

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 338 (Delegate McClenahan. *et al.*)

Ways and Means

Natural Resources - Boat Excise Tax - Certificate of Title

This bill alters the definition of "fair market value" to eliminate the requirement that a licensed dealer must take title to a used vessel that is traded in as part of the consideration for the sale of a new vessel in order to qualify for an exclusion from the boat excise tax for the value of the trade-in. The bill also changes the definition of fair market value to apply the trade-in allowance to the sale of any vessel by a dealer licensed by another state or foreign country.

The bill takes effect July 1, 2000.

Fiscal Summary

State Effect: Decrease in special fund revenues of at least \$16,000 in FY 2001 related to the repeal of the current titling requirement for licensed dealers. Potential increase or decrease in special fund revenues related to the expansion of the trade-in allowance to licensed dealers outside the State. Potential impact on federal funds for the Waterway Improvement Fund.

Local Effect: Local jurisdictions receive grant funding for projects such as channel dredging, bulkhead repair, and marine pumpout repair through the Waterway Improvement Fund. To the extent that fund revenues are affected, local grants would presumably also be affected. No effect on expenditures.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Except under specified conditions, an excise tax is levied at the rate of 5% of

the fair market value of a vessel on: (1) the issuance of every original certificate of title required for a vessel; (2) the issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel; (3) the sale within the State of every other vessel; and (4) the possession within the State of a vessel purchased outside the State to be used principally in the State.

The current definition of “fair market value,” which, pursuant to Chapter 485 of 1998 (HB 531) sunsets on June 30, 2001, is the total purchase price, as certified by the dealer on a form acceptable to DNR, less the value of any trade-in vessel to which the dealer takes title. The trade-in value may not exceed the value for the trade-in vessel as shown in a national publication of used vessel values. DNR is required to charge a \$2 fee to issue a certificate of title, a transfer of title, or a duplicate or corrected certificate of title. After June 30, 2001, the definition of “fair market value” will be the total purchase price as certified by the dealer.

Background: Recommendations by the Marine Economic Development Task Force were addressed through Chapter 485 of 1998 (HB 531), which excluded from the definition of “fair market value” the value of any vessel that is traded in as part of a sale by a licensed dealer as long as the dealer takes title to the trade-in vessel. Under current law, that definition sunsets on June 30, 2001.

There are approximately 500 licensed boat dealers throughout the State. Sales through boat dealers account for about 60% of total sales, and trade-ins are involved in 30% of boat sales through licensed dealers. The average value of trade-ins is 45% of the purchase price. Sales involving trade-ins through licensed dealers total approximately 1,000 vessels annually. DNR collected \$20.8 million in excise taxes in 1999 from sales of all vessels, including those with trade-ins.

Since the enactment of Chapter 485 of 1998, eight Maryland licensed boat dealers did not take title to certain trade-in vessels, appealed to DNR to be exempted from the tax, but were required, pursuant to current law, to pay taxes and fees totaling \$14,142 (penalties and interest are charged as a percentage of the tax due on late submissions). An indeterminate number of additional dealers who did not take title to trade-ins simply paid the tax without appealing. DNR does not track those entities.

Currently, the trade-in allowance only applies to Maryland licensed dealers. According to DNR, an Administrative Law Judge raised the issue that limiting the trade-in allowance to Maryland licensed dealers may place an unconstitutional burden on interstate commerce.

State Fiscal Effect: In 1999, DNR collected \$20.8 million in excise taxes, including sales

of vessels involving trade-ins for which the dealer did not take title. Eight of the dealers not taking title to a trade-in vessel appealed to DNR but were required to pay approximately \$14,100 in taxes, penalties, and interest. Under this bill, DNR would no longer receive revenues from any dealer who chooses not to take title to a trade-in, and as a result, is required to pay the excise tax under current law. DNR does not track the revenues resulting from these individuals, with the exception of those who appeal. At a minimum, however, special fund revenues would decrease by at least \$14,100.

Under current law, a dealer taking title to a trade-in is assessed a \$2 titling fee by DNR. Under this bill, those dealers would no longer have to take title to trade-ins and therefore would no longer be required to pay this fee, resulting in an additional decrease in revenue. Approximately 1,000 sales involve trade-ins annually. Although not all dealers take title to the trade-in vessels, the maximum loss of revenue that would occur relating to the titling fee would be \$2,000.

Because the total number of dealers not taking title to trade-ins is unknown, the total decrease in special fund revenues related to the titling provision cannot be estimated. However, at a minimum, it is reasonable to assume that the loss of revenue related to the titling provision would be at least \$16,000.

Expanding the applicability of the trade-in allowance to dealers licensed by other states and foreign countries, however, could result in a decrease or an increase in excise tax revenues. To the extent that a vessel subject to the State excise tax is purchased with a trade-in vessel through a licensed dealer outside the state, the bill would allow the owner to deduct the value of the trade-in when calculating the fair market value for purposes of determining the amount of excise tax to be paid. Under current law, the excise tax liability is based on the total purchase price of the vessel. Accordingly, excise tax revenues would decrease. However, to the extent that expanding the applicability of the trade-in allowance results in an increase in the number of boats brought into Maryland that were purchased outside the State, excise tax revenues could increase. This assumes, of course, that any increase in excise tax revenues from out-of-State purchases is not offset by a decrease in excise tax revenues from sales of vessels through Maryland licensed dealers.

Because DNR does not know how many vessels would be affected by the expansion of the trade-in allowance, the value of those vessels, or the impact on sales of vessels involving trade-ins through Maryland licensed dealers, Legislative Services advises that a reliable estimate of the net effect on special fund revenues cannot be made at this time.

Revenues from excise taxes, penalties, and interest are paid into the Waterway Improvement

Fund. Federal funds to this fund are linked to the amount of State expenditures for boating safety education and enforcement. If this bill results in a change in those expenditures, federal funds could be affected. It is expected that special fund expenditures on boating enforcement and waterway improvement would change commensurate with revenues.

Because DNR would no longer have to process and issue titles for trade-in vessels, the bill could result in an indeterminate decrease in special fund expenditures related to those activities. The \$2 titling fee, according to DNR, does not cover the total cost of processing each title, so the decrease in expenditures is anticipated to be greater than the loss in revenues associated with the titling fee (maximum of \$2,000). Legislative Services advises, however, that this savings would likely be offset somewhat by an increase in administrative expenditures that could occur by expanding the trade-in allowance to apply to dealers outside the State.

Because the definition of "fair market value" sunsets on June 30, 2001, any fiscal impact related to this bill will occur only in fiscal 2001.

Small Business Effect: There are approximately 500 licensed dealers throughout the State, the majority of which are small businesses. Under this bill, a licensed dealer would no longer have to take title (and pay the associated \$2 fee) to a trade-in vessel to qualify for the exclusion from the boat excise tax, resulting in a savings of a maximum of \$2,000 in fees and an indeterminate but potentially significant decrease in expenditures related to processing those titles. In addition, those dealers who instead of taking title choose to pay the full excise tax would no longer have to pay the excise tax (and any associated fees) on the value of the trade-in. This savings is estimated to be at least \$14,100. However, by expanding the applicability of the trade-in allowance to foreign and out-of-State licensed dealers, the bill could result in greater competition between Maryland licensed dealers and licensed dealers outside of Maryland related to sales of vessels involving trade-ins for vessels to be used principally in the State.

Additional Information

Prior Introductions: None.

Cross File: SB 407 (Senator Astle) - Budget and Taxation.

Information Source(s): Department of Natural Resources, Department of Legislative Services

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