



**COMPTROLLER**  
*of* **MARYLAND**  
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# MARYLAND SALES AND USE TAX FACTS

A newsletter for sales and use tax licensees

*July 2020 – June 2021*

**Comptroller Peter Franchot**

## NO SALES AND USE TAX BULLETIN

There will be no separate Sales and Use Tax Bulletin for 2020. This publication will address the bills affecting sales and use tax enacted during the 2019 and 2020 legislative sessions.

## LEGISLATION

2019 Session

### MARKETPLACE FACILITATORS

The third readings of Senate Bill 0728 and House Bill 1301 were passed and enrolled on April 5, 2019 and April 8, 2019, respectively. As of October 1, 2019, a "marketplace facilitator" collects sales and use tax due on a retail sale or sale for use by a "marketplace seller" to a buyer in Maryland. A marketplace facilitator is a person that: (1) facilitates a retail sale by a marketplace seller by listing or advertising for sale in a marketplace tangible personal property; and (2) regardless of whether the person receives compensation or other consideration in exchange for the person's services, directly or indirectly through agreement with third parties, collects payment from a buyer and transmits the payment to the marketplace seller.

A marketplace seller is a person that makes a retail sale or sale for use through a physical or electronic marketplace operated by a marketplace facilitator. A marketplace seller is not required to collect sales and use tax if the marketplace facilitator collects the sales and use tax.

A marketplace facilitator is required to complete and file a sales and use tax return with the Comptroller's office. A marketplace facilitator facilitating a retail sale or sale for use must file a sales and use tax return that reports the following: (1) the marketplace facilitator's gross revenues from the sales of marketplace sellers that the marketplace facilitator has facilitated and delivered in the state; (2) the taxable price of facilitated sales on which the sales and use tax is computed; and (3) the sales and use tax due. A marketplace facilitator that operates more than one business facilitating retail sales or sales for use may file a consolidated return if the approval is granted by the Comptroller's office.

### LIST OF TANGIBLE PERSONAL PROPERTY AND SERVICES

On April 30, 2019, Governor Lawrence J. Hogan, Jr. approved House Bill 454. The legislation requires the Comptroller of Maryland to publish a comprehensive list of tangible personal property and services, the sale or use of which are subject to sales and use tax, on the Comptroller's website. The Comptroller is required to update the list at least on a quarterly basis and detail any additions, deletions, or revisions to the list. The legislation, now known as Chapter 257 of the Acts of 2019, took effect on October 1, 2019. The most recently published list of tangible personal property and services can be found online at [marylandtaxes.gov](http://marylandtaxes.gov).

### SHORT-TERM RENTAL UNITS

Senate Bill 533 and House Bill 884 passed on April 8, 2019. Effective June 1, 2019, short-term rental platforms are required to collect and remit the sales and use tax on specified short-term rental transactions facilitated by the short-term rental platform. A short-term rental platform is an internet-based digital entity that: (1) advertise the availability of short-term rental units for rent; (2) receives compensation for facilitating reservations or processing booking transactions on behalf of the owner, operator, or manager of a short-term rental unit.

A short-term rental unit is a residential dwelling unit or a portion of the unit used for short-term rentals. Short-term rental unit includes a single family house or dwelling, a multifamily house or dwelling, an apartment, a condominium, or a cooperative.

### COMMERCIAL CLEANING

On April 30, 2019, Governor Lawrence J. Hogan, Jr. approved Senate Bill 283. The legislation created an exemption from sales and use tax for charges for cleaning a commercial or industrial building if the building is owned by a common ownership community or retirement community and used for the following: classrooms; dining; exercise; food preparation or cooking; meetings or gatherings; offices used by the common ownership community for management of the community; recreation; security; sports; storage; or any other common use. The exemption does not apply to charges for cleaning a commercial or industrial building or a proportionate share of the building that requires the collection of the sales and use tax. The legislation, now known as Chapter 293 of the Acts of 2019, took effect upon the date of enactment.

### TELEPHONE ANSWERING SERVICES

Sales and use tax applies to certain enumerated taxable services, including telephone answering services. On April 30, 2019, Governor Lawrence J. Hogan, Jr. approved Senate Bill 0945 and House Bill 0809. The legislation defines telephone answering service as a service provided to a customer that consists exclusively of the taking of messages, either by an automated system or by a live operator, and transmitting the messages to the customer. A telephone answering service does not include the physical act of answering a telephone on behalf of a customer, if the act is incidental to and less than 5% of the service provider's total gross receipts in a calendar year. The legislation, now known as Chapter 292 of the Acts of 2019 took effect upon the date of enactment.

2020 Session

### ARTIFICIAL HEARING DEVICE EARMOLDS, EQUIPMENT, AND PARTS

On May 7, 2020, House Bill 1326 was enacted under Article II, Section 17(c) of the Maryland Constitution as Chapter 637 of the Acts of 2020. The legislation exempts the following hearing related equipment and parts from the State sales and use tax: (1) a custom-made earmold for an artificial

hearing device; (2) a battery charger for an artificial hearing device; or (3) a receiver for an artificial hearing device. The bill also repeals the exemption the sale of a replacement cord for an artificial hearing device from sales and use tax. The legislation takes effect on July 1, 2020.

