

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

House Bill 1166 (Delegates Healey and Hixson)
 Ways and Means

Sales and Use Tax - Exemptions for Agricultural Products and Property Used in
 Production Activity - Conditional Repeal

This bill repeals two sales and use tax exemptions: (1) the sale of specified items used for an agricultural purpose; and (2) the sale of specified tangible personal property used predominantly in a production activity.

The bill takes effect July 1, 2004 and sunsets upon enactment of legislation increasing the sales and use tax rate to 6%.

Fiscal Summary

State Effect: General fund revenue increase of approximately \$202.2 million in FY 2005. Future revenues could increase based on the estimated growth in underlying sales tax revenue.

(\$ in millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	\$202.2	\$209.7	\$217.9	\$225.4	\$233.1
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$202.2	\$209.7	\$217.9	\$225.4	\$233.1

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: The Maryland sales and use tax provides for the following exemptions regarding agricultural products and production activity.

Agricultural Use

The sales and use tax does not apply to a sale of the following items for an agricultural purpose: (1) livestock; (2) feed or bedding for livestock; (3) seed, fertilizer, fungicide, herbicide, or insecticide; (4) baler twine or wire; (5) fuel for use in farm equipment or a farm tractor; and (6) if bought by a farmer: (a) a container to transport farm products that the farmer raises to market; (b) a farm vehicle when used in farming; (c) a milking machine, when used in farming; (d) fabrication, processing, or service, by a sawmill, of wood products for farm use in which the farmer retains title; and (e) farm equipment when used to: raise livestock; prepare, irrigate, or tend the soil; or plant, service, harvest, store, clean, dry, or transport seeds or crops.

Except for flowers, sod, decorative trees and shrubs, and any other product that usually is sold by a nursery or horticulturist, the sales and use tax does not apply to a sale of an agricultural product by a farmer.

Production Activity

The sales and use tax does not apply to a sale of: (1) machinery or equipment used to produce bituminous concrete; or (2) electricity, fuel, and other utilities used to operate that machinery or equipment.

The sales and use tax does not apply to a sale of: (1) tangible personal property used directly and predominantly in a production activity at any stage of operation on the production activity site from the handling of raw material or components to the movement of the finished product, if the tangible personal property is not installed so that it becomes real property; (2) a melting, smelting, heating, or annealing coke oven, aluminum furnace, anode bake oven, electrolytic pot, cathode, refractory, or other material used in relining and rebuilding a furnace or oven; or (3) a foundation to support other machinery or equipment or an item required to conform to an air or water pollution law and normally considered part of real property.

State Fiscal Effect: General fund revenues would increase by an estimated \$202.2 million in fiscal 2005 based on the following:

- *The Fiscal Year 2004 Tax Expenditure Report* estimates the revenue loss from the agricultural use exemption to be approximately \$56.1 million for fiscal 2004;

- *The Fiscal Year 2004 Tax Expenditure Report* estimates the revenue loss from the manufacturing production activity exemption to be approximately \$139.4 million for fiscal 2004; and
- the revenue loss associated with these exemptions would increase by an amount equal to the project growth in sales tax revenues, approximately 3% to 4% annually.

Small Business Effect: Small businesses that currently use these exemptions would be required to pay the sales tax on exempt items. There are 3,012 firms involved in manufacturing and these firms employ 28,626 people. The 2002 Agriculture Center indicates that there are 12,206 farms in Maryland. It is assumed that most of these are small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, *Fiscal Year 2004 Tax Expenditure Report*, Department of Legislative Services

Fiscal Note History: First Reader - March 23, 2004
mh/mdr

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