SB 572

Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 572 (Senator Hooper, *et al.*)
Budget and Taxation

Sales and Use Tax - Film Production Activity - Smoking

This bill applies the sales and use tax to a sale of tangible personal property or a taxable service used directly in connection with a film production activity that contains scenes in which actors are smoking.

The bill takes effect July 1, 2001.

Fiscal Summary

State Effect: The impact on general fund revenues cannot be precisely estimated at this time and would depend on the number of production companies that film in Maryland but that do not receive the existing sales tax exemption because their films contain smoking scenes. Expenditures to enforce the bill's provisions could be handled with existing resources.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: The sale of tangible personal property or a taxable service that is used directly in connection with a film production activity is currently exempt from the 5% sales and use tax.

Background: Chapter 432 of 2000 exempted from the sales and use tax the sale of tangible personal property or a taxable service that is used directly in connection with a "film production activity." The film producer or production company must apply to the Department of Business and Economic Development (DBED) for certification of eligibility for the exemption.

Chapter 432 defined film production activity as the production or postproduction of film or video projects including feature films, television projects, commercials, corporate films, infomercials, music videos, or other projects for which the producer or production company will be compensated, and which are intended for nationwide distribution.

Tangible personal property or a taxable service includes: (1) camera equipment and supplies; (2) film and tape; (3) lighting and stage equipment and supplies; (4) sound equipment and supplies; (5) recording equipment and supplies; (6) costumes and related material; (7) props and scenery and related material; (8) design supplies and equipment; (9) drafting supplies; (10) special effects supplies; (11) short-term vehicle rentals; and (12) fabrication, printing, or production of scripts, storyboards, costumes, wardrobes, props, scenery, or special effects.

Chapter 432 required DBED to conduct a study on: (1) the preliminary impact of the sales and use tax exemption created by the bill; (2) the potential economic impact on the State's film and video production industry of allowing a credit against the State income tax for a percentage of the wages paid for Maryland film and video productions; and (3) the actual impact experienced in other states in which similar income tax credits have been enacted. DBED must report to the General Assembly by December 1, 2001.

State Revenues: The Maryland Film Office of DBED issues certificates to production companies filming in Maryland that provides for a sales tax exemption for the goods described above. The office advises that it has issued 102 certificates so far and expects a total of about 250 certificates to be issued this year.

Based on data from DBED, it is estimated that approximately $18.9 million of sales to the film industry take place annually in Maryland. Assuming that one-third of films in Maryland having smoking scenes and lose their sales tax exemption (and that spending by film productions is distributed relatively evenly), then sales tax revenues would increase by approximately $312,000 due to the smoking restriction. It is also possible, however, that production companies that anticipate using smoking scenes could elect to film in another state. Also, because the production companies are prequalified for the exemption, and enforcement provisions for the bill are not specified, than there may be substantial noncompliance with the prohibition. The actual impact on revenues therefore cannot be reliably estimated at this time.

State Expenditures: The administrative expenditures associated with enforcing the bill cannot be precisely estimated, because no enforcement mechanism is specified, but are assumed to be absorbable with existing resources. DBED advises that it would require eight industrial developer positions (at an annual cost of approximately $386,000) to monitor all productions in Maryland to ensure that no smoking scenes took place. Legislative Services believes that implementation could also be done by simply requiring the production company -- at the time of receiving its prequalified exemption -- to sign an affidavit promising not to use smoking scenes and acknowledging sales tax liability if such scenes are used. Such an approach could be handled with existing budgeted resources.

Small Business Effect: For film companies that are small businesses and that lose the sales tax exemption because their films contain smoking scenes, the impact could be meaningful depending on the amount of their purchases which currently qualify for the exemption. To the extent that companies elect not to film in Maryland because of the restriction, small businesses that support and receive revenues from these production companies could be meaningfully negatively impacted.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Business and Economic Development, Department of Legislative Services

Fiscal Note History: First Reader – March 3, 2001
ncs/jr

Analysis by: Matthew D. Riven

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