HB 164

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 164 (Delegates Hixson and Healey)
Ways and Means

Public Service Company Franchise Tax - Telephone Companies - Sales of Services and Products for Resale

This bill excludes from the definition of gross receipts subject to the public service company franchise tax gross charges from the sale of a service or product for resale by a telephone company to a provider of cellular telephone or other mobile telecommunications service that possesses an effective sales and use tax license issued by the Comptroller. The bill applies to all taxable years beginning after December 31, 2000.

Fiscal Summary

State Effect: Potential significant decrease in general fund revenues. Under one set of assumptions, general fund revenues could decrease by about $3 million annually. No effect on expenditures.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Gross receipts subject to the public service company franchise tax for a public service company engaged in a telephone business in the State do not include: (1) gross charges from the sale by a public service company to another public service company subject to the tax of a service or product for resale; (2) gross charges from the sale by the public service company of Internet access service by which a connection is provided between a computer and the Internet; or (3) gross charges from the sale of telecommunications service obtained by using a prepaid telephone calling arrangement.

Background: The public service company franchise tax is placed on the gross receipts of public service companies engaged in a telephone business in the State or engaged in the transmission, distribution or delivery of electricity or natural gas in the State. Gross receipts is defined as total operating revenue, and includes: (1) gross or total receipts; (2) for a telephone company, the full amount of approved and applicable federal and State tariff charges for telephone lifeline service without the discount provided by Section 8-201 of the Public Utility Companies Article; and (3) for a telecommunications company providing interstate long distance telecommunications service, the gross charges from the sale of long distance telecommunications service that originates or terminates in the State and for which a charge is made to a service address located in the State, regardless of where the amount is billed or paid. Gross receipts does not include any revenue that a public service company derives from an activity other than electric, gas, or telephone business or net uncollectible revenue. The rate is imposed at 2% of gross receipts.

Telecommunications services in Maryland are subject to either the franchise tax (for land line phone services subject to regulation by the Public Service Commission) or the sales tax (for cellular services and land line custom calling features). Wireless service (cellular) requires a connection to a public service company (AT&T, Bell Atlantic, Sprint, etc.) network so that any calls, local or long distance, from a cellular phone can be connected to phones on a land line (non-cellular). The fee charged for the connection service that is paid by cellular companies to public service companies is subject to the gross receipts tax. All calls are subject to the sales and use tax. In effect, the same service is subjected to both the franchise tax and the sales tax. The public service company pays the franchise tax and the customer (through the cellular service provider) pays the sales tax.

State Fiscal Effect: The Department of Legislative Services (DLS) was not provided with any information from the State Department of Assessments and Taxation or industry representatives on the amount of revenue that would be exempted from the public service company franchise tax. DLS has taken known data on sales and use tax collections provided by the Bureau of Revenue Estimates and then made several assumptions in an effort to estimate the possible cost of the bill. The true extent of any general fund decrease depends on the actual amount of sales tax revenue collected solely from cellular service and the actual amount paid by cellular companies to public service companies for their land line connections, neither of which is known at this time. The Bureau of Revenue Estimates (BRE) advises that approximately $40 million will be collected from the sales and use tax charged to telecommunications companies in fiscal 2000. BRE has no way of determining how much of the revenue collected can be directly attributed to cellular companies for providing cellular service.

For illustrative purposes only, assume that 75% or $30 million of the revenue collected is associated with providing cellular telephone service. Based on this assumption, cellular companies gross approximately $600 million from the sale of cellular service ($30 million divided by the 5% sales and use tax rate). Assuming that 25% ($150 million) of revenue is paid to public service companies for a land line network connection, general fund revenues would decrease by approximately $3 million annually ($150 million multiplied by the 2% franchise tax).

Additional Information

Prior Introductions: None.

Cross File: SB 162 (Senator Hoffman) - Budget and Taxation.

Information Source(s): Comptroller of the Treasury (Bureau of Revenue Estimates), Department of Assessments and Taxation, Bell Atlantic Mobile, MCI WorldCom, Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2000
cm/jr

Analysis by: Mike Sanelli

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510