

*ENROLLED BILL*

-- *Ways and Means/Budget and Taxation* --

Introduced by ~~Delegate C. Davis~~ Delegates C. Davis, Bartlett, Boschert, Bozman, Cardin, Cryor, Elmore, Gilleland, Goodwin, Gordon, Healey, Heller, Hixson, Howard, Kaiser, King, Marriott, McKee, Myers, Patterson, Ramirez, and Ross

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2                                   **Sales and Use Tax - Exemption for Sales by Religious and Nonprofit**  
3                                   **Organizations**

4 FOR the purpose of providing an exemption under the sales and use tax for certain  
5 sales by certain religious or nonprofit organizations under certain  
6 circumstances; limiting the exemption to a certain portion of the sale price for  
7 certain sales by certain religious or nonprofit organizations; and generally  
8 relating to an exemption under the sales and use tax for certain sales by a  
9 religious or nonprofit organization.

10 BY repealing and reenacting, with amendments,  
11 Article - Tax - General  
12 Section 11-204  
13 Annotated Code of Maryland

1 (2004 Replacement Volume and 2005 Supplement)

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

4 **Article - Tax - General**

5 11-204.

6 (a) The sales and use tax does not apply to:

7 (1) a sale to a cemetery company, as described in § 501(c)(13) of the  
8 Internal Revenue Code in effect on July 1, 1987;

9 (2) a sale to a credit union organized under the laws of the State or of the  
10 United States;

11 (3) a sale to a nonprofit organization made to carry on its work, if the  
12 organization:

13 (i) 1. is located in the State;

14 2. is located in an adjacent jurisdiction and provides its  
15 services within the State on a routine and regular basis; or

16 3. is located in an adjacent jurisdiction whose law:

17 A. does not impose a sales or use tax on a sale to a nonprofit  
18 organization made to carry on its work; or

19 B. contains a reciprocal exemption from sales and use tax for  
20 sales to nonprofit organizations located in adjacent jurisdictions similar to the  
21 exemption allowed under this subsection;

22 (ii) is a charitable, educational, or religious organization;

23 (iii) is not the United States; and

24 (iv) except for the American National Red Cross, is not a unit or  
25 instrumentality of the United States;

26 (4) a sale, not exceeding \$500, to a nonprofit incorporated senior citizens'  
27 organization made to carry on its work, if the organization:

28 (i) is located in the State; and

29 (ii) receives funding from the State or a political subdivision of the  
30 State;

1 (5) a sale to a volunteer fire company or department or volunteer  
2 ambulance company or rescue squad located in the State made to carry on the work of  
3 the company, department, or squad;

4 (6) a sale of tangible personal property to a nonprofit parent-teacher  
5 association located in the State if the association makes the purchase to contribute  
6 the property to a school to which a sale is exempt under item (3) of this subsection or  
7 § 11-220 of this subtitle; or

8 (7) a sale to a nonprofit organization made to carry on its work, if the  
9 organization:

10 (i) is qualified as tax exempt under § 501(c)(4) of the Internal  
11 Revenue Code; and

12 (ii) is engaged primarily in providing a program to render its best  
13 efforts to contain, clean up, and otherwise mitigate spills of oil or other substances  
14 occurring in United States coastal and tidal waters.

15 (b) The sales and use tax does not apply to a sale by:

16 (1) a bona fide church or religious organization, if the sale is made for  
17 the general purposes of the church or organization;

18 (2) a gift shop at a mental hospital that the Department of Health and  
19 Mental Hygiene operates;

20 (3) a hospital thrift shop that:

21 (i) is operated by all volunteer staff;

22 (ii) sells only donated articles;

23 (iii) contributes the profits from sales to the hospital with which the  
24 shop is associated; and

25 (iv) is not operated in conjunction with a gift shop or another retail  
26 establishment;

27 (4) a vending facility operated under the Maryland Vending Program for  
28 the Blind if:

29 (i) the facility is located on property held or acquired by or for the  
30 use of the United States for any military or naval purpose; and

31 (ii) a post exchange or other tax exempt concession is located and  
32 operated on the same property; [or]

33 (5) an elementary or secondary school in the State or a nonprofit  
34 parent-teacher organization or other nonprofit organization within an elementary or  
35 secondary school in the State for the sale of magazine subscriptions in a fund-raising

1 campaign, if the net proceeds are used solely for the educational benefit of the school  
2 or its students, including a sale resulting from an agreement or contract with an  
3 organization to participate in a fund-raising campaign for a percentage of the gross  
4 receipts under which students act as agents or salespersons for the organization by  
5 selling or taking orders for the sale; OR

6 (6) SUBJECT TO SUBSECTION (E) OF THIS SECTION, A BONA FIDE  
7 CHURCH, RELIGIOUS ORGANIZATION, OR OTHER NONPROFIT ORGANIZATION  
8 EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE IF:

9 (I) THE SALE IS MADE AT AN AUCTION SALE; AND

10 (II) THE PROCEEDS OF THE SALE ARE USED TO CARRY ON THE  
11 EXEMPT PURPOSES OF THE CHURCH OR ORGANIZATION.

12 (c) To qualify as an organization to which a sale is exempt under subsection  
13 (a)(3) or (5) of this section, the organization shall file an application for an exemption  
14 certificate with the Comptroller.

15 (d) The Comptroller may treat the possession of an effective determination  
16 letter of status under § 501(c)(3) or (13) of the Internal Revenue Code from the  
17 Internal Revenue Service as evidence that an organization qualifies under subsection  
18 (a)(3) or (5) or (1) of this section, respectively.

19 (E) FOR A SALE DESCRIBED UNDER SUBSECTION(B)(6) OF THIS SECTION THAT  
20 IS NOT OTHERWISE EXEMPT UNDER THIS SECTION, ONLY THAT PART OF THE SALE  
21 PRICE THAT QUALIFIES FOR A DEDUCTION UNDER THE FEDERAL INCOME TAX AS A  
22 CHARITABLE CONTRIBUTION UNDER THE REGULATIONS AND GUIDELINES OF THE  
23 INTERNAL REVENUE SERVICE IS EXEMPT FROM THE SALES AND USE TAX UNDER  
24 THIS SECTION.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 July 1, 2006.