

# SENATE BILL 567

Q5, Q4

8lr1208

---

By: **Senators Garagiola, Exum, Forehand, Kelley, King, Lenett, and Raskin**  
Introduced and read first time: February 1, 2008  
Assigned to: Budget and Taxation

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Computer Services Tax Repeal and Transportation Funding Act**

3 FOR the purpose of altering the distribution of motor fuel tax revenue to the Gasoline  
4 and Motor Vehicle Revenue Account and the Transportation Trust Fund for  
5 certain fiscal years; altering the distribution of sales and use tax revenues to  
6 the Transportation Trust Fund for certain fiscal years; providing for certain  
7 increases in certain motor fuel tax rates for certain fiscal years; repealing the  
8 sales and use tax on certain computer services; providing that the sales and use  
9 tax does not apply to certain computer software services; providing for the  
10 payment of the motor fuel tax on certain tax-paid motor fuel held as of certain  
11 dates; establishing the Sales and Use Tax Study Task Force to study the  
12 feasibility and ramifications for applying the sales and use tax to certain  
13 services; providing for the effective date of certain provisions of this Act; and  
14 generally relating to taxes and transportation funding.

15 BY repealing and reenacting, with amendments,  
16 Article – Tax – General  
17 Section 2-1103 and 9-305  
18 Annotated Code of Maryland  
19 (2004 Replacement Volume and 2007 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Tax – General  
22 Section 2-1302.2  
23 Annotated Code of Maryland  
24 (2004 Replacement Volume and 2007 Supplement)  
25 (As enacted by Chapter 6 of the Acts of the General Assembly of the 2007  
26 Special Session)

27 BY repealing  
28 Article – Tax – General

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 11–101(c–1)  
 2 Annotated Code of Maryland  
 3 (2004 Replacement Volume and 2007 Supplement)  
 4 (As enacted by Chapter 3 of the Acts of the General Assembly of the 2007  
 5 Special Session)

6 BY repealing and reenacting, with amendments,  
 7 Article – Tax – General  
 8 Section 11–101(m) and 11–219  
 9 Annotated Code of Maryland  
 10 (2004 Replacement Volume and 2007 Supplement)  
 11 (As enacted by Chapter 3 of the Acts of the General Assembly of the 2007  
 12 Special Session)

13 BY repealing and reenacting, with amendments,  
 14 Article – Tax – General  
 15 Section 2–1103, 2–1302.2, and 9–305  
 16 Annotated Code of Maryland  
 17 (2004 Replacement Volume and 2007 Supplement)  
 18 (As enacted by Section 1 of this Act)

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 2–1103.

23 After making the distributions required under §§ 2–1101 and 2–1102 of this  
 24 subtitle, the Comptroller shall distribute:

25 (1) the remaining motor fuel tax revenue from aviation fuel to the  
 26 Transportation Trust Fund; and

27 (2) **[all] FROM THE** remaining motor fuel tax revenue[,]:

28 (I) **AN AMOUNT** equal to [the average percentage by which the  
 29 motor fuel tax rate exceeds 18.5] **5** cents per gallon[,] to the Gasoline and Motor  
 30 Vehicle Revenue Account in the Transportation Trust Fund; **AND**

31 (II) **AN AMOUNT EQUAL TO 4 CENTS PER GALLON TO THE**  
 32 **TRANSPORTATION TRUST FUND.**

33 2–1302.2.

34 After making the distributions required under §§ 2–1301 through 2–1302.1 of  
 35 this subtitle, the Comptroller shall pay **[6.5%] 1.9%** of the remaining sales and use tax

1 revenue into the Transportation Trust Fund established under § 3-216 of the  
2 Transportation Article.

3 9-305.

4 The motor fuel tax rate is:

5 (1) 7 cents for each gallon of aviation gasoline;

6 (2) [23.5] **27.5** cents for each gallon of gasoline other than aviation  
7 gasoline;

8 (3) [24.25] **28.25** cents for each gallon of special fuel other than  
9 clean-burning fuel or turbine fuel;

10 (4) 7 cents for each gallon of turbine fuel; and

11 (5) 23.5 cents for each gasoline-equivalent gallon of clean-burning  
12 fuel except electricity.

13 11-101.

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

15 (i) computer facilities management and operation;

16 (ii) custom computer programming;

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

19 (iv) computer disaster recovery;

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

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

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

23 (i) Internet access, as defined in the federal Internet Tax  
24 Freedom Act;

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

26 (iii) computer training;

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

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

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

8 2. business management, account management,  
9 personnel, payroll, employee benefit, or other administrative services;

10 3. educational, legal, accounting, architectural,  
11 actuarial, medical, medical diagnostic, or other professional services; or

12 4. telecommunications services.]

13 (m) "Taxable service" means:

14 (1) fabrication, printing, or production of tangible personal property by  
15 special order;

16 (2) commercial cleaning or laundering of textiles for a buyer who is  
17 engaged in a business that requires the recurring service of commercial cleaning or  
18 laundering of the textiles;

19 (3) cleaning of a commercial or industrial building;

20 (4) cellular telephone or other mobile telecommunications service;

21 (5) "900", "976", "915", and other "900"-type telecommunications  
22 service;

23 (6) custom calling service provided in connection with basic telephone  
24 service;

25 (7) a telephone answering service;

26 (8) pay per view television service;

27 (9) credit reporting;

28 (10) a security service, including:

29 (i) a detective, guard, or armored car service; and

30 (ii) a security systems service;

1 (11) a transportation service for transmission, distribution, or delivery  
2 of electricity or natural gas, if the sale or use of the electricity or natural gas is subject  
3 to the sales and use tax; **OR**

4 (12) a prepaid telephone calling arrangement[; or

5 (13) a computer service].

