Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 284 Delegate Bozman, et al.)
Ways and Means Budget and Taxation

Sales and Use Tax - Resale Certificates - Out-of-State Vendors

This bill waives a seller's obligation to collect the sales and use tax on the sale of an antique or used collectible if the seller receives a resale certificate from a purchaser with an out-of-state sales and use tax registration number and certain conditions are met.

The bill is effective July 1, 2001.

Fiscal Summary

State Effect: General fund revenues could decline by $229,000 beginning in FY 2002. Expenditures would not be affected.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF Revenue	($229,000)	($241,000)	($253,000)	($265,000)	($278,000)
Expenditure	$0	$0	$0	$0	$0
Net Effect	($229,000)	($241,000)	($253,000)	($265,000)	($278,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill provides that resale certificates for the sale of an antique or used collectible need not have a Maryland registration certificate number. Rather, the certificate could have a sales and use tax registration number from another state, if the certificate states that the buyer is an out-of-state vendor who does not regularly do business in the State. If the buyer provides an out-of-state registration number, the buyer must also provide a copy of a sales and use tax registration license issued to the buyer from that state. If the buyer is from a state without a sales and use tax, the buyer must provide a copy of a trader's license from that state or a comparable type of identification.

Current Law: Sellers must generally collect the State sales tax at the point of sale unless: (1) the transaction is for $200 or more; and (2) the buyer presents a resale certificate with the buyer's name, address, and Maryland sales and use tax registration number. If an out-of-state vendor does not have a Maryland registration number, the tax must be paid at the point of sale, although a refund can be claimed.

Background: The U.S. Census Bureau's 1997 Census of Retail Trade (CRT) reports that U.S. sales of antiques totaled $1.9 billion that year, while sales of collectibles totaled $1.2 billion. This represents significant growth from the 1992 CRT, when antique sales were estimated to be $673 million and collectibles at $504 million. The CRT does not track Maryland sales of these individual categories, but does track sales of total used merchandise (which includes, antiques, collectibles, and other categories) in Maryland ($131.6 million) and for the total U.S. ($6.0 billion). Based on these proportions, it is roughly estimated that sales of antiques in Maryland totaled $41 million and sales of collectibles totaled $27 million in 1997.

State Revenues: The Comptroller's Office advises that general fund revenues could decline for three reasons:

1. Some out-of-state resellers who are currently eligible for refunds of sales taxes paid do not claim such refunds. Under the bill such resellers would not pay the tax in the first place;

2. Out-of-state resellers -- who, under the bill, may decide not to register in Maryland -- could present resale certificates although the purchased good may not ultimately be resold. These resellers could not be audited by the Comptroller's Office because the Comptroller has no jurisdiction over those who do not register in Maryland; and

3. Out-of-state resellers -- if they opt not to register in Maryland -- could more easily avoid having to collect sales tax on sales they make in the State (which would remain taxable). Again, they would not be subject to audit.

Assuming that $68 million of antiques and collectibles were sold in Maryland in 1997, and increasing that figure based on estimated and projected growth rates from 1997 to

2001, results in $89.4 million in sales for calendar 2001. Assuming that 5% of these sales is lost as a result of this bill based on the above three factors, then lost calendar 2001 sales tax revenue would be approximately $224,000. Assuming an even distribution of sales throughout the year and 5% annual sales growth, the fiscal 2002 impact would be $229,000, increasing 5% per year thereafter.

Additional Information

Prior Introductions: HB 260 of 2000, an identical bill, passed both the House and Senate, but was vetoed by the Governor. HB 1071 of 1999 and HB 400 of 1998, similar but not identical bills, received unfavorable reports from the House Ways and Means Committee.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Legislative Services

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