

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 790 (Delegate McKee)
 Ways and Means

Sales and Use Tax - Exemption for Sales by Religious and Nonprofit Organizations

This bill expands the current exemption under the State sales and use tax to include all sales by eligible nonprofit organizations, regardless of whether the sale is made at an auction sale.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: State general fund revenues could decrease by \$2.8 million in FY 2008 and by \$3.1 million in FY 2012. Future year estimates reflect a 2.6% annual growth in sales by nonprofit organizations. No effect on expenditures.

(\$ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	(\$2.8)	(\$2.9)	(\$3.0)	(\$3.1)	(\$3.1)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$2.8)	(\$2.9)	(\$3.0)	(\$3.1)	(\$3.1)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 210 of 2006 provides a State sales and use tax exemption for sales made by bona fide churches, religious, or nonprofit organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code if the sales are made at an auction sale and the proceeds are used to carry on the exempt purposes of the church or organization. The exemption is limited to that portion of the sale price that qualifies for a deduction under the federal income tax as a charitable contribution.

Background: The State sales and use tax rate is 5%. It does not apply to sales made by a bona fide church or religious organization if the sale is made for the general purposes of the church or organization. Also exempt are sales made by the following organizations:

- a gift shop at a mental hospital operated by the Department of Health and Mental Hygiene;
- a hospital thrift shop operated by volunteers;
- specified vending facilities operated under the Maryland Vending Program for the Blind; and
- an elementary or secondary school or a nonprofit parent-teacher organization for the sale of magazine subscriptions in a fundraising campaign.

Sales made to certain other organizations are also exempt from the State sales and use tax as provided under Section 11-204 of the Tax – General Article, including sales made to:

- tax exempt cemetery companies;
- credit unions;
- nonprofit organizations;
- nonprofit senior citizens' organizations if the sale does not exceed \$500;
- a volunteer fire or ambulance company or rescue squad;
- a nonprofit parent-teacher association; and
- a nonprofit organization qualified as tax exempt under Section 501(c)(4) of the Internal Revenue Code for the purpose of mitigating spills of oil or other substances occurring in U.S. coastal and tidal waters.

To qualify as an organization to which a sale is exempt, the organization must file an application for an exemption certificate with the Comptroller. The Comptroller may treat the possession of an effective determination letter of status under Section 501(c)(3) or (13) of the Internal Revenue Code from the Internal Revenue Service as evidence that an organization qualifies.

State Fiscal Effect: General fund revenues could decrease by \$2.8 million in fiscal 2008, and by \$3.1 million in fiscal 2012. **Exhibit 1** shows the estimated general fund revenue loss for fiscal 2008 through 2012. This estimate is based on the following facts and assumptions:

- sales tax receipts remitted by nonprofit organizations totaled \$2.7 million in fiscal 2005 and \$3.0 million in fiscal 2006;
- 90% of sales revenue by nonprofit organizations are used to carry out the exempt purpose of the organization; and
- sales tax receipts from nonprofit organizations have increased by 2.6% annually over the past five years.

Exhibit 1
Estimated General Fund Revenue Decrease
Fiscal 2008-2012

<u>Year</u>	<u>Estimated Sales Tax Receipts</u>	<u>Revenue Decrease</u>
2008	\$3,145,600	(\$2,831,000)
2009	3,227,400	(2,904,600)
2010	3,311,300	(2,980,200)
2011	3,397,400	(3,057,700)
2012	3,485,700	(3,137,200)

Additional Information

Prior Introductions: None.

Cross File: SB 592 (Senator Madaleno) – Budget and Taxation.

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

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mll/hlb

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