CONSENTING TO THE AGREEMENT AND
2 AUTHORIZING STATES THAT ARE PARTIES TO THE AGREEMENT TO REQUIRE REMOTE
3 SELLERS TO COLLECT AND REMIT THE SALES AND USE TAXES OF THOSE STATES.

4 [(2)] (3) [On or before November 15, 2003] WITHIN 90 DAYS AFTER THE
5 ENACTMENT OF LEGISLATION BY THE U.S. CONGRESS CONSENTING TO THE
6 AGREEMENT AND AUTHORIZING STATES THAT ARE PARTIES TO THE AGREEMENT TO
7 REQUIRE REMOTE SELLERS TO COLLECT AND REMIT THE SALES AND USE TAXES OF
8 THOSE STATES, the Comptroller shall prepare and submit to the Governor and,
9 subject to § 2-1246 of the State Government Article, the Senate Budget and Taxation
10 Committee and the House Committee on Ways and Means [a report] PROPOSED
11 REGULATIONS AND DRAFT LEGISLATION that:

12 (i) [identifies] IDENTIFY AND IMPLEMENT:

13 1. any changes to State statutes, regulations, or policies that
14 need to be made in order to bring the State into compliance with the Agreement; and

15 2. any other changes to State laws that would not be
16 required but that the Comptroller recommends should reasonably be made in
17 connection with implementing the Agreement; and

18 (ii) for each change identified under item (i) of this paragraph:

19 1. estimates the impact of that change on State sales and use
20 tax revenue; and

21 2. identifies and explains any fiscal or policy issues that
22 would be associated with the change.

23 (C) NOTWITHSTANDING THE ADOPTION OF THE AGREEMENT UNDER THIS
24 SECTION, UNLESS AND UNTIL FURTHER LEGISLATION IS ENACTED BY THE GENERAL
25 ASSEMBLY TO IMPLEMENT NECESSARY CHANGES TO BRING THE STATE IN
26 COMPLIANCE WITH THE AGREEMENT:

27 (1) NO PROVISION OF THE AGREEMENT IN WHOLE OR IN PART
28 INVALIDATES OR AMENDS ANY PROVISION OF THE LAW OF THIS STATE;

29 (2) ADOPTION OF THE AGREEMENT DOES NOT AMEND OR MODIFY ANY
30 OTHER PROVISION OF THIS TITLE OR OTHER LAW OF THIS STATE; AND

31 (3) IMPLEMENTATION OF ANY CONDITION OF THE AGREEMENT IN THIS
32 STATE, WHETHER ADOPTED BEFORE, AT, OR AFTER ADOPTION OF THE AGREEMENT
33 BY THIS STATE, MUST BE BY THE ACTION OF THIS STATE.

34 (D) (1) (I) THE AGREEMENT ADOPTED BY THIS SECTION BINDS AND
35 INURES ONLY TO THE BENEFIT OF THIS STATE AND THE OTHER MEMBER STATES.

36 (II) NO PERSON, OTHER THAN A MEMBER STATE, IS AN INTENDED
37 BENEFICIARY OF THE AGREEMENT.

1 (III) ANY BENEFIT TO A PERSON OTHER THAN A STATE MUST BE
2 ESTABLISHED BY THE LAW OF THIS STATE AND THE OTHER MEMBER STATES AND
3 NOT BY THE TERMS OF THE AGREEMENT.

4 (2) (I) NO PERSON SHALL HAVE ANY CAUSE OF ACTION OR DEFENSE
5 UNDER THE AGREEMENT OR BY VIRTUE OF THE STATE'S ADOPTION OF THE
6 AGREEMENT.

7 (II) NO PERSON MAY CHALLENGE, IN ANY ACTION BROUGHT
8 UNDER ANY PROVISION OF LAW, ANY ACTION OR INACTION BY ANY DEPARTMENT,
9 AGENCY, OR OTHER INSTRUMENTALITY OF THIS STATE, OR ANY POLITICAL
10 SUBDIVISION OF THIS STATE, ON THE GROUND THAT THE ACTION OR INACTION IS
11 INCONSISTENT WITH THE AGREEMENT.

12 (3) NO LAW OF THIS STATE, OR THE APPLICATION THEREOF, MAY BE
13 DECLARED INVALID AS TO ANY PERSON OR CIRCUMSTANCE ON THE GROUND THAT
14 THE PROVISION OR APPLICATION IS INCONSISTENT WITH THE AGREEMENT.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 July 1, 2004.