

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

Article - Tax - General

11-701.

(b) (1) “Engage in the business of an out-of-state vendor” means to sell or deliver tangible personal property or a taxable service for use in the State.

(2) “Engage in the business of an out-of-state vendor” includes:

(i) permanently or temporarily maintaining, occupying, or using any office, sales or sample room, or distribution, storage, warehouse, or other place for the sale of tangible personal property or a taxable service directly or indirectly through an agent or subsidiary;

(ii) having an agent, canvasser, representative, salesman, **INDEPENDENT CONTRACTOR**, or solicitor operating in the State for the purpose of delivering, selling, or taking orders for tangible personal property or a taxable service; or

(iii) entering the State on a regular basis to provide service or repair for tangible personal property.

**11-701.1.**

**(A) IN THIS SECTION, “SELLER” MEANS A PERSON MAKING SALES OF TANGIBLE PERSONAL PROPERTY OR A TAXABLE SERVICE.**

**(B) FOR PURPOSES OF § 11-701(B)(2)(II) OF THIS SUBTITLE, A SELLER SHALL BE PRESUMED TO HAVE AN AGENT, CANVASSER, REPRESENTATIVE, SALESMAN, INDEPENDENT CONTRACTOR, OR SOLICITOR OPERATING IN THE STATE FOR THE PURPOSE OF SELLING OR TAKING ORDERS FOR TANGIBLE PERSONAL PROPERTY OR A TAXABLE SERVICE IF:**

**(1) THE SELLER ENTERS INTO AN AGREEMENT WITH A RESIDENT OF THE STATE UNDER WHICH THE RESIDENT, FOR A COMMISSION OR OTHER CONSIDERATION, DIRECTLY OR INDIRECTLY REFERS POTENTIAL CUSTOMERS TO THE SELLER, WHETHER BY A LINK ON AN INTERNET WEB SITE, OR OTHERWISE; AND**

**(2) THE CUMULATIVE GROSS RECEIPTS FROM SALES BY THE SELLER TO CUSTOMERS IN THE STATE WHO ARE REFERRED TO THE SELLER BY ALL RESIDENTS HAVING AN AGREEMENT WITH THE SELLER AS DESCRIBED IN ITEM (1) OF THIS SUBSECTION IS GREATER THAN \$10,000 DURING**

**THE PRECEDING FOUR QUARTERLY PERIODS ENDING ON THE LAST DAY OF FEBRUARY, MAY, AUGUST, AND NOVEMBER.**

**(C) THE PRESUMPTION UNDER THIS SECTION MAY BE REBUTTED BY PROOF THAT THE RESIDENT WITH WHOM THE SELLER HAS AN AGREEMENT AS DESCRIBED IN SUBSECTION (B)(1) OF THIS SECTION DID NOT ENGAGE IN ANY SOLICITATION IN THE STATE ON BEHALF OF THE SELLER THAT WOULD SATISFY THE NEXUS REQUIREMENT OF THE UNITED STATES CONSTITUTION DURING THE FOUR QUARTERLY PERIODS IN QUESTION.**

**(D) THIS SECTION MAY NOT BE CONSTRUED TO NARROW THE SCOPE OF THE TERMS “AGENT”, “CANVASSER”, “REPRESENTATIVE”, “SALESMAN”, “INDEPENDENT CONTRACTOR”, AND “SOLICITOR” FOR PURPOSES OF § 11-701(B)(2)(II) OF THIS SUBTITLE OR FOR PURPOSES OF ANY OTHER PROVISION OF LAW.”.**