

Department of Legislative Services  
 Maryland General Assembly  
 2008 Session

FISCAL AND POLICY NOTE

House Bill 1094 (Delegate Murphy, *et al.*)  
 Ways and Means

Sales and Use Tax - Nonprofit Organizations

This bill exempts from the State sales and use tax a purchase by a nonprofit organization or a volunteer fire, ambulance, or rescue squad company if the organization makes the purchase to donate the property to another nonprofit organization or volunteer fire, ambulance, or rescue squad company.

The bill takes effect July 1, 2008.

Fiscal Summary

**State Effect:** General fund revenues could decrease by \$5.2 million and Transportation Trust Fund (TTF) revenues could decrease by \$361,200 in FY 2009. Future years reflect a 5% annual increase in tax exempt purchases. Expenditures would not be affected.

(\$ in millions)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	(\$5.2)	(\$5.5)	(\$5.7)	(\$6.0)	(\$6.3)
SF Revenue	(.4)	(.4)	(.4)	(.4)	(.4)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$5.6)	(\$5.8)	(\$6.1)	(\$6.4)	(\$6.8)

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Current Law:** With enactment of Chapter 6 of the 2007 special session, the State sales and use tax rate is 6% (effective January 3, 2008). The State sales and use tax does not apply to sales made by a bona fide religious organization, if the sale is made for the general purposes of the organization. In addition, sales made by the following organizations are also exempt from the State sales and use tax including:

- 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 fund-raising campaign.

Sales made to certain organizations are 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.

The sales tax also does not apply to a sale of food if the proceeds are used to support a bona fide nationally organized and recognized veterans' organization or auxiliary.

Chapter 210 of 2006 provided 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 IRC 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. Chapter 210 limited the exemption to that portion of the sale price that qualifies for a deduction under the federal income tax as a charitable contribution.

Chapters 217 and Chapter 218 of 2006 provided a three-year State sales and use tax exemption for sales made to a bona fide nationally organized and recognized veterans' organization or an auxiliary of the organization or its units, if the organization is qualified as tax exempt under Section 501 (c) (19) of the Internal Revenue Code.

**Background:** The sales and use tax is the State's second largest source of general fund revenue accounting for \$3.7 billion in fiscal 2008 and \$4.3 billion in fiscal 2009, according to the most recent revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states.

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**Exhibit 1**  
**Sales and Use Tax Rates in Maryland and Surrounding States**

Delaware	0%
District of Columbia	5.75%
Maryland	6%
Pennsylvania	6% plus 1% in certain local jurisdictions 0% sales tax on clothing
Virginia	5%; 2.5% for food, both rates include 1% for local jurisdictions
West Virginia	6%

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**State Fiscal Effect:** Total sales tax revenues could decrease by \$5.6 million in fiscal 2009. In addition to increasing the sales and use tax rate from 5% to 6%, Chapter 6 of the 2007 special session also altered the distribution of sales and use tax revenues by requiring that 6.5% of revenues, after specified distributions, be diverted to the TTF beginning July 1, 2008. As a result, the exemption proposed by the bill would reduce general fund revenues by \$5.2 million in fiscal 2009 while reducing TTF revenues by \$361,200 in fiscal 2009. The estimate is based on the following facts and assumptions:

- It is estimated the sales and use tax exemption for sales made to charitable organizations and volunteer fire, ambulance, and rescue companies will result in approximately \$88 million in foregone sales and use tax revenues in fiscal 2008.
- Purchases made by these organizations that are donated to other like organizations are 5% of total purchases.
- Purchases made by these specified exempt organizations increase by 5% annually.

To the extent the amount and cost of purchases made by charitable organizations and fire, ambulance, and rescue companies that are donated to other similar organizations differs from the estimate the associated general fund and TTF revenue decrease would vary accordingly.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

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