Maryland Senate Budget and Taxation Committee
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SB825 – Sales and use Tax – Peer to Peer Car Sharing – Sunset Repeal and Rate Alteration
FAVORABLE

Background:

In 2018, the Maryland legislature enacted SB743, a ground-breaking piece of legislation that marked the first thorough and modern peer-to-peer car sharing regulatory framework in the country. The legislation outlined the rules under which a peer-to-peer car sharing platform might operate in Maryland while properly protecting the interests and outlining obligations of car owner host customers, driving guest customers, the insurance industry and the peer-to-peer car sharing platform providers.

Peer-to-peer car sharing is conducted between a car owner and a guest customer who meet on an online platform and make arrangement to share a car. The platform does not own any cars, and the host makes all the decisions about what car to share, how the key exchange will work, how many miles the guest can drive, pricing, delivery and any extras. The platform charges a percentage of the transaction, often around 25%, and provides the insurance protections required by the law.

The one area that the 2018 legislation left unresolved had to do with the transaction tax on peer-to-peer car sharing. Lawmakers on the Senate Finance Committee in 2018 may recall the contentious debate about the transaction/sales tax – with the rental car industry pushing for "parity" on the tax and claiming peer-to-peer car sharing taxes must be taxed identically to rental car at 11.5%. The peer-to-peer car sharing industry, pointing out the millions of dollars in sales tax exemptions that are not extended to their customers, claimed it was inappropriate to tax identically and offered to facilitate the collection and payment of the state standard sales tax of 6%.

Unfortunately, in 2018 the rental car industry continued to oppose this plan until they secured an 8% tax to be placed on peer-to-peer transactions in exchange for their neutrality on the legislation. There was no substance to that figure, no data to back it up, no explanation about how it arrived at that rate. Given the all the work that went into the bill that year, the committee took the path of least resistance – granting the rental car industry what they wanted and codified the 8% rate. The 8% peer-to-peer tax rate is scheduled to sunset in June 30th of this year.

Where does that leave us today? The disproportionately high rate of 8% has had a chilling effect on the peer-to-peer car sharing industry in Maryland, especially when considering the rapid growth of the business in neighboring states of Pennsylvania, New Jersey and Virginia.

The business is growing in all of the markets, but Maryland's growth 5-10 points slower than neighboring markets. The only difference between the markets is this very high tax.

The negative effect of too-high taxes on the growth of an emerging industry was documented recently in a report from the State of Colorado Department of Transportation, "2019 Emerging Mobility Impact Study. " This 99-page study compares elasticity of demand by consumers of peer-to-peer car sharing and consumers of rental cars. It determined that while the rental car industry enjoys high inelasticity – that is, consumers will rent from them regardless of increased prices – the opposite is true for peer-to-peer car sharing. The study found the nascent industry suffers from very elastic demand – meaning that at higher consumer prices, the consumer will abandon peer-to-peer and obtain temporary use of a car from a rental car company. Certainly, this backs up what Turo has directly experienced in Maryland, a significant slowing of growth of the new peer-to-peer car sharing industry.

SB 825 suggest a 6% tax rate peer-to-peer car sharing. This proposed rate is consistent with tax rate at the standard state tax rate of 6%. As noted in the Fiscal and Policy Note for SB 573, Chapter 735 of 2019 specified that on June 30th the provision within the law dictating the 8% tax rate shall terminate and peer-to-peer car sharing programs will therefore be considered marketplace facilitators prompting the 6% state sales and use tax.