6 11-219.

7 (a) The sales and use tax does not apply to a personal, professional, or  
8 insurance service that:

9 (1) is not a taxable service; and

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

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

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

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

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

20 (II) **CONTAIN STANDARD OR PROPRIETARY ROUTINES THAT**  
21 **INCORPORATE SIGNIFICANT CREATIVE INPUT TO CUSTOMIZE THE PROCEDURES**  
22 **AND PROGRAMS FOR THAT PERSON; AND**

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

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

26 (II) **PERSONS ASSOCIATED IN A TRADE, PROFESSION, OR**  
27 **INDUSTRY.**

28 (c) **THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF AN**  
29 **OPTIONAL COMPUTER SOFTWARE MAINTENANCE CONTRACT IF THE BUYER**

1 **DOES NOT HAVE A RIGHT, AS PART OF THE CONTRACT, TO RECEIVE AT NO**  
 2 **ADDITIONAL COST SOFTWARE PRODUCTS THAT ARE SEPARATELY PRICED AND**  
 3 **MARKETED BY THE VENDOR.**

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 7 read as follows:

8 **Article - Tax - General**

9 2-1103.

10 After making the distributions required under §§ 2-1101 and 2-1102 of this  
 11 subtitle, the Comptroller shall distribute:

12 (1) the remaining motor fuel tax revenue from aviation fuel to the  
 13 Transportation Trust Fund; and

14 (2) from the remaining motor fuel tax revenue:

15 (i) an amount equal to 5 cents per gallon to the Gasoline and  
 16 Motor Vehicle Revenue Account in the Transportation Trust Fund; and

17 (ii) an amount equal to [4] **8** cents per gallon to the  
 18 Transportation Trust Fund.

19 2-1302.2.

20 After making the distributions required under §§ 2-1301 through 2-1302.1 of  
 21 this subtitle, the Comptroller shall pay [1.9%] **1.0%** of the remaining sales and use tax  
 22 revenue into the Transportation Trust Fund established under § 3-216 of the  
 23 Transportation Article.

24 9-305.

25 The motor fuel tax rate is:

26 (1) 7 cents for each gallon of aviation gasoline;

27 (2) [27.5] **31.5** cents for each gallon of gasoline other than aviation  
 28 gasoline;

29 (3) [28.25] **32.25** cents for each gallon of special fuel other than  
 30 clean-burning fuel or turbine fuel;

1 (4) 7 cents for each gallon of turbine fuel; and

2 (5) 23.5 cents for each gasoline-equivalent gallon of clean-burning  
3 fuel except electricity.

4 SECTION 3. AND BE IT FURTHER ENACTED, That:

5 (a) Each person holding tax-paid motor fuel for sale at the start of business  
6 on July 1, 2008, shall compile and file an inventory of the motor fuel held at the close  
7 of business on June 30, 2008, and remit within 30 days any additional motor fuel tax  
8 that is due on the motor fuel.

9 (b) Each person holding tax-paid motor fuel for sale at the start of business  
10 on July 1, 2009, shall compile and file an inventory of the motor fuel held at the close  
11 of business on June 30, 2009, and remit within 30 days any additional motor fuel tax  
12 that is due on the motor fuel.

13 SECTION 4. AND BE IT FURTHER ENACTED, That:

14 (a) There is a Sales and Use Tax Study Task Force.

15 (b) The Task Force consists of the following members:

16 (1) two members of the Senate of Maryland, appointed by the  
17 President of the Senate;

18 (2) two members of the House of Delegates, appointed by the Speaker  
19 of the House;

20 (3) the Comptroller, or the Comptroller's designee;

21 (4) the Director of the Bureau of Revenue Estimates, or the Director's  
22 designee;

23 (5) the Secretary of Business and Economic Development, or the  
24 Secretary's designee; and

25 (6) the following members appointed by the Governor:

26 (i) one resident of the State who is a licensed retail vendor;

27 (ii) one resident of the State who owns a service-oriented  
28 business;

29 (iii) one resident of the State who specializes in economics; and

30 (iv) one resident of the State who specializes in tax law.

1 (c) The President of the Senate and the Speaker of the House shall each  
2 designate a member to serve as co-chair of the Task Force.

3 (d) The Department of Legislative Services shall provide staff for the Task  
4 Force.

5 (e) The Task Force shall:

6 (1) study the feasibility and ramifications of applying the sales tax to  
7 services not currently taxed, including:

8 (i) business services;

9 (ii) entertainment services;

10 (iii) financial services;

11 (iv) information services;

12 (v) personal services;

13 (vi) professional services;

14 (vii) repair services; and

15 (viii) transportation services.

16 (2) make recommendations on the feasibility and ramifications of  
17 expanding the sales and use tax to any service covered under item (1) of this  
18 subsection; and

19 (3) study and make recommendations regarding any other issue the  
20 Task Force determines is relevant to the application of the sales and use tax.

21 (f) The Task Force shall report its findings and recommendations to the  
22 Governor and, in accordance with § 2-1246 of the State Government Article, to the  
23 General Assembly on or before December 1, 2008.

24 SECTION 5. AND BE IT FURTHER ENACTED, Section 2 of this Act shall take  
25 effect July 1, 2009.

26 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in  
27 Section 5 of this Act, this Act shall take effect July 1, 2008.