

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 576 (Senator Jacobs, *et al.*)
Budget and Taxation

Sales and Use Tax - Handling Charges

This bill exempts from the sales and use tax any handling charges for a purchase ordered by mail or by telephone or other electronic means.

The bill takes effect July 1, 2002.

Fiscal Summary

State Effect: The amount of revenue losses associated with the bill cannot be precisely estimated at this time. Based on one set of assumptions discussed below, however, these revenue losses could total \$2.9 million per year.

(\$ in millions)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
GF Revenue	(\$2.9)	(\$3.3)	(\$3.8)	(\$4.4)	(\$5.0)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$2.9)	(\$3.3)	(\$3.8)	(\$4.4)	(\$5.0)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Handling charges are subject to the 5% sales and use tax. When shipping charges are stated separately from the purchase price of the good, the 5% sales and use tax does not apply. When shipping charges are combined with the price of the good, the sales and use tax is applied to the total price.

Background: Under the existing Supreme Court decisions in *National Bellas Hess* and *Quill*, a state or local government cannot require a business to collect sales or use taxes unless the business has a connection, or a nexus, to the state. Such nexus might include a physical presence within its borders, like a warehouse or office. Because of these rulings, retail sellers using toll-free numbers and mail-order catalogs are not required to collect sales and use taxes. The burden is on the purchaser to pay the use tax, but compliance with the use tax by individuals is very low. The Comptroller's Office reports that it collects less than \$100,000 per year from use taxes paid by individual citizens, though compliance by businesses is higher.

A September 2001 University of Tennessee study (Bruce & Fox) estimated the nationwide impact of e-commerce, as measured by state sales tax revenue losses, at approximately \$13.1 billion (including losses that would have occurred anyway because they displaced mail order sales). Maryland's total e-commerce tax revenue losses were estimated at \$194.4 million, implying total remote sales of approximately \$4.0 billion.

State Revenues: The amount of revenue losses associated with the bill cannot be precisely estimated at this time. Based on one set of assumptions discussed below, however, these revenue losses could total \$2.9 million per year.

As noted above, one study estimates total remote sales of approximately \$4.0 billion in Maryland. It is assumed that 2% of purchasers of remote sales -- worth about \$80 million in sales -- comply with either the sales tax or use tax. It is assumed that the average remote purchase is worth about \$50, implying 1.6 million individual purchases. It is estimated (based on a Comptroller's Office survey) that in 60% of purchases, the handling charge is separately stated, and hence would become exempt under this bill. It is assumed that the average handling charge is \$3, for a total revenue loss of \$2.9 million. Future year losses assume 15% annual growth, based on the growth of e-commerce.

Additional Information

Prior Introductions: SB 5 of 1995 received an unfavorable report from the Senate Budget and Taxation Committee.

Cross File: None.

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

Fiscal Note History: First Reader - March 3, 2002
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Analysis by: Matthew D. Riven

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