

HOUSE BILL 1162

Q4
HB 1345/12 – W&M

3lr2575

By: **Delegate Hixson**

Introduced and read first time: February 8, 2013

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax – Luxury Surcharge**

3 FOR the purpose of imposing a certain surcharge on certain retail sales or use of
4 tangible personal property if the taxable price of certain items exceeds certain
5 amounts; exempting certain sales from the surcharge; providing for the amount
6 of the surcharge based on the taxable price under certain circumstances;
7 providing a certain cost-of-living adjustment for the amounts of the surcharge
8 under certain circumstances; providing that certain exemptions under the sales
9 and use tax do not apply to the surcharge; and generally relating to imposition
10 of a certain surcharge on certain retail sales or use of tangible personal property
11 if the taxable price of certain items exceeds certain amounts.

12 BY repealing and reenacting, with amendments,
13 Article – Tax – General
14 Section 1–101(s) and 11–221(a)
15 Annotated Code of Maryland
16 (2010 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Tax – General
19 Section 11–102(a)
20 Annotated Code of Maryland
21 (2010 Replacement Volume and 2012 Supplement)

22 BY adding to
23 Article – Tax – General
24 Section 11–102(d), 11–104(j) and (k), and 11–221(a–1)
25 Annotated Code of Maryland
26 (2010 Replacement Volume and 2012 Supplement)

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 1–101.

5 (s) (1) “Sales and use tax” means the tax imposed under Title 11 of this
6 article.

7 (2) “Sales and use tax” includes:

8 (I) the tax imposed on the use of certain electricity under §
9 11–1A–01 of this article[.

10 (3) “Sales and use tax” includes];

11 (II) the hotel surcharge imposed under § 11–102(b) of this
12 article; AND

13 (III) **THE LUXURY SURCHARGE IMPOSED UNDER § 11–102(D)**
14 **OF THIS ARTICLE.**

15 11–102.

16 (a) Except as otherwise provided in this title, a tax is imposed on:

17 (1) a retail sale in the State; and

18 (2) a use, in the State, of tangible personal property or a taxable
19 service.

20 (D) (1) **SUBJECT TO PARAGRAPH (2) OF THIS SECTION, IN ADDITION**
21 **TO THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, A LUXURY**
22 **SURCHARGE IS IMPOSED ON A RETAIL SALE IN THE STATE OR THE USE, IN THE**
23 **STATE, OF TANGIBLE PERSONAL PROPERTY, IF:**

24 (I) **FOR THE SALE OF AN ITEM OTHER THAN ITEMS**
25 **DESCRIBED IN ITEM (II) OF THIS PARAGRAPH, THE TAXABLE PRICE OF THE ITEM**
26 **IS GREATER THAN \$8,000; OR**

27 (II) **FOR THE SALE OF A MOTOR VEHICLE, MOTORCYCLE,**
28 **BOAT, OR PLANE, THE TAXABLE PRICE OF THE ITEM IS GREATER THAN \$50,000.**

1 **(2) THE LUXURY SURCHARGE IMPOSED UNDER THIS SUBSECTION**
2 **DOES NOT APPLY TO THE SALE OF:**

3 **(I) AN ITEM PURCHASED FOR BUSINESS USE OR FOR**
4 **MEDICAL NECESSITY; OR**

5 **(II) A MANUFACTURED HOME AS DEFINED IN § 12-301 OF**
6 **THE PUBLIC SAFETY ARTICLE OR A MODULAR BUILDING AS DEFINED IN §**
7 **11-104(F) OF THIS SUBTITLE.**

8 **(3) (I) IN THIS PARAGRAPH, “LEASE” MEANS THE TRANSFER**
9 **OF POSSESSION, ABSOLUTELY OR CONDITIONALLY BY ANY MEANS, OF TANGIBLE**
10 **PERSONAL PROPERTY FOR A CONSIDERATION BY WAY OF A LEASE, RENTAL,**
11 **ROYALTY AGREEMENT, OR GRANT OF A LICENSE FOR USE.**

12 **(II) FOR PURPOSES OF THE LUXURY SURCHARGE IMPOSED**
13 **UNDER THIS SUBSECTION ON A LEASE OF TANGIBLE PERSONAL PROPERTY, THE**
14 **TAXABLE PRICE OF AN ITEM SHALL BE DETERMINED BASED ON THE TOTAL OF**
15 **LEASE PAYMENTS REQUIRED FOR THE MINIMUM PERIOD THAT THE ITEM IS**
16 **LEASED.**

17 11-104.

