

HOUSE BILL 1515

Q4
HB 1628/20 – W&M

4lr3549

By: **Delegate Moon**

Introduced and read first time: February 25, 2024

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax – Rate Reduction and Services**

3 FOR the purpose of altering the definitions of “taxable price” and “taxable service” for the
4 purposes of certain provisions of law governing the sales and use tax to impose the
5 tax on certain labors and services; altering the rate of the sales and use tax; altering
6 the percentage of gross receipts from vending machine sales and from certain sales
7 of dyed diesel fuel to which the sales and use tax is applied; altering the rate of the
8 sales and use tax applied to certain charges made in connection with sales of
9 alcoholic beverages; altering the rate of the sales and use tax applied to certain
10 gratuities and service charges; repealing certain exemptions from the sales and use
11 tax for certain services and contract sales; and generally relating to the sales and
12 use tax.

13 BY repealing and reenacting, without amendments,
14 Article – Tax – General
15 Section 11–101(a) and (l)(1)
16 Annotated Code of Maryland
17 (2022 Replacement Volume and 2023 Supplement)

18 BY adding to
19 Article – Tax – General
20 Section 11–101(c–8) and (m)
21 Annotated Code of Maryland
22 (2022 Replacement Volume and 2023 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Tax – General
25 Section 11–101(c–8) and (l)(3), 11–104(a), (b), and (g) through (i), and 11–301
26 Annotated Code of Maryland
27 (2022 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing

Article – Tax – General

Section 11–101(m) and 11–219

Annotated Code of Maryland

(2022 Replacement Volume and 2023 Supplement)

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

Article – Tax – General

11–101.

(a) In this title the following words have the meanings indicated.

**(C–8) “NAICS” MEANS THE NORTH AMERICAN INDUSTRIAL CLASSIFICATION
SYSTEM, UNITED STATES MANUAL, 2022 EDITION, PUBLISHED BY THE UNITED
STATES OFFICE OF MANAGEMENT AND BUDGET.**

[(C–8)] (C–9) “Permanent” means perpetual or for an indefinite or unspecified
length of time.

(l) (1) “Taxable price” means the value, in money, of the consideration of any
kind that is paid, delivered, payable, or deliverable by a buyer to a vendor in the
consummation and complete performance of a sale without deduction for any expense or
cost, including the cost of:

(i) any labor or service rendered;

(ii) any material used; or

(iii) any property, digital code, or digital product sold.

(3) “Taxable price” does not include:

(i) a charge that is made in connection with a sale and is stated as
a separate item of the consideration for:

1. a delivery, freight, or other transportation service for
delivery directly to the buyer by the vendor or by another person acting for the vendor,
unless the transportation service is a taxable service;

2. a finance charge, interest, or similar charge for credit
extended to the buyer;

3. [a labor or service for application or installation;

4.] a mandatory gratuity or service charge in the nature of a tip for serving food or beverage to a group of 10 or fewer individuals for consumption on the premises of the vendor;

[5. a professional service;

6.] 4. a tax:

A. imposed by a county on the sale of coal, electricity, oil, nuclear fuel assemblies, steam, or artificial or natural gas;

B. imposed under § 3–302(a) of the Natural Resources Article, as a surcharge on electricity, and added to an electric bill;

C. imposed under §§ 6–201 through 6–203 of the Tax – Property Article, on tangible personal property subject to a lease that is for an initial period that exceeds 1 year and is noncancellable except for cause; or

D. imposed under § 4–102 of this article on the gross receipts derived from an admissions and amusement charge; **OR**

[7. any service for the operation of equipment used for the production of audio, video, or film recordings; or

8.] 5. reimbursement of incidental expenses paid to a third party and incurred in connection with providing a taxable detective service;

(ii) the value of a used component or part (core value) received from a purchaser of the following remanufactured truck parts:

1. an air brake system;

2. an engine;

3. a rear axle carrier; or

4. a transmission; or

(iii) a charge for a nontaxable service that is made in connection with a sale of a taxable communication service, even if the nontaxable charges are aggregated with and not separately stated from the taxable charges for communications services, if the vendor can reasonably identify charges not subject to tax from its books and records that are kept in the regular course of business.

[(m) “Taxable service” means:

(1) fabrication, printing, or production of tangible personal property or a digital product by special order;

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

(3) cleaning of a commercial or industrial building;

(4) cellular telephone or other mobile telecommunications service;

(5) “900”, “976”, “915”, and other “900”-type telecommunications service;

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

(7) a telephone answering service;

(8) pay per view television service;

(9) credit reporting;

(10) a security service, including:

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

(ii) a security systems service;

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

(12) a prepaid telephone calling arrangement; or

(13) the privilege given to an individual under § 4–1102 of the Alcoholic Beverages and Cannabis Article to consume wine that is not purchased from or provided by a restaurant, club, or hotel.]

(M) (1) “TAXABLE SERVICE” MEANS ANY ACTIVITY ENGAGED IN FOR A BUYER FOR CONSIDERATION.

