

**Department of Legislative Services**  
**Maryland General Assembly**  
**2005 Session**

**FISCAL AND POLICY NOTE**

Senate Bill 423  
 Budget and Taxation

(Senator Brinkley)

Ways and Means

**Sales and Use Tax - Modular Buildings**

This bill provides that the State sales and use tax rate for the sale of a “modular building” is applied to 60% of the taxable price of a modular building.

The bill takes effect July 1, 2005.

**Fiscal Summary**

**State Effect:** General fund revenues could increase by approximately \$2.2 million annually beginning in FY 2006. No effect on expenditures.

(\$ in millions)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	\$2.2	\$2.2	\$2.2	\$2.2	\$2.2
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$2.2	\$2.2	\$2.2	\$2.2	\$2.2

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

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

**Analysis**

**Bill Summary:** A modular building includes single-family or multifamily houses, apartment units, or commercial buildings, and permanent additions to single-family or multifamily houses, apartment units, or commercial buildings, comprised of one or more sections that are: (1) intended to become real property; (2) primarily constructed at a

location other than the permanent site at which they are to be assembled; (3) built to comply with the standards for industrialized buildings; and (4) shipped with most permanent components in place.

**Current Law:** Modular components of buildings are subject to the 5% sales tax rate on the total taxable price. If the modular home is sold as a complete building, however, it is not subject to the sales and use tax. Instead, it is subject to State and local real property taxes. The sale of mobile homes is taxed at 5% of 60% of the taxable price of the mobile home.

**Background:** A modular home is built in a factory and then carried in sections by special trucks to a building site where it is put together by a local builder. Modular homes are constructed to the same state and local building codes and are subject to the same zoning regulations as site-built homes.

**State Fiscal Effect:** Currently, all modular homes that are installed in Maryland are manufactured out-of-state and then delivered to Maryland. Some of these modular homes are sold as real property transactions (complete homes), rather than in sections or “boxes” that would be considered personal property and therefore subject to the sales tax.

Sixty percent of the price of each modular unit is intended to represent the cost of building materials subject to the sales tax. An individual who builds a home must pay sales tax on the materials, which is approximately 60% of the total cost of the home construction. It is estimated that by applying the sales tax to 60% of the value of each unit, companies selling modular units would choose to sell each unit individually to either a contractor or individual buyer instead of selling the units as whole houses.

All modular units installed in Maryland must have an inspection sticker from the Department of Housing and Community Development (DHCD) certifying that the unit meets all Maryland building codes. DHCD sold 4,354 inspection stickers in fiscal 2004, 4,073 in fiscal 2003, 3,775 in fiscal 2002, and 5,270 in fiscal 2001.

Modular units that are manufactured in Virginia, but sold in Maryland are not subject to a use tax rate because the Virginia sales tax rate of 5% is the same as Maryland’s. Under the bill all units manufactured in Virginia would be subject to the full Maryland sales tax rate. Based on an average of the number of units sold since fiscal 2001, it is estimated that approximately 860 units sold each year in Maryland are manufactured in Virginia. It is also estimated that another 3,440 units are manufactured in other states. For units imported from states other than Virginia, it is estimated that the 5.0% use tax is imposed on material representing approximately 50% of the value of each unit installed in the State.

**Exhibit 1** shows the estimated current sales and use tax collections and the estimated collections resulting from the bill.

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**Exhibit 1**  
**Estimated Current Sales Tax and Tax from SB 423**

	<u>Estimated Current Tax Receipts</u>		<u>Estimated Tax Under SB 423</u>	
	<u>Virginia Built</u>	<u>Other State Built</u>	<u>All</u>	<u>Difference</u>
Per Unit Cost	\$50,000	\$50,000	\$50,000	
Units Sold	860	3,440	4,300	
Taxable Base	50%	50%	60%	
Effective Tax Rate	0.0%	5.0%	5.0%	
Revenue	\$0	\$4,300,000	\$6,450,000	\$2,150,000

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As a result, it is estimated that general fund revenues would increase by approximately \$2.2 million annually beginning in fiscal 2006. This assumes a constant number of units sold each year. However, to the extent that the actual number of units installed varies from year to year, revenues would fluctuate accordingly.

**Small Business Effect:** Small contractors who buy modular units would be liable to the sales and use tax under the bill. However, it is assumed that much of this cost could be passed along to the end buyer. The 1997 Economic Census indicates that there are 14,168 small construction firms in Maryland. These firms employed 87,025 people and had an annual payroll of approximately \$3.0 million.

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**Additional Information**

**Prior Introductions:** This bill was introduced as SB 453 in the 2004 session. It received a favorable report from the Senate Budget and Taxation Committee and was passed by the Senate. No action was taken by the House Ways and Means Committee.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, modularcenter.com, Department of Legislative Services

**Fiscal Note History:** First Reader - March 8, 2005  
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