

SENATE BILL 505

Q4

8lr2062
CF HB 313

By: **Senators Brinkley, Colburn, Greenip, Jacobs, Kittleman, Kramer,
Munson, Pipkin, and Stoltzfus**
Introduced and read first time: February 1, 2008
Assigned to: Budget and Taxation

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:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

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

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

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

- 26 (i) a transfer of title to tangible personal property after its use
27 as facilities, tools, tooling, machinery, or equipment, including dies, molds, and
28 patterns, if:
 - 29 1. at the time of purchase, the buyer is obligated, under
30 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.