(2) “TAXABLE SERVICE” DOES NOT INCLUDE:

(I) AN EDUCATIONAL SERVICE (NAICS SECTOR 61);

(II) A HEALTH CARE OR SOCIAL ASSISTANCE SERVICE (NAICS SECTOR 62);

(III) A SERVICE PROVIDED BY A RELIGIOUS ORGANIZATION (NAICS SECTOR 8131);

(IV) A GRANTMAKING OR GIVING SERVICE (NAICS SECTOR 8132);

(V) A SERVICE PROVIDED BY A SOCIAL ADVOCACY ORGANIZATION (NAICS SECTOR 8133);

(VI) A SERVICE PROVIDED BY A CIVIC OR SOCIAL ORGANIZATION (NAICS SECTOR 8134); OR

(VII) A SERVICE PROVIDED BY A BUSINESS, PROFESSIONAL, LABOR, OR POLITICAL ASSOCIATION (NAICS SECTOR 8139).

11–104.

(a) Except as otherwise provided in this section, the sales and use tax rate is:

(1) for a taxable price of less than \$1:

(i) 1 cent if the taxable price is 20 cents; **AND**

(ii) [2 cents if the taxable price is at least 21 cents but less than 34 cents;

(iii) 3 cents if the taxable price is at least 34 cents but less than 51 cents;

(iv) 4 cents if the taxable price is at least 51 cents but less than 67 cents;

(v) 5 cents if the taxable price is at least 67 cents but less than 84 cents; and

(vi) 6 cents if the taxable price is at least 84 cents] **1 CENT FOR EACH ADDITIONAL 20 CENTS OR PART OF 20 CENTS;** and

(2) for a taxable price of \$1 or more:

(i) [6] **5** cents for each exact dollar; and

(ii) [for that part of a dollar in excess of an exact dollar:

1. 1 cent if the excess over an exact dollar is at least 1 cent

but less than 17 cents;

2. 2 cents if the excess over an exact dollar is at least 17 cents

but less than 34 cents;

3. 3 cents if the excess over an exact dollar is at least 34 cents

but less than 51 cents;

4. 4 cents if the excess over an exact dollar is at least 51 cents

but less than 67 cents;

5. 5 cents if the excess over an exact dollar is at least 67 cents

but less than 84 cents; and

6. 6 cents if the excess over an exact dollar is at least 84

cents] **1 CENT FOR EACH 20 CENTS OR PART OF 20 CENTS IN EXCESS OF AN EXACT DOLLAR.**

(b) If a retail sale of tangible personal property or a taxable service is made through a vending or other self-service machine, the sales and use tax rate is **[6%] 5%**, applied to **[94.5%] 95.25%** of the gross receipts from the vending machine sales.

(g) The sales and use tax rate for the sale of an alcoholic beverage, as defined in § 5–101 of this article, is:

(1) 9% of the charge for the alcoholic beverage; and

(2) **[6%] 5%** of a charge that is made in connection with the sale of an alcoholic beverage and is stated as a separate item of the consideration and made known to the buyer at the time of sale for:

(i) any labor or service rendered;

(ii) any material used; or

(iii) any property sold.

(h) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Dyed diesel fuel” means diesel fuel that is dyed under U.S. Environmental Protection Agency rules for high sulfur diesel fuel or is dyed under Internal Revenue Service rules for nontaxable use.

(iii) “Marina” means a person who maintains a place of business where motor fuel is sold primarily to vessels.

(2) If a retail sale of dyed diesel fuel is made by a marina, the sales and use tax rate is ~~[6%]~~ 5%, applied to ~~[94.5%]~~ 95.25% of the gross receipts from the dyed diesel fuel sales.

(i) The sales and use tax rate for a mandatory gratuity or service charge in the nature of a tip for serving food or any type of beverage to a group of more than 10 individuals is ~~[6%]~~ 5%.

[11–219.

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

(1) is not a taxable service; and

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

(b) The sales and use tax does not apply to a sale of custom computer software, regardless of the method transferred or accessed, or a service relating to custom computer software that:

(1) would otherwise be taxable under this title;

(2) is to be used by a specific person;

(3) (i) is created for that person; or

(ii) contains standard or proprietary routines requiring significant creative input to customize, configure, or modify the procedures and programs that are necessary to perform the functions required for the software to operate as intended; and

(4) do not constitute a program, procedure, or documentation that is mass produced and sold to:

(i) the general public; or

(ii) persons engaged in a trade, profession, or industry, except as provided in item (3) of this subsection.

(c) The sales and use tax does not apply to the sale of an optional computer software maintenance contract if the buyer does not have a right, as part of the contract, to receive at no additional cost software products that are separately priced and marketed by

the vendor.

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

11-301.

The sales and use tax is computed on:

(1) the taxable price of each separate sale;

(2) if a combined sale is made, the combined taxable price of all retail sales on the same occasion by the same vendor to the same buyer; or

(3) if retail sales of tangible personal property or a taxable service are made through vending or other self-service machines, ~~[94.5%]~~ **95.25%** of the gross receipts from the retail sales.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor's proposed budget for fiscal year 2026, and for each fiscal year thereafter, shall include funding that is necessary to meet the needs of the Office of the Comptroller to ensure compliance with and enforcement of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2025.