

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1345
Ways and Means

(Delegates Hixson and Mizeur)

Sales and Use Tax - Luxury Surcharge

This bill imposes a specified luxury surcharge on the retail sales or use of tangible personal property if the taxable price is over \$5,000 and on the sale of a motor vehicle, motorcycle, boat, or plane if the taxable price is over \$35,000.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: General fund revenues increase by a significant amount beginning in FY 2013. The amount of the increase depends on the amount of tangible personal property, motor vehicles, motorcycles, boats, and planes sold in the State and the taxable price of each. General fund expenditures increase by \$280,050 in FY 2013 for computer programming and notification costs.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill imposes a luxury surcharge on the retail sale of an item with a taxable price of more than \$5,000 and the sale of a motor vehicle, motorcycle, boat, or plane if the taxable price is over \$35,000.

The amount of the luxury surcharge for items other than motor vehicles, motorcycles, boats, or planes is equal to:

- 1% of the amount by which the taxable price exceeds \$5,000; and
- \$150, plus 2% by which the taxable price exceeds \$20,000 for items with a taxable price over \$20,000.

For motor vehicles, motorcycles, boats, or planes the luxury surcharge is equal to:

- 1% of the amount by which the taxable price exceeds \$35,000; and
- \$550, plus 2% of the amount by which the taxable price exceeds \$90,000.

The bill provides for certain exemptions from the surcharge.

Current Law: The State sales and use tax rate is 6%, except for the sale of alcoholic beverages, which are taxed at a rate of 9%. The State sales and use tax also applies generally to such items as rentals of tangible personal property, restaurant meals, hotel rooms, and utilities (although specific exemptions are allowed for residential purchases of electricity and gas).

There is a 6% motor vehicle excise (titling) tax applied to the fair market value or purchase price of a vehicle, less an allowance for a trade-in vehicle, with a minimum of \$32. Vehicle excise tax revenues are deposited in the Transportation Trust Fund (TTF).

A 5% vessel excise tax is imposed on the purchase of a new or used vessel within Maryland to be titled and numbered in the State or on the possession of a vessel within Maryland that was purchased outside of Maryland but is used principally in Maryland. The tax is applied to the gross purchase price or fair market value of the vessel with a deduction for the value of a trade-in. The gross purchase price, verified by a certified bill of sale, includes the boat, motor, accessories, freight, and make-ready charges. The fair market value is determined by means of a national publication of used vessel values (specifically, the Used Boat Price Guide). There is a minimum value of \$100 that applies to all sales. Vessel excise tax revenues are credited to the Waterway Improvement Fund (WIF).

Background: The sales and use tax is the State's second largest source of general fund revenue, accounting for \$4.0 billion in both fiscal 2012 and 2013, according to the December 2011 revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

Exhibit 1
Sales and Use Tax Rates in Maryland and Surrounding States

Delaware	0%
District of Columbia	6%
Maryland	6%
	9% for alcoholic beverages
Pennsylvania	6% plus 1% or 2% in certain local jurisdictions
Virginia	5%; 2.5% for food, both rates include 1% for local jurisdictions
West Virginia	6%; 2% for food

The federal Omnibus Budget Reconciliation Act of 1990 imposed a 10% luxury tax on cars valued above \$30,000, boats above \$100,000, jewelry and furs above \$10,000 and private planes above \$250,000. Congress repealed the taxes on aircrafts, boats, furs, and jewelry with the Omnibus Budget Reconciliation Act of 1993, which was effective January 1, 1993. In addition, the Small Business Job Protection Act of 1996 phased out the luxury tax on passenger vehicles beginning with sales after August 27, 1996; the tax was fully phased out as of December 31, 2002.

State Revenues: The bill imposes a luxury surcharge on the sale of tangible personal property costing over \$5,000 and on the sale of motor vehicles, motorcycles, boats, and planes with a taxable price over \$35,000. In addition to motor vehicles, motorcycles, boats, and planes, the bill applies to the sale of items such as appliances, artwork, clothing and shoes, electronics, and jewelry.

As a result, general fund revenues may increase by a significant amount beginning in fiscal 2013. The amount of the increase cannot be reliably estimated and depends on the number of items that are sold in Maryland in each year and the cost of each item. Data is not available on the number and amount of “luxury” products sold and purchased in the State.

However, any revenue increase from the new luxury surcharge may be mitigated to the extent that (1) a sale does not occur because the cost with the new tax dissuades the purchaser; or (2) a sale is diverted to a neighboring state where the product is not subject to a sales tax or the sales tax rate is lower. The extent to which this may occur cannot be reliably estimated; there are reports that the federal luxury tax generated \$97 million less in the first year than estimated, which suggests that consumers may be willing to either choose not to purchase a particular good, or purchase the product somewhere other than Maryland.

As a point of reference, and to show a potential magnitude of the revenue effect of the bill, the Motor Vehicle Administration (MVA) reports that, in fiscal 2011, there were 39,003 motor vehicles titled in Maryland that had a taxable price between \$35,001 and \$90,000, with an average taxable price of \$45,468. An additional 1,535 motor vehicles were titled in the State that had a taxable price over \$90,000, with an average taxable price of \$123,704. Based on the tiered tax rates imposed by the bill, it is estimated that if there are a comparable number of motor vehicle titlings in fiscal 2013, general fund revenues will increase by approximately \$5.5 million. This estimate does not account for any reduction in sales that may occur.

The Department of Natural Resources (DNR) reports that in fiscal 2011 there were 23,705 boats titled in Maryland that had a taxable price between \$30,000 and \$89,999 and an additional 832 titled with a taxable price over \$90,000. The estimated average price for boats over \$90,000 is \$184,500.

State Expenditures: The Comptroller's Office will incur a variety of one-time expenditures to administer the sales tax rate changes, including form changes, notification costs relating to mailing and postage, and computer programming modifications. As a result, general fund expenditures increase by \$280,050 in fiscal 2013.

Small Business Effect: The bill may have a significant negative effect on small businesses in the State to the extent that sales of certain "luxury" items decrease due to the imposition of the additional tax. Sales decreases will result in decreased revenue for these businesses, which in turn may result in decreased jobs at these businesses.

According to the 2008 Statistics of U.S. Businesses by the U.S. Census Bureau, there are 11,564 retail firms in Maryland with less than 99 employees.

The 2007 Economic Census indicates that there are approximately 690 automobile dealers in the State with annual sales of over \$17 billion; 73 motorcycle, ATV, and personal watercraft dealers with annual sales of \$334 million; 170 boat dealers with annual sales of over \$530 million; and 186 marinas with sales of \$179 million. In addition, there are over 500 jewelry, luggage, and leather goods stores with annual sales of over \$600 million. The census data also reports 980 electronics and appliances stores that have annual sales of over \$2.0 billion.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Comptroller's Office,
Maryland Department of Transportation, Department of Legislative Services

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