### AIRCRAFT PARTS AND EQUIPMENT

On May 7, 2020, Senate Bill 121 was enacted under Article II, Section 17(c) of the Maryland Constitution as Chapter 638 of the Acts of 2020. The bill creates a sales and use tax exemption for sales of materials, parts, or equipment used to repair, maintain, or upgrade aircraft or the aviation systems or aircraft if the materials, parts, or equipment are installed on an aircraft that: (1) has a maximum gross takeoff weight of less than 12,500 pounds; or (2) has a maximum gross takeoff weight of 12,500 pounds or more and is primarily used in interstate or foreign commerce. The Comptroller's office is required to issue a report with the following information: (1) the amount of sales and use tax revenue lost from the exemption; and (2) the number of aviation technicians employed in Maryland because of the exemption. The legislation has effective date of July 1, 2020 and shall remain effective for a period of 5 years. It will abrogate at the end of June 30, 2025 without any further action by the General Assembly.

### DATA CENTERS

On May 7, 2020, Senate Bill 397 was enacted under Article II, Section 17(c) of the Maryland Constitution as Chapter 640 of the Acts of 2020. The legislation created a sales and use tax exemption for the sale of qualified data center personal property for use at a qualified data center if the buyer provides the vendor with evidence of eligibility issued by the Comptroller. Qualified data center personal property means personal property purchased or leased to establish or operate a data center. A qualified data center includes a data center that is a co-located or hosting data center where equipment, space, and bandwidth are available to lease to multiple customers; and an enterprise data center owned and operated by the company it supports. The legislation shall take effect on July 1, 2020.

### LICENSED CATERERS

On May 7, 2020, Senate Bill 843 was enacted under Article II, Section 17(c) of the Maryland Constitution as Chapter 644 of the Acts of 2020. Sales and use tax does not apply to the sale of materials, equipment or supplies to a licensed caterer if they are: (1) used by the caterer to perform a contract for catering services; and (2) (i) intended for resale by the caterer; and (ii) used directly or predominantly by the caterer in performing a catering contract that includes the provision of food and beverages. A licensed caterer is a holder of a food service license issued by a county that offers catering services in connection with a specific event. A licensed caterer does not include a food service facility that is primarily engaged in the preparation and service of food to the general public at the facility. The legislation shall take effect on July 1, 2020.

### PEER-TO-PEER CAR SHARING

Chapter 852 of the Acts of 2018 established a sales and use tax rate of 8% applied to sales and charges made in connection with a shared motor vehicle used for peer-to-peer car sharing and made available on a peer-to-peer car sharing program. The bill became effective July 1, 2018 for a period of 2 years and was set to end June 30, 2020.

On May 7, 2020, Senate Bill 573 was enacted under Article II, Section 17(c) of the Maryland Constitution as Chapter 567 of the Acts of 2020. The legislation, effective June 1, 2020, extended the effective period to 3 years. It will abrogate at the end of June 30, 2021 without any further action by the General Assembly.

### QUALIFIED OPPORTUNITY ZONES IN BALTIMORE COUNTY AND TARGET REDEVELOPMENT AREAS IN WASHINGTON COUNTY

On May 7, 2020, Senate Bill 185 was enacted under Article II, Section 17(c) of the Maryland Constitution as Chapter 639 of the Acts of 2020. The legislation provides an exemption from the sales and use tax for certain construction material or warehousing equipment purchased solely for use in a qualified opportunity zone in Baltimore County or target redevelopment area in Washington County under certain circumstances. The legislation requires a buyer claiming the exemption to provide a vendor evidence of eligibility issued by the Comptroller. The legislation shall take effect on July 1, 2020.

### INTEREST RATE CHANGE

The annual interest rate has been changed for 2020 and future years as a result of House Bill 422 (Chapter 322, Acts of 2016). The annual interest rate for 2020 is 10.5%. For 2020, the annual interest rate decreases to 10.0%. For additional information, please see our website at [www.marylandtaxes.gov](http://www.marylandtaxes.gov) or email your question to [TAXHELP@marylandtaxes.gov](mailto:TAXHELP@marylandtaxes.gov). You may also call 1-800-638-2937 or from central Maryland 410-260-7980.

### SHOP MARYLAND BACK-TO-SCHOOL TAX-FREE WEEK

Beginning in calendar year 2010 and each year thereafter, there will be a one week tax-free period for back-to-school shopping in Maryland. The tax-free period occurs in the 7-day period from the second Sunday in August through the following Saturday.

During this time, the sales and use tax does not apply to: 1) the sale of any item of clothing or footwear if the taxable price of the item of clothing or footwear is \$100 or less; or 2) the first \$40 of the taxable price of any backpack or bookbag. Accessory items are not exempt from the sales and use tax during the tax free week. Examples of accessory items include jewelry, watches, watchbands, handbags, handkerchiefs, umbrellas, scarves, ties, headbands and belt buckles.