

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 843

(Senator Peters, *et al.*)

Budget and Taxation

Ways and Means

Sales and Use Tax - Licensed Caterers - Exemption

This bill exempts the sale of materials, equipment, or supplies to a licensed caterer if the materials, equipment, or supplies are (1) to be used by the caterer to perform a contract for catering services; and (2) intended for resale by the caterer and to be used directly or predominantly by the caterer in performing a catering contract that includes the provision of food and beverages. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: General fund revenues decrease by a potentially significant amount beginning in FY 2021. The amount of the revenue decrease depends on the taxable value and amount of material and supplies purchased by caterers. General fund expenditures increase by \$81,300 in FY 2021.

Local Effect: None.

Small Business Effect: Potential meaningful. Licensed caterers will pay slightly less for materials and supplies.

Analysis

Bill Summary: A licensed caterer is defined as the holder of a food service facility license issued by a county that offers catering services in connection with a specific event. A licensed caterer does not include a food service facility that is primarily engaged in the preparation and service of food to the general public at the facility.

Current Law: The sale of food from grocery stores, except for specified prepared foods, is exempt from the State sales and use tax. In addition, the sale of machinery, equipment, and other tangible personal property used directly and predominantly in a production activity is exempt from the State sales and use tax.

Background: The sales and use tax is the State’s second largest source of general fund revenue, accounting for approximately \$5.0 billion in fiscal 2020 and 2021, according to the December 2019 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	0.0%
District of Columbia	6.0%; 10.0% for liquor sold for on-the-premises consumption and restaurant meals; 10.25% for alcoholic beverages for consumption off the premises, tickets to specified sporting events, and specified rental vehicles; and 8.0% for specified soft drinks
Maryland	6.0% 9.0% for alcoholic beverages
Pennsylvania	6.0% plus 1.0% or 2.0% in certain local jurisdictions
Virginia*	5.3%; 2.5% for eligible food items; 2.5% for specified essential personal hygiene items; both rates include 1.0% for local jurisdictions
West Virginia	6.0% plus 0.5% (in one municipality) or 1.0% (in 45 municipalities)

*An additional state tax of 0.7% is imposed in localities in Northern Virginia and the Hampton Roads region, and an additional 1.7% is imposed in localities in the Historic Triangle.

State Revenues: General fund revenues decrease by a potentially significant amount beginning in fiscal 2021. The amount of the revenue decrease cannot be reliably estimated and depends on the number of eligible caterers in the State and the taxable price and amount of materials, equipment, or supplies purchased by licensed caterers each year. It is assumed that most, if not all food purchases are already exempt from the sales and use tax and that the exemption could apply to cutlery, glassware, silverware, linens, and other items used

in a catering business. As a point of reference, for each \$1.0 million of exempt purchases that are made each year, general fund revenues decrease by \$60,000.

State Expenditures: The Comptroller's Office will incur a one-time expenditure increase of \$81,300 in fiscal 2021 to notify the approximately 130,000 sales and use tax account holders of the sales tax change.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1023 (Delegate Washington) - Ways and Means.

Information Source(s): Comptroller's Office; Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2020
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