

Department of Legislative Services  
 Maryland General Assembly  
 2018 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

Senate Bill 953

(Senators Eckardt and Ferguson)

Budget and Taxation

Ways and Means

Recordation Tax – Collection by State Department of Assessments and Taxation  
 – Distribution

This bill alters the procedures for distributing specified recordation tax revenues by the State Department of Assessments and Taxation (SDAT) and the Comptroller. **The bill takes effect July 1, 2018.**

Fiscal Summary

**State Effect:** General fund expenditures increase by \$534,800 in FY 2019. Future year expenditures reflect the elimination of one-time cost, annualization, and inflation. Requiring a specified payment to certain counties in FY 2020 from the local income tax reserve account will create an additional unfunded liability on the State’s balance sheet. Revenues are not directly impacted.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	534,800	101,200	104,000	107,900	111,800
Net Effect	(\$534,800)	(\$101,200)	(\$104,000)	(\$107,900)	(\$111,800)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Recordation tax revenues in Baltimore City and Anne Arundel, Caroline, Cecil, and Howard counties may increase in FY 2020. Local expenditures are not affected.

**Small Business Effect:** None.

## **Analysis**

**Bill Summary:** SDAT must remit specified recordation tax revenues to the Comptroller. From this revenue and after deducting for administrative cost, the Comptroller must distribute the remaining revenue to the county in which (1) any entity that is party to the articles of transfer, articles of merger, or articles of consolidation has a physical presence or (2) the real property that is directly or beneficially owned by a real property entity is located. If there is more than one county eligible to receive a distribution, the Comptroller must divide the revenue equally among the eligible counties. The Comptroller must distribute any revenue for which there is no county eligible to receive the distribution to a specified special fund.

In consultation with SDAT, the Comptroller must hire an independent certified public accountant (CPA) to perform an audit of the distribution of specified recordation tax revenue for fiscal years 2010 through 2016. The audit must be completed by July 1, 2019. If the audit determines that Baltimore City and Anne Arundel, Caroline, Cecil, and Howard counties received an underpayment of recordation tax revenue, the Comptroller must pay the amount due to the county from the local income tax reserve account.

**Current Law:** When real property is sold or transferred, the majority of these transactions occur with a deed being recorded by a clerk of the court or a county land records office in the county where the property is located. Payments are submitted for the State transfer tax and county transfer and recordation tax. When real property is transferred as a result of a merger or consolidation of business entities, payment of these taxes is made at SDAT headquarters in Baltimore.

SDAT remits the local transfer tax to each county finance office, but remits the county recordation tax to the Comptroller. The Comptroller then remits those revenues to the counties based upon the information reported for total amount of recordation taxes collected, as provided by the clerk of the court or county finance office, as applicable.

For recordation taxes that are collected by the clerk of the court, the Administrative Office of the Court reports all transactions and amounts of tax collected to the Comptroller. County finance offices report this same information to the Comptroller. The Comptroller uses this information to calculate the percentage of recordation tax collections attributable to each county, which is then used by SDAT to allocate the percentage of recordation tax revenues that are to be distributed to each county from the recordation taxes that are collected by the department. The distribution of these revenues is then made by the Comptroller.

As noted, the clerks of the circuit court in several jurisdictions collect a number of different taxes and fees, including local recordation taxes. The Administrative Office of the Courts reports that the clerk of the circuit court collects local recordation taxes in the following 12 jurisdictions: Allegany, Calvert, Dorchester, Garrett, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Washington, Wicomico, and Worcester. In the remaining jurisdictions, local finance offices are responsible for the collection of these taxes.

## **Background:**

### *Distribution of Local Recordation Taxes*

SDAT advises that for fiscal years 2010 through 2015, some counties did not receive any recordation tax revenues from transactions that were filed at SDAT. It is likely that when counties began collecting recordation and transfer taxes they were unaware of the various reporting requirements necessary to receive a distribution of the taxes collected by SDAT.

According to SDAT, in fiscal 2010, Anne Arundel and Howard counties received no revenues from these transactions; in fiscal 2011, Baltimore City and Anne Arundel, Baltimore, Cecil, Charles, and Montgomery counties received no revenues; in fiscal 2012, 2013, and 2014, Baltimore City and Anne Arundel, Caroline, Cecil, and Howard counties received no revenues; and in fiscal 2015, Baltimore City and Cecil and Howard counties received no revenues.

The bill will allow Baltimore City and Anne Arundel, Caroline, Cecil, and Howard counties to recoup recordation tax revenues from transactions filed with SDAT for fiscal 2010 through 2016 from a payment from the local income tax reserve account.

### *Local Income Tax Reserve Account*

The local income tax reserve account is used by the Comptroller's Office to manage the cash flow of personal income tax payments and distributions to local governments. The account is also used to meet the State's liability for local income taxes according to generally accepted accounting principles. A portion of personal income tax net receipts is put into the account each month, representing an estimate of local income tax payments. In all but two months, a distribution of local income tax revenues is made from the account to local governments.

**State Fiscal Effect:** General fund expenditures for the Comptroller's Office increase by \$534,800 in fiscal 2019 to comply with the requirements of the bill. The estimate accounts for a 90-day start-up delay based on the bill's July 1, 2018 effective date and reflects the cost of hiring an independent CPA to audit prior year recordation tax collections and distributions, computer system upgrades, and two revenue examiners for accounting and

processing duties in the Comptroller's Office. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$74,100
Independent CPA	250,000
Computer System Upgrades	200,000
Operating Expenses	<u>10,718</u>
<b>Total FY 2019 State Expenditures</b>	<b>\$534,818</b>

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

The local income tax reserve account is used to meet the State's liability for local income taxes according to generally accepted accounting principles. The total unfunded liability of the account at the end of fiscal 2017 was \$799.7 million. Accordingly, the required payment to counties for lost recordation tax collections will create an additional unfunded liability on the State's balance sheet.

**Local Fiscal Effect:** Recordation tax revenues in Baltimore City and Anne Arundel, Caroline, Cecil, and Howard counties may increase in fiscal 2020. The amount of any increase will be determined by the findings of the independent CPA's report to be issued by July 1, 2019.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Association of Counties; Comptroller's Office; State Department of Assessments and Taxation; Department of Legislative Services

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