



Maryland Sales and Use Tax Exemption Eligibility Application for Data Centers

Section I: General Information

1. Full legal name of business			
2. Business mailing address			
3. Federal employer identification number	4. Unemployment insurance number	5. SDAT identification number	6. NAICS code
7. Is the business in good standing to transact in Maryland? You must attach a Certificate of Status from the Maryland Department of Assessment and Taxation.			Yes No
8. Is the business current on all tax obligations in Maryland? You must attach a Good Standing Certificate from the Comptroller of Maryland.			Yes No

Section II: Project Information

9. Facility address			
10. County of facility	11. Located in an Opportunity Zone? Yes No	12. SDAT property account identification number	13. Facility NAICS code
14. Describe the facility used in the project. Check all that apply. Provide supporting documentation. <div style="display: flex; justify-content: space-between;"> New construction Expansion of an existing facility Purchase of an existing building </div> <div style="display: flex; justify-content: space-between;"> Leasing a facility Other: _____ </div>			
15. Indicate whether this project is an establishment or an expansion (check one): <div style="display: flex; justify-content: space-between;"> A new business operation in Maryland Moving an existing business into Maryland Expanding an existing Maryland business </div>			
16. Project commencement date:		17. Anticipated date when operations will begin at facility:	
18. Description of activities performed at the facility:			
19. Provide the number of jobs to be created each year and their aggregate annual wages.			
Year			Total
Projected new jobs per year			
Aggregate payroll of new jobs			
20. Will the jobs pay at least 150% of the State minimum wage? Yes No			
21. Total projected investment in qualified data center personal property.			
22. Projected investment in qualified data center personal property			
Year			Total
Personal property investment by year (projected amount)			



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Section III: Qualified Data Center Requirements

An authorized officer of the business must read the following requirements and indicate acceptance of the conditions by signing below.

Senate Bill 397 (2020) provides for a sales and use tax exemption on qualifying data center personal property that is purchased or leased for use in a data center that is located within the State of Maryland and meets certain capital investment and new job requirements.

In order to claim such an exemption, an individual or corporation must file this completed application with the Department and provide such information as necessary to demonstrate its intent to meet the requirements of a qualified data center. The Department shall certify the applicant's eligibility for the sales and use tax exemption and notify the Maryland Comptroller's Office (the "Comptroller"). The Comptroller shall issue the sales and use tax exemption certificate within 30 days. The Comptroller cannot issue a sales and use tax exemption certificate until notification by the Department of the applicant's eligibility.

Qualifying Data Center: The data center may be an individual or corporation. It may be an enterprise or a colocation data center. A data center may apply for eligibility on behalf of itself or together, jointly and severally, with its affiliates. The data center must include a list of the affiliates for which it wants to obtain use of the data center sales and use tax exemption. A data center must be located in the State of Maryland.

The data center may have more than one facility physically located in a locality. Multiple facilities in one locality will be considered collectively as one data center. The data center must include a list of the facility addresses in this application. The colocation data center and its tenants are referred to as a group. The data center must include a list of its tenants in this application.

Qualified Data Center Personal Property: The computer equipment or enabling software must be purchased or leased for use in a data center located in the State of Maryland. Pursuant to the statute, qualifying computer equipment or enabling software is such equipment or software used "for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware used in the operation of that equipment."

The following property qualifies for the data center sales and use tax exemption: servers, mainframes, network infrastructure, and data storage hardware; cabling, switches, directors, wiring, and similar items used for the operation of exempt equipment; and cabinets, battery racks, cable trays built specifically for the housing of servers, mainframes, network infrastructure, hardware, and related computer equipment.

Equipment necessary for the generation, transformation, transmission, distribution or management of electricity also qualify for the data center sales and use tax, including radiators, exhaust fans, fuel storage tanks, and similar items used to provide electricity to the data center or computer equipment; power distribution equipment, cogeneration equipment, batteries, and other equipment used to provide electricity to the data center or computer equipment; and tangible personal property used to monitor the data center's power generation, transmission and distribution equipment.

Performance Target: The data center must meet the qualified data center personal property investment and new jobs requirements within a three-year period starting from the time that the Department receives this application. Furthermore, the data center must maintain its eligibility as a qualified data center for the duration of the 10- or 20-year consecutive benefit period.

