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

Introduced and read first time: February 27, 2006

Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means, March 6, 2006

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2006

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
 14 (2004 Replacement Volume and 2005 Supplement)

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

17 **Article - Tax - General**

18 11-204.

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

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

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

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

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

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

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

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

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

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

17 (iii) is not the United States; and

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

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

22 (i) is located in the State; and

23 (ii) receives funding from the State or a political subdivision of the
24 State;

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

28 (6) a sale of tangible personal property to a nonprofit parent-teacher
29 association located in the State if the association makes the purchase to contribute
30 the property to a school to which a sale is exempt under item (3) of this subsection or
31 § 11-220 of this subtitle; or

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

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

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

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

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

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

11 (3) a hospital thrift shop that:

12 (i) is operated by all volunteer staff;

13 (ii) sells only donated articles;

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

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

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

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

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

24 (5) an elementary or secondary school in the State or a nonprofit
25 parent-teacher organization or other nonprofit organization within an elementary or
26 secondary school in the State for the sale of magazine subscriptions in a fund-raising
27 campaign, if the net proceeds are used solely for the educational benefit of the school
28 or its students, including a sale resulting from an agreement or contract with an
29 organization to participate in a fund-raising campaign for a percentage of the gross
30 receipts under which students act as agents or salespersons for the organization by
31 selling or taking orders for the sale; OR

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

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

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

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

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

10 (E) FOR A SALE DESCRIBED UNDER SUBSECTION(B)(6) OF THIS SECTION,
11 ONLY THAT PART OF THE SALE PRICE THAT QUALIFIES FOR A DEDUCTION UNDER
12 THE FEDERAL INCOME TAX AS A CHARITABLE CONTRIBUTION UNDER THE
13 REGULATIONS AND GUIDELINES OF THE INTERNAL REVENUE SERVICE IS EXEMPT
14 FROM THE SALES AND USE TAX UNDER THIS SECTION.

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