

# HOUSE BILL 313

Q4

8lr1458

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By: **Delegates Miller and Feldman**

Introduced and read first time: January 24, 2008

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax – Computer Services – Resale Exemption**

3 FOR the purpose of altering the definition of “retail sale” under the sales and use tax  
4 to exclude the sale of a computer service under certain circumstances; providing  
5 for the termination of this Act; and generally relating to the sales and use  
6 taxation of certain computer services.

7 BY repealing and reenacting, without amendments,  
8 Article – Tax – General  
9 Section 11–101(c–1)  
10 Annotated Code of Maryland  
11 (2004 Replacement Volume and 2007 Supplement)  
12 (As enacted by Chapter 3 of the Acts of the General Assembly of the 2007  
13 Special Session)

14 BY repealing and reenacting, with amendments,  
15 Article – Tax – General  
16 Section 11–101(h)(3)  
17 Annotated Code of Maryland  
18 (2004 Replacement Volume and 2007 Supplement)

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

21 **Article – Tax – General**

22 11–101.

23 (c–1) (1) “Computer service” includes:

24 (i) computer facilities management and operation;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (ii) custom computer programming;
- 2 (iii) computer system planning and design that integrate  
3 computer hardware, software, and communication technologies;
- 4 (iv) computer disaster recovery;
- 5 (v) data processing, storage, and recovery;
- 6 (vi) hardware or software installation, maintenance, and repair.

7 (2) "Computer service" does not include:

- 8 (i) Internet access, as defined in the federal Internet Tax  
9 Freedom Act;
- 10 (ii) typing or data entry on word processing equipment;
- 11 (iii) computer training;
- 12 (iv) the installation, maintenance, or repair of tangible personal  
13 property other than computer hardware or software that includes computer hardware  
14 or software as a component part; or
- 15 (v) a service otherwise described in paragraph (1) of this  
16 subsection that is provided as part of or in connection with:
- 17 1. electronic fund transfers, financial transactions,  
18 automated teller machine transactions, or other banking or trust services;
- 19 2. business management, account management,  
20 personnel, payroll, employee benefit, or other administrative services;
- 21 3. educational, legal, accounting, architectural,  
22 actuarial, medical, medical diagnostic, or other professional services; or
- 23 4. telecommunications services.

24 (h) (3) "Retail sale" does not include:

- 25 (i) a transfer of title to tangible personal property after its use  
26 as facilities, tools, tooling, machinery, or equipment, including dies, molds, and  
27 patterns, if:
- 28 1. at the time of purchase, the buyer is obligated, under  
29 the terms of a written contract, to make the transfer; and

1                                   2.     the transfer is made for the same or greater  
2 consideration to the person for whom the buyer manufactures goods or performs work;

3                                   (ii)    a sale of tangible personal property if the buyer intends to:

4                                   1.     resell the tangible personal property in the form that  
5 the buyer receives or is to receive the property;

6                                   2.     use or incorporate the tangible personal property in a  
7 production activity as a material or part of other tangible personal property to be  
8 produced for sale; or

9                                   3.     transfer the tangible personal property as a part of a  
10 taxable service transaction; [or]

11                                  (iii)   a sale of a taxable service if the buyer intends to resell the  
12 taxable service in the form that the buyer receives or is to receive the service; **OR**

13                                  **(IV) A SALE OF A COMPUTER SERVICE IF THE BUYER**  
14 **INTENDS TO USE THE COMPUTER SERVICE DIRECTLY OR PREDOMINANTLY IN**  
15 **PERFORMING A COMPUTER SERVICE FOR ANOTHER PERSON.**

16                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 July 1, 2008. It shall remain effective until the taking effect of the termination  
18 provision specified in Section 13 of Chapter 3 of the Acts of the General Assembly of  
19 the 2007 Special Session. If that termination provision takes effect, this Act shall be  
20 abrogated and of no further force and effect. This Act may not be interpreted to have  
21 any effect on that termination provision.