Qualified Data Center Personal Property Investment Target: The data center must make a minimum capital investment in qualified data center personal property. The minimum investment amount depends on the location of the data center. For a data center located within a Tier 1 Area, the data center must invest at least \$2 million in qualified data center personal property within three years after submitting its application to the Department. For a data center not located within a Tier 1 Area, the data center must invest at least \$5 million in qualified data center personal property within three years after submitting this application to the Department. A "Tier 1 Area" means a Tier 1 county as defined in section 1-101 of the Economic Development Article or an Opportunity Zone. A data center that invests at least \$250 million in qualified data center personal property within ten years after submitting this application to the Department may renew the certificate of eligibility for up to 20 consecutive years.

Qualified Positions Target: The data center must also result in the creation of at least 5 new jobs associated with the operation or maintenance of the data center.

A new job is: full-time employment of an indefinite duration, paid at least 150% of the prevailing State minimum wage, is newly created because the data center begins or expands in a single location in the State; and is filled. A full-time position means a position requiring an employee to work at least 840 hours worked during at least 24 weeks in a 6-month period.

A new job does not include a position that is created if the employment function is shifted from an existing data center in the State to another data center of related ownership if the position is not a net new job in the State; created through a change on ownership of a trade or business; created through a consolidation, merger, or restructuring of a business entity if the position is not a net new job in the State; created if an employment function is contractually shifted from an existing business entity in the State to another business entity if the position is not a net new jobs in the State; or filled for a period of less than 12 months.



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Record Keeping: The data center must keep complete and accurate records of the amount of capital investment, number of qualified positions jobs, qualified data center personal property, and value of the tax benefit received. The data center must maintain these records for at least 3 years after the termination of the Certificate of Eligibility.

Reporting: The data center must make an annual report to the Department each year during its 10 or 20-year consecutive benefit period. A data center is expected to provide: a summary breakdown of the qualified data center personal property investment; a listing of the employees which constitute the new jobs, each with their associated annual wage; and the value of the tax benefit received.

Verification of Achievement of the Performance Targets: The capital investment and new jobs information reported by the data center is subject to verification. The Department will verify new job creation and wage information with the Maryland Department of Labor ("Labor"). A data center may be requested to provide copies to the Department of the employer's quarterly reports provided to Labor. The data center will receive a letter of satisfaction upon verification of achievement of the performance target.

Repayment: If at any time during the performance period, the data center or the Department determines that the data center will be unable to meet the performance target, the data center must cease using the data center sales and use tax exemption certificate and repay the value of the tax benefit received.

If it is determined that the data center has not achieved the performance targets as of the end of the three-year performance period, the data center must cease using the data center sales and use tax exemption certificate and repay the value of the tax benefit received.

By initialing below, I aver that I have read, and agree to, the Qualified Data Center Requirements of Section III.

_____ (initials here)

Section IV: Release and Consent

Collection of Personal Information: In accordance with Executive Order 01.01.1983.18, the Department advises you as follows: Certain personal information requested by the Department is necessary in determining your eligibility. Failure to disclose this information may result in the denial of benefits or services. Availability of this information for public inspection is governed by the provisions of the Maryland Public Information Act, General Provisions Article, §§ 4-101 et seq. of the Annotated Code of Maryland. This information will be disclosed to appropriate staff of Commerce and other public officials for purposes directly connected with administration of the program for which its use is intended. Such information is routinely shared with State, federal, or local government agencies. You have the right to inspect, amend, or correct personal records in accordance with the Maryland Public Information Act.

Publicity: The applicant agrees that the Department may issue press releases and otherwise publicize information about the applicant's employment levels before and after its qualification.

Employment and Wage Data: Periodically, the Maryland Department of Labor ("Labor"), in cooperation with the U. S. Department of Labor Statistics ("BLS"), collects employment and wage data from you and other employers who conduct business in the State of Maryland. This information, collected on the Multiple Worksite Report (BLS 3020) and the Annual Refiling Survey (BLS 3023), is kept confidential and may only be used by the Department with your written consent. The Department is requesting disclosure of this information in order to evaluate the effectiveness of Commerce's economic development programs and their impact on your company's employment level.

Consent: I give consent to Labor to release the information that our company provides on the BLS 3023 form and the BLS 3020 form to Commerce, for the purpose of evaluating the effectiveness of the Department's economic development programs and their impact on our company's employment level.

Audit: I understand that my application may be subject to review and that additional information may be requested.

I verify that the business is applying for Certification as a Qualified Data Center and intends to create a Qualified Data Center within three years from the date of this application. The business (1) is current in all State and local tax obligations; (2) is not in default in any State or local contract; (3) is in good standing and authorized or registered to do business in the State.