18 **(J) THE AMOUNT OF THE LUXURY SURCHARGE IMPOSED UNDER §**
19 **11-102(D) OF THIS SUBTITLE IS:**

20 **(1) FOR THE SALE OF AN ITEM OTHER THAN THE ITEMS**
21 **DESCRIBED IN ITEM (2) OF THIS SUBSECTION:**

22 **(I) EXCEPT AS PROVIDED IN ITEMS (II) AND (III) OF THIS**
23 **ITEM, 1% OF THE AMOUNT BY WHICH THE TAXABLE PRICE OF THE ITEM**
24 **EXCEEDS \$8,000;**

25 **(II) EXCEPT AS PROVIDED IN ITEM (III) OF THIS ITEM, IF**
26 **THE TAXABLE PRICE OF THE ITEM EXCEEDS \$45,000, \$370 PLUS 2% OF THE**
27 **AMOUNT BY WHICH THE TAXABLE PRICE OF THE ITEM EXCEEDS \$45,000; AND**

28 **(III) IF THE TAXABLE PRICE OF THE ITEM EXCEEDS \$70,000,**
29 **\$1,070 PLUS 3% OF THE AMOUNT BY WHICH THE TAXABLE PRICE OF THE ITEM**
30 **EXCEEDS \$70,000; AND**

31 **(2) FOR THE SALE OF A MOTOR VEHICLE, MOTORCYCLE, BOAT, OR**
32 **PLANE:**

1 **(I) EXCEPT AS PROVIDED IN ITEMS (II) AND (III) OF THIS**
2 **ITEM, 1% OF THE AMOUNT BY WHICH THE TAXABLE PRICE OF THE ITEM**
3 **EXCEEDS \$50,000;**

4 **(II) EXCEPT AS PROVIDED IN ITEM (III) OF THIS ITEM, \$700**
5 **PLUS 2% OF THE AMOUNT BY WHICH THE TAXABLE PRICE OF THE ITEM**
6 **EXCEEDS \$120,000; AND**

7 **(III) IF THE TAXABLE PRICE OF THE ITEM EXCEEDS**
8 **\$400,000, \$6,300 PLUS 3% OF THE AMOUNT BY WHICH THE TAXABLE PRICE OF**
9 **THE ITEM EXCEEDS \$400,000.**

10 **(K) (1) FOR EVERY FIFTH TAXABLE YEAR FOLLOWING THE TAXABLE**
11 **YEAR BEGINNING AFTER DECEMBER 31, 2012, THE THRESHOLDS FOR**
12 **APPLICATIONS OF THE RATES SPECIFIED IN SUBSECTION (J) OF THIS SECTION**
13 **SHALL BE INCREASED BY THE AMOUNT EQUAL TO THE PRODUCT OF**
14 **MULTIPLYING THAT THRESHOLD TIMES THE COST-OF-LIVING ADJUSTMENT**
15 **SPECIFIED IN THIS SUBSECTION.**

16 **(2) FOR PURPOSES OF THIS SUBSECTION, THE COST-OF-LIVING**
17 **ADJUSTMENT IS THE COST-OF-LIVING ADJUSTMENT WITHIN THE MEANING OF §**
18 **1(F)(3) OF THE INTERNAL REVENUE CODE FOR THE CALENDAR YEAR IN WHICH**
19 **A TAXABLE YEAR BEGINS, AS DETERMINED BY THE COMPTROLLER BY**
20 **SUBSTITUTING “CALENDAR YEAR 2013” FOR “CALENDAR YEAR 1992” IN §**
21 **1(F)(3)(B) OF THE INTERNAL REVENUE CODE.**

22 **(3) IF ANY INCREASE DETERMINED UNDER PARAGRAPH (1) OF**
23 **THIS SUBSECTION IS NOT A MULTIPLE OF \$50, THE INCREASE SHALL BE**
24 **ROUNDED DOWN TO THE NEXT LOWEST MULTIPLE OF \$50.**

25 11-221.

26 **(a) [The] EXCEPT AS PROVIDED IN SUBSECTION (A-1) OF THIS SECTION,**
27 **THE sales and use tax does not apply to:**

28 **(1) a sale of an admission by a person whose gross receipts from the**
29 **sale are subject to the admissions and amusement tax;**

30 **(2) a sale of a communication service, other than a taxable service,**
31 **rendered by a person whose charge for a communication service is or would be subject**
32 **to the federal excise tax as described in § 4251 of the Internal Revenue Code in effect**
33 **on July 1, 1979;**

1 (3) a sale of a motor fuel that is subject to the motor fuel tax or the
2 motor carrier tax;

3 (4) except for a rental, a sale of a motor vehicle, other than a house or
4 office trailer, that is subject to the motor vehicle excise tax under § 13–809 or § 13–811
5 of the Transportation Article;

6 (5) a lease of a motor vehicle that is leased for a period of at least 1
7 year;

8 (6) a rental of a motion picture, motion picture trailer, or advertising
9 poster for display on theater premises by a person whose gross receipts from the
10 activity related to the rental is subject to the admissions and amusement tax; or

11 (7) except for a rental, a sale of a vessel that is subject to the excise
12 tax under § 8–716 of the Natural Resources Article.

13 **(A–1) THE EXEMPTIONS UNDER SUBSECTION (A)(4), (5), AND (7) OF THIS**
14 **SECTION DO NOT APPLY TO THE LUXURY SURCHARGE IMPOSED UNDER §**
15 **11–102(D) OF THIS TITLE.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 July 1, 2013.