

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 261
Ways and Means

(Delegate Turner, *et al.*)

Sales and Use Tax - Bottled Water - Exemption

This bill provides an exemption from the State sales and use tax for the sale of specified bottled water sold by a substantial grocery store or market business.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: General fund revenues decrease by a significant amount beginning in FY 2016. The amount of the decrease depends on the amount of eligible bottled water that is purchased in Maryland and the taxable price of that bottled water. Based on a variety of data sources and assumptions, the decrease may range between \$7.0 million and \$20.0 million annually. Expenditures are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill provides a sales and use tax exemption for specified bottled water sold at grocery stores or certain convenience stores. The exemption only applies to bottled water that (1) comes packaged in any closed or sealed container of any size or shape; (2) contains no calories; added nutritive or nonnutritive sweeteners; artificial flavors, natural flavors, or essences; preservatives; dyes; or stimulants or depressants; and (3) is still or not carbonated.

The exemption does not apply to (1) bottled water that the vendor serves for consumption on the premises of the buyer or of a third party or (2) bottled water sold with food for immediate consumption.

Current Law: Food sold by grocery stores, excluding certain prepared foods is exempt from the State sales and use tax. Vending machine sales of milk, fresh fruit and vegetables, and yogurt are also exempt. However, sales of soft drinks, bottled water, alcoholic beverages, and candy are not considered “food” for purposes of the exemption and are therefore subject to the sales and use tax.

Background: The sales and use tax is the State’s second largest source of general fund revenue, accounting for approximately \$4.3 billion in fiscal 2015 and \$4.5 billion in fiscal 2016, according to the December 2014 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	5.75%; 10% for liquor sold for off-the-premises consumption and restaurant meals, liquor for consumption on the premises, and rental vehicles
Maryland	6% 9% for alcoholic beverages
Pennsylvania	6% plus 1% or 2% in certain local jurisdictions
Virginia*	5.3%; 2.5% for food, both rates include 1% for local jurisdictions
West Virginia	6%; plus 0.5% or 1% in certain municipalities

*An additional State tax of 0.7% is imposed on sales in localities in Northern Virginia and the Hampton Roads region.

State Fiscal Effect: General fund revenues will decrease by a significant amount beginning in fiscal 2016. The amount of the decrease depends on the amount of eligible bottled water that is purchased in Maryland and the taxable unit price of the bottled water sold. Based on a variety of data sources and assumptions, the decrease may range between \$7.0 million and \$20.0 million annually.

There is no one definitive source as to the amount of bottled water sold in Maryland. Several organizations, including the Beverage Marketing Corporation (BMC), IRI, and the International Bottled Water Association, track sales of bottled water of all types across the country.

Data from BMC projects sales of all types of bottled water to be approximately 10.9 billion gallons nationwide in 2014. Based on Maryland's share of the population, this equates to approximately 204 million gallons of all types of bottled water sold in Maryland in 2014. Market data suggests that over 75% of all bottled water sold is plain bottled water. However, the bill exempts only plain bottled water if purchased at a substantial grocery store or market business. For example, plain bottled water that is purchased with food for immediate consumption is not exempt under the bill. Therefore, if it is assumed that 65% of bottled water sold in the State was plain bottled water, then there could be approximately 132.9 million gallons sold in the State that would be eligible for the exemption under the bill.

Price data from IRI suggests that prices for plain, noncarbonated bottled water can range from \$.01 per ounce to almost \$.04 per ounce depending on the size of the container purchased and the type of store where the sale is made. Single serving containers purchased at a convenience store will typically have a higher per unit price than bulk purchases made at a grocery or similar store.

Based on the above sales and price data and assumptions, if the average per ounce price of plain bottled water sold in Maryland is \$0.01, general fund revenues would decrease by approximately \$10.2 million. If the average per ounce price of plain bottled water is \$0.02, general fund revenues would decrease by approximately \$20.4 million.

The Comptroller's Office estimates that the exemption could reduce general fund revenues by approximately \$7.0 million annually. That estimate is based on 2012 bottled water sales data provided by the International Bottled Water Association.

A study recently conducted by the Rudd Center for Food Policy and Obesity at Yale University on behalf of several public interest groups in Maryland examined the effect of exempting plain bottled water from the State sales and use tax. The study estimated that exempting plain bottled water sold at grocery stores and convenience stores could reduce general fund revenues by between \$10.9 million and \$14.2 million annually beginning in fiscal 2016. The study was based on data provided by IRI through a contractual purchase agreement. The study calculated that approximately 99.6 million gallons of plain bottled water was sold in Maryland in 2013. However, the study also noted that the data used did not capture all potential sales and suggested increasing the total gallons sold by 20% to 30% to account for any missing sales.

As noted, exempting purchases of plain bottled water from the State sales and use tax will reduce general fund revenues by a significant amount beginning in fiscal 2016. The actual amount of the decrease cannot be reliably estimated and depends on the amount of plain bottled water that is sold and the various unit costs.

Additional Information

Prior Introductions: None.

Cross File: SB 574 (Senator Guzzone) - Budget and Taxation.

Information Source(s): Comptroller's Office, Rudd Center for Food Policy and Obesity, Department of Legislative Services

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