

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Comptroller of the Treasury
(DLS Control No. 14-338)**

Overview and Legal and Fiscal Impact

This regulation establishes definitions and specifies procedures for an annual sales tax-free period for certain energy efficient equipment.

The regulation presents no legal issues of concern.

There is minimal or no fiscal impact on State or local governments.

Regulation of COMAR Affected

Comptroller of the Treasury:

Sales and Use Tax: Sales and Use Tax: COMAR 03.06.01.44

Legal Analysis

Background

The Comptroller's Office originally submitted a proposal with very similar provisions to the AELR committee on November 22, 2013. The regulation was adopted by the Comptroller without the provisions contained in this action. The only difference between this proposal and the previous one is the inclusion in this action of a light-emitting diode (LED) within the definition of an "Energy Star product" to conform to a provision enacted by Chapter 424 of 2014.

Summary of Regulation

Section 11-226 of the Tax – General Article exempts from taxation the purchase of certain energy efficient products during an annual sales tax-free weekend. Regulation .44 establishes definitions of "compact fluorescent light bulb," "Energy Star product," "solar water heater," and "standard size refrigerator." For the period beginning July 1, 2014 and ending June 30, 2017, LED light bulbs are also included in the definition of an Energy Star product for purposes of the tax-free period. The regulation also clarifies that the contract of sale and payment for the product must occur during the tax-free period in order to be exempt. Additionally, the regulation states that catalogue and internet sales are subject to the tax-free period. The regulation requires vendors and purchasers of qualifying products to maintain documentation of tax-free purchases, and it allows for persons inadvertently paying the tax during the tax-free period to apply for a refund.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Comptroller's Office cites §§ 2-102, 2-103, and 11-226 of the Tax – General Article as legal authority for the regulation. Sections 2-102 and 2-103 generally provide the Comptroller with the authority to adopt regulations pertaining to the sales and use tax. Section 11-226 provides the altered definition of “Energy Star product.” The authority cited is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

There is minimal or no fiscal impact on State or local governments.

Agency Estimate of Projected Fiscal Impact

The Comptroller's Office advises that these regulations pertaining to the annual sales tax-free period for energy-efficient products have minimal or no fiscal impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is minimal or no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The Comptroller's Office advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Additional Comments

Chapter 6 of the 2007 special session established a sales tax-free period for sales of specified Energy Star products or solar hot water heaters made on the Saturday immediately preceding the third Monday in February through the third Monday in February. Chapter 424 of 2014 (HB 786) added light-emitting diode (LED) light bulbs to the list of specified Energy Star products and solar water heaters that are currently exempt during the annual State sales tax-free period. The exemption for LED light bulbs applies to fiscal 2015 through 2017. The fiscal and policy note for HB 786 estimated that general fund revenues would decrease in fiscal 2015 through 2017. The amount of the decrease depends on the amount of LED light bulbs purchased during the tax-free weekend and the cost of LED light bulbs.

Contact Information

Legal Analysis: Benjamin A. Blank – (410) 946/(301) 970-5350

Fiscal Analysis: Michael D. Sanelli – (410) 946/(301) 970-5510