Under penalties of perjury, I the undersigned, the _____ of the company declare that the representations, warranties and other information contained in this application, are true, correct and complete.

Print Name

Title

Signature

Date

Contact Name

Phone Number

Email address



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Instructions

Below are instructions for filling out the Maryland Sales and Use Tax Exemption Eligibility Application.

Section I: General Information:

1. Provide the full legal name of the entity.
2. Provide the address of the business entity. The certificate will be mailed to this address.
3. Provide the federal employer identification number of the business entity.
4. Provide the unemployment insurance number issued to the business entity by the Maryland Department of Labor.
5. Provide the identification number issued to the business entity by the Maryland Department of Assessments and Taxation.
6. Provide the 6-digit North American Industrial Classification (NAICS) Code of the business entity.
7. Indicate whether the business is registered to do business with the State Department of Assessment and Taxation, and attach a copy of its [Certificate of Status](#) issued within the last 30 days.
8. Indicate whether the business is current on all tax obligations to the State, and attach a copy of its [Good Standing Certificate](#) issued by the Comptroller of Maryland within the last 30 days.

Section II: Project Information

9. Provide the facility address including the street, city, state and zip code.
10. Provide the county where the facility is located. Tier 1 Areas include Baltimore City, Allegany, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico and Worcester Counties. A Tier 1 area is also an opportunity zone in any county.
11. Indicate whether the facility is located in an Opportunity Zone.
12. Provide the property account identification number issued to the business facility by the Maryland Department of Assessments and Taxation.
13. Provide the 6-digit North American Industrial Classification (NAICS) Code of the business facility, if different from above.
14. Indicate whether the facility is a new construction, expansion of an existing facility, a purchase of an existing building, a lease of a facility or other. If other, please explain. You must provide a copy of the deed, lease agreement and any other documentation which sufficiently demonstrates your intent and capacity to meet the requirements of a qualified data center.
15. Indicate whether this project is a new business operation in Maryland, an existing business moving into Maryland, or an existing Maryland business expanding in the State.
16. Provide a description of the activities performed at the facility including whether the data center will be or is co-located or co-hosting, and whether the data center is owned and operated by the company it supports.
17. Provide the effective date when the project started.
18. Provide the date when the business will start its operations at the new data center establishment.
19. Provide the projected number of new jobs and their wages by the year when they will be created.
20. Indicate whether the jobs will pay at least 150% of the State minimum wage.
21. Provide the projected amount of qualified data center personal property investment that will be made related to this project within three years of this application.
22. Provide a breakdown of the investment in data center personal property by year for the next three years.

Section III: Qualified Data Center Requirements

Please read through the programmatic requirements. An office of the business must initial to indicate that the company has read and agreed to the Qualified Data Center Requirements of Section III.

The application must be signed by an Officer of the business applying.

Revised May 2022

Submit completed application to:
Tax Incentives, Office of Finance Programs, Maryland Department of Commerce
401 East Pratt Street, 17th Floor, Baltimore, Maryland 21202

or

kelly.adams1@maryland.gov



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Exhibit A (Collection of Statistical Data About the Applicant)

This form is for gathering statistical data only. The information provided in this form has no bearing on the Applicant's eligibility for the tax credit applied for and will not be a part of the application approval process. Furnishing of this information is voluntary; failure to do so will have no effect on the approval of the tax credit application.

Respondent does not wish to furnish this information: Yes No

If the Applicant is a business organization:

If the Applicant is a business that is owned and controlled primarily by individuals who are identified in any of the following categories, please check all the categories that apply:

- Female
- Of Hispanic or Latino origin
- Asian
- American Indian or Alaska Native
- Black or African American
- Native Hawaiian or other Pacific Islander
- White
- Veteran

Is the Applicant a State/Federal/Other certified Minority Business Enterprise? Yes No

If yes, please provide your:

State MBE certification number: _____

Federal 8(a)/SDB certification number: _____

Identify who the other issuer is and the other certification number: _____

Applicant is a publicly held entity or other organization not classifiable as owned by individuals of a particular gender, race, ethnicity, or veteran status: Yes No

If the Applicant is an individual:

Is the Applicant Female? Yes No

Is the Applicant of Hispanic or Latino origin? Yes No

Which of the following categories describes the Applicant (multiracial respondents may select all applicable racial categories)?

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or other Pacific Islander
- White

FOR DEPARTMENT USE ONLY:

Respondent Name: _____

Date: _____