

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 1162 (Delegate Hixson)  
Ways and Means

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Sales and Use Tax - Luxury Surcharge

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This bill imposes a specified luxury surcharge on the retail sales or use of tangible personal property if the taxable price is over \$8,000 and on the sale of a motor vehicle, motorcycle, boat, or plane if the taxable price is over \$50,000.

The bill takes effect July 1, 2013.

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Fiscal Summary

**State Effect:** General fund revenues increase by a significant amount beginning in FY 2014. 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 \$281,350 in FY 2014 for computer programming and notification costs.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary:** The bill imposes a luxury surcharge on the retail sale of an item with a taxable price of more than \$8,000 and the sale of a motor vehicle, motorcycle, boat, or plane if the taxable price is over \$50,000.

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 \$8,000;
- \$370, plus 2% of the amount by which the taxable price exceeds \$45,000 for items with a taxable price over \$45,000; and
- \$1,070, plus 3% by which the taxable price exceeds \$70,000 for items with a taxable price over \$70,000.

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

- 1% of the amount by which the taxable price exceeds \$50,000;
- \$700, plus 2% of the amount by which the taxable price exceeds \$120,000; and
- \$6,300, plus 3% of the amount by which the taxable price exceeds \$400,000.

The bill specifies that for every fifth taxable year beginning after December 31, 2012, the luxury surcharge rates must be adjusted by a specified cost-of-living factor.

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.

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. There is a minimum value of \$100 that applies to all sales. Vessel excise tax revenues are credited to the Waterway Improvement Fund.

**Background:** The sales and use tax is the State's second largest source of general fund revenue, accounting for approximately \$4.1 billion in fiscal 2013 and \$4.3 billion in fiscal 2014, according to the December 2012 revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

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**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%; 1% for food

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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 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 \$8,000 and on the sale of motor vehicles, motorcycles, boats, and planes with a taxable price over \$50,000. 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, annual general fund revenues may increase by a significant amount beginning in fiscal 2014. 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 products sold and purchased in the State that would be subject to the surcharge.

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 revenues 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 reports that, in fiscal 2012, there were 10,888 motor vehicles titled in Maryland that had a taxable price between \$50,001 and \$120,000, with an average taxable price of \$64,463. There were 606 motor vehicles that had a taxable price between \$120,001 and \$400,000 with an average taxable price of \$166,697. An additional five motor vehicles were titled in the State that had a taxable price over \$400,000, with an average taxable price of \$476,182. Based on the tiered tax rates imposed by the bill, and assuming a comparable number of motor vehicle titlings in fiscal 2014, general fund revenues will increase by approximately \$2.6 million. This estimate does not account for any reduction in sales that may occur.

**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 \$281,350 in fiscal 2014.

**Small Business Effect:** The bill may have a significant negative effect on small businesses in the State to the extent that sales of certain 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 2010 Statistics of U.S. Businesses by the U.S. Census Bureau, there are 10,953 retail firms in Maryland with fewer 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 billion.

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### **Additional Information**

**Prior Introductions:** HB 1345 of 2012 received a hearing in the House Ways and Means Committee, but no further action was taken.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 6, 2013  
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