

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 64

(Chairman, Budget and Taxation Committee)
(By Request – Departmental – Comptroller)

Budget and Taxation

Ways and Means

Sales and Use Tax - Operating without a License

This departmental bill authorizes the Comptroller to take possession of specified property used in the business of any person engaged in the business of a retail vendor or out-of-state vendor but who is operating without a valid sales and use tax license after following specified due process procedures. These procedures include assessment of any unpaid tax, interest, and penalty as a jeopardy assessment. Property that may be seized includes: business premises, trade fixtures, money, or other personal property used in the business. The bill requires the Comptroller to return the property to the vendor if a valid license is obtained. The Comptroller is authorized to sell the property if after 45 days from the date of seizing the property the person does not obtain a valid license. Proceeds from the sale of seized property are to be distributed in the following order: (1) to the Comptroller for expenses related to confiscation and sale; (2) any claims of unpaid taxes; (3) any tax lien filed by the State; and (4) any other bona fide lien against the property.

The bill takes effect July 1, 2004.

Fiscal Summary

State Effect: Potential increase in general fund revenue resulting from greater compliance with State sales tax laws. The amount of any revenue increase will depend on the number of persons operating without valid sales and use tax licenses who would be subject to, or deterred by, the bill's provisions.

Local Effect: None.

Small Business Effect: The Comptroller of Maryland has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: It is illegal to engage in the business of a retail or out-of-state vendor without a valid sales and use tax license; however, the Comptroller has no statutory authority to stop a vendor from operating absent an order from the circuit court.

Background: Currently, the Field Enforcement Division works in conjunction with other law enforcement agencies as well as other units within the Comptroller's Office to enforce these laws because it does not have the authority to enforce these laws by itself.

State Fiscal Effect: In addition to any seized revenues, the proposed enforcement mechanism could generate greater compliance with sales tax laws by vendors currently operating without a valid sales and use tax license. However, the amount of any revenue increase cannot be reliably estimated and depends on the number of vendors operating without a valid sales and use tax license. Any expenses incurred by the Comptroller to enforce the provisions of the bill are expected to be covered by the sale of seized property.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Office of Administrative Hearings, Department of Legislative Services

Fiscal Note History: First Reader - January 22, 2004
mh/mdr Revised - Senate Third Reader - March 31, 2004

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510