

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

House Bill 900 (Delegate Cryor)
 Ways and Means

Sales and Use Tax - Tax-Free Period for Back-to-School Shopping

This bill exempts from the sales and use tax the sale of clothing or footwear (except accessories) in enterprise zones for the period of August 25 through August 29, 2004, if the taxable price of the item of clothing or footwear is less than \$100.

The bill takes effect July 1, 2004.

Fiscal Summary

State Effect: Potential significant general fund revenue decrease in FY 2005. The amount of the decrease cannot be reliably estimated and depends on several factors, including the number of retail businesses in enterprise zones, the number and amount of the sales taking place in the enterprise zones, and the amount of sales that are diverted from other parts of the State. General fund expenditures by the Comptroller’s Office to administer the program would increase by approximately \$97,000 in FY 2005.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	(-)	\$0	\$0	\$0	\$0
GF Expenditure	97,000	0	0	0	0
Net Effect	(\$97,000)	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: Potential meaningful impact from increased sales (offset by administrative costs) for small businesses selling apparel in the enterprise zones.

Analysis

Current Law: Current law does not provide for any sales tax holiday or tax-free week. Chapter 576 of 2000, which created a similar tax-free week for clothing and footwear in August 2001, applied only to a specified week in 2001.

Background: Chapter 576 of 2000 exempted from the sales and use tax the sale of clothing or footwear (except accessories) for the week of August 10 through August 16, 2001, if the taxable price of the item of clothing or footwear was less than \$100. The Comptroller's Office estimates that the tax-free week resulted in lost sales tax revenue of \$5.1 million. This estimate is based on regression analysis of historical sales tax collection trends in the categories of vendors (apparel stores, department stores, etc.) that sell a large share of the exempted clothing and footwear. The Comptroller's Office reports that sales tax collections from the categories of vendors most likely to sell exempted items declined by 5.2% for the month including the tax-free week, versus the same month in 2000. The agency believes that the majority of this decline is associated with the exemption, rather than nationwide or other economic factors. The agency estimates that total apparel sales likely increased by 2.6% during the period and that most of the increase would have occurred in any event, and hence any offsetting revenue increase was minimal. The agency reports that any impact on income tax revenues is difficult to estimate but expected to be minimal.

State Revenues: There are 29 enterprise zones in 13 counties, including Baltimore City, in the State. The bill exempts purchases of eligible clothing and footwear that are made in these enterprise zones from the sales and use tax from August 25, 2004 through August 29, 2004. As a result, the bill would result in a potentially significant general fund revenue decrease. It is assumed that the revenue loss resulting from this tax-free period would be less than the \$5.1 million experienced in 2001 because the period is shorter and it does not apply to all retail sales of eligible clothing and footwear, only those occurring in enterprise zones.

Determining the precise amount of the decrease cannot be reliably estimated for the following reasons:

- the Comptroller's Office collects sales and use tax data by month and at the county level only;
- it is not known how many retail businesses are located in each of the enterprise zones;
- the percentage of sales taking place in the enterprise zones compared to the State as a whole cannot be reliably estimated; and

- the amount of sales that may be shifted from parts of the State to the enterprise zones during the designated period cannot be estimated.

Approximately \$11.2 million was collected from apparel sales (as classified by the Comptroller), for sales made in August 2003. On a daily basis, this averages out to be approximately \$363,000 per day. However, this does not reflect all sales that could be eligible under the bill due to the difficulty capturing all sales within specific categories. For instance, all sales made from a department store are categorized together. So, apparel sales made at department stores are not captured under the apparel sales listed above.

Also, businesses located in the enterprise zones could become more profitable, thereby increasing income tax revenues. The amount of either such increase cannot be reliably estimated at this time.

State Expenditures: For the statewide sales tax holiday which occurred over the course of one week in August 2001, the Comptroller's Office incurred over \$100,000 in administrative expenses, much of which was related to promotional activities. It is estimated that administrative expenses associated with this bill could be approximately \$97,000. This would cover any promotional or advertising expenses, enforcement, and auditing in order to make sure those tax-free sales occurred only in the designated enterprise zones and not in other parts of the State. It would be difficult for the Comptroller's Office to notify businesses in the enterprise zones of the upcoming sales tax-free day because it is not readily known what businesses are operating in each enterprise zone.

Small Business Effect: According to the 1998 *Survey of U.S. Business* by the U.S. Census Bureau, 91.7% of the retail firms in Maryland had less than 50 employees. This bill could cause a net increase in sales for small businesses, to the extent that sales would be made in Maryland during the period that would otherwise have been made out-of-state, through the Internet, or by mail order. Small businesses located in shopping malls or other areas with a number of stores in close proximity may experience increased sales for nonapparel items because of increased foot traffic due to the tax-free week. On the other hand, compliance costs for small businesses could increase if changes to cash register programming and accounting systems are required. The net effect would vary from business to business, but it is likely to be positive.

Additional Information

Prior Introductions: HB 37 of 2003 would have exempted statewide specified clothing and footwear from the sales tax for a set period of time. No action was taken by the House Ways and Means Committee.

Cross File: None.

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

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m/mdr

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