

SENATE BILL 138

Q4

8lr1178

By: **Senators Brinkley, Astle, Colburn, Edwards, Forehand, Haines, Glassman, Jacobs, Kittleman, Kramer, Mooney, Munson, Pipkin, and Stoltzfus**
Introduced and read first time: January 18, 2008
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering the definition of “taxable service” under the sales and use
4 tax to repeal the tax on certain computer services; providing certain sales and
5 use tax exemptions relating to certain computer services and certain computer
6 software maintenance contracts; repealing a certain termination date; repealing
7 a certain definition; and generally relating to the repeal of the sales and use tax
8 on certain computer services.

9 BY repealing

10 Article – Tax – General
11 Section 11–101(c–1)
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2007 Supplement)
14 (As enacted by Chapter 3 of the Acts of the General Assembly of the 2007
15 Special Session)

16 BY repealing and reenacting, with amendments,

17 Article – Tax – General
18 Section 11–101(m) and 11–219
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2007 Supplement)
21 (As enacted by Chapter 3 of the Acts of the General Assembly of the 2007
22 Special Session)

23 BY repealing and reenacting, with amendments,

24 Chapter 3 of the Acts of the General Assembly of the 2007 Special Session
25 Section 13

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article - Tax - General**

4 11-101.

5 [(c-1) (1) "Computer service" includes:

6 (i) computer facilities management and operation;

7 (ii) custom computer programming;

8 (iii) computer system planning and design that integrate
9 computer hardware, software, and communication technologies;

10 (iv) computer disaster recovery;

11 (v) data processing, storage, and recovery;

12 (vi) hardware or software installation, maintenance, and repair.

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

14 (i) Internet access, as defined in the federal Internet Tax
15 Freedom Act;

16 (ii) typing or data entry on word processing equipment;

17 (iii) computer training;

18 (iv) the installation, maintenance, or repair of tangible personal
19 property other than computer hardware or software that includes computer hardware
20 or software as a component part; or

21 (v) a service otherwise described in paragraph (1) of this
22 subsection that is provided as part of or in connection with:

23 1. electronic fund transfers, financial transactions,
24 automated teller machine transactions, or other banking or trust services;

25 2. business management, account management,
26 personnel, payroll, employee benefit, or other administrative services;

27 3. educational, legal, accounting, architectural,
28 actuarial, medical, medical diagnostic, or other professional services; or

1 (2) involves a sale as an inconsequential element for which no
2 separate charge is made.

3 (b) The sales and use tax does not apply to a sale of [computer services for
4 use by an individual participating in a home school program as an alternative to
5 attendance at public or private school for elementary or secondary education]
6 **CUSTOM COMPUTER SOFTWARE SERVICES RELATING TO PROCEDURES AND**
7 **PROGRAMS THAT:**

8 (1) **OTHERWISE ARE TAXABLE UNDER THIS TITLE;**

9 (2) **ARE TO BE USED BY A SPECIFIC PERSON;**

10 (3) (I) **ARE CREATED FOR THAT PERSON; OR**

11 (II) **CONTAIN STANDARD OR PROPRIETARY ROUTINES THAT**
12 **INCORPORATE SIGNIFICANT CREATIVE INPUT TO CUSTOMIZE THE PROCEDURES**
13 **AND PROGRAMS FOR THAT PERSON; AND**

14 (4) **DO NOT CONSTITUTE A PROGRAM, PROCEDURE, OR**
15 **DOCUMENTATION THAT IS MASS PRODUCED AND SOLD TO:**

16 (I) **THE GENERAL PUBLIC; OR**

17 (II) **PERSONS ASSOCIATED IN A TRADE, PROFESSION, OR**
18 **INDUSTRY.**

19 (c) **THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF AN**
20 **OPTIONAL COMPUTER SOFTWARE MAINTENANCE CONTRACT IF THE BUYER**
21 **DOES NOT HAVE A RIGHT, AS PART OF THE CONTRACT, TO RECEIVE AT NO**
22 **ADDITIONAL COST SOFTWARE PRODUCTS THAT ARE SEPARATELY PRICED AND**
23 **MARKETED BY THE VENDOR.**

24 [(c)] (D) The sales and use tax does not apply to the use of a taxable service
25 obtained by using a prepaid telephone calling arrangement.

26 **Chapter 3 of the Acts of the 2007 Special Session**

27 SECTION 13. AND BE IT FURTHER ENACTED, That Section 3 of this Act
28 shall take effect July 1, 2008. [Section 3 shall remain effective for a period of 5 years
29 and, at the end of June 30, 2013, with no further action required by the General
30 Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.]

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2008.