HB 1137

Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 1137 (Delegates Barve and Hixson)
(Montgomery County Administration)

Ways and Means

Sales and Use Tax - Exemption - Biotechnology and Internet Infrastructure

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This bill exempts from the sales and use tax the sale or use of: (1) certain technology equipment; and (2) certain tangible personal property that is incorporated into technology facilities. The bill exempts sales of: (a) communications equipment for use in an "Internet infrastructure facility;" or (b) supercomputing equipment for use in the development, analysis, interpretation, or integration of genomic, proteomic, and related biological and medical information. The bill also exempts from the sales and use tax the sale or use of tangible personal property incorporated by an owner in the construction, expansion, or renovation of a facility utilized primarily for biotechnology manufacturing.

The bill takes effect July 1, 2001.

Fiscal Summary

State Effect: General fund revenues could decline depending on the number of firms eligible for the sales tax exemption and the level of purchases by these firms of goods that would become exempt. The precise level of such revenue losses cannot be reliably estimated at this time, but could be up to $50 million per year. Administrative expenditures by the Comptroller's Office would increase by $2,500 in FY 2002 only.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The equipment exemption would not apply to:

- a cable television operator franchised by a political subdivision of the State, or its affiliates or subsidiaries;
- a company or telecommunications carrier regulated by the Public Service Commission, or its affiliates or subsidiaries;
- a cellular telephone company or its affiliates or subsidiaries; or
- a company that is using the Internet infrastructure facility to provide service for itself or its subcontractors.

The "incorporated property" exemption applies only to the owner of a facility where the occupant has been certified as a qualified business entity eligible for a State jobs creation tax credit. Unless otherwise agreed to in writing, if the tangible personal property eligible for a tax exemption under the bill is purchased by an owner in furtherance of a lease where the tenant has been certified for a jobs creation tax credit, the lessor shall reduce by the amount of the tax exemption received the amount of taxes or other monies for which the lessee is contractually liable under the lease agreement. To qualify for such an exemption, the owner must file an application for an exemption certificate with the Comptroller.

Current Law: Purchases of the items covered under this bill are currently subject to a 5% sales and use tax.

State Revenues: The amount of lost sales tax revenues under the bill would depend on how many biotech or information tech companies in Maryland are able to take advantage of the exemption and the amount of qualifying purchases for each such firm. The total revenue loss could be significant.

There are over 300 high-tech and biotech members of the Tech Council of Maryland. The following are examples of recent business activities by some of these firms that might qualify for the sales tax exemption. Purchases made by firms such as Celera, Human Genome Sciences, and Institute of Genomic Research for supercomputing or other personal property used in the expansion of the Maryland facility would qualify. Equipment used to establish Bio-Infomatrix, which could cost more than $50 million, could qualify. Medimmune recently expanded its manufacturing facility in Frederick at a cost of about $50 million, much of which could qualify. BioReliance, another firm with Maryland operations, in its 1999 Annual Report stated that it had commitments to spend $5.1 million on its U. S. manufacturing facility, including leasehold improvements and laboratory equipment.

The sales and use tax for categories most likely to be affected by this bill, and the revenue losses assuming 10% is eligible for the exemption, would be the following:

Comptroller's Sales and Use Category	**FY 2000 Sales Tax Revenues**	**Revenue Loss (10%):**
Computer Hardware/Software	$328.2 million	$32.8 million
Electrical and Electronics	51.2 million	5.1 million
Communications	116.2 million	11.6 million
Total	**$495.6 million**	**$49.5 million**

Additional revenue losses would result in other categories as well from the exemption for sales of tangible personal property used in the construction, expansion or renovation of a facility used primarily for biotechnology manufacturing by a company eligible for the Jobs Creation Tax Credit.

State Expenditures: The Comptroller's Office would incur one-time administrative expenditures of approximately $2,500 for printing and communications costs to implement the bill.

Small Business Effect: Small businesses providing Internet services on biotechnology products would experience savings from the sales tax exemption from certain large-ticket equipment purchases.

Additional Comments: Montgomery County could not provide information regarding the number of firms in the county, and the corresponding amount of purchases currently subject to the sales tax that would be eligible for the exemption, for this fiscal note.

Additional Information

Prior Introductions: None.

Cross File: SB 792 (Senators Ruben and Teitelbaum) – Budget and Taxation.

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

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