

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1115
Ways and Means

(Washington County Delegation)

Budget and Taxation

Washington County - Building Excise Tax

This bill makes specified changes to the Washington County building excise tax. The bill

- modifies building excise tax rate limits;
- adjusts the school capacity limit, from 85% to 90% of State rated school capacity, which authorizes a higher building excise tax on specified residential subdivision development of more than 25 units in a school district that exceeds the limit;
- specifies that the existing authorization to impose up to twice the building excise tax on residential units applies specifically where 25 building permits have been issued by the county for new residential units in the subdivision in that fiscal year;
- eliminates the exemption for the first 50,000 square feet of nonresidential addition construction;
- eliminates the county commissioners' authority to provide for additional exemptions and the ability to waive the building excise tax for certain nonresidential building types or uses; and
- eliminates the building excise tax credit for workforce housing.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: None.

Local Effect: Washington County revenues and revenues for its municipalities could be affected depending on the building excise tax rates set by the county commissioners.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill modifies the building excise tax rate limits for Washington County as follows:

	<u>Current Limits</u>	<u>Proposed Limits</u>
Residential*	\$13,000/unit (single-family); \$15,500/unit (multifamily)	\$4.50/square foot
Nonresidential	\$5.00/square foot	\$4.00/square foot (retail); \$1.50/square foot (nonretail)

*In specified circumstances, the county commissioners may impose building excise tax rates of up to twice these amounts (both under current law and the proposed bill) on residential units in a single subdivision that has more than 25 residential units.

Current Law: Washington County imposes a building excise tax on residential and nonresidential building construction to fund capital improvements for public services and facilities. Specified statutory excise tax rate limits are as follows:

- for nonresidential buildings, \$5 per square foot and the county commissioners may impose different rates or waive the tax;
- for residential units, \$13,000 per single-family residential unit and \$15,500 per multifamily residential unit; and
- for a subdivision containing more than 25 residential units (in specified instances), \$26,000 per single-family residential unit and \$31,000 per multifamily residential unit.

Chapter 277 of 2007 suspended the above rate limits for fiscal 2008 only.

The first 50,000 square feet of nonresidential addition construction is exempt from the building excise tax, though the exemption may not apply more than once to the same building in any five-year period. The county must provide a building excise tax credit for specified workforce housing and municipal corporations are authorized to grant a similar credit.

Municipal corporations must assist the county in collecting the building excise tax revenues. Those that have APFOs – adequate public facilities ordinances – with school adequacy tests substantially similar to or more stringent than the county’s APFO are

allowed to retain a portion of the tax revenue to be used for specified capital costs associated with the expansion of public facilities.

Background: Development impact fees and building excise taxes enable local governments to collect revenue from builders for public facilities required by new residential or commercial development. As a result of these development charges, local governments are able to shift the costs of financing new public facilities from existing taxpayers to individuals responsible for the development. In many situations, the use of development charges may eliminate the need for countywide tax increases. Another benefit of development charges is that local officials can collect the needed revenue for the expansion or construction of new public facilities prior to the construction of any new residential development. In this manner, payment of an impact fee or excise tax may be required by local officials prior to the issuance of a building permit or approval of a subdivision plat.

Excise Tax Revenues in Washington County

In Washington County, revenues collected from nonresidential building types may only be used for primary, secondary, or higher education capital expenditures; public safety capital expenditures; public infrastructure projects; and debt reduction related to capital improvements expenditures. Revenues collected from residential building types must be used according to the following percentages: 70% for schools; 23% for roads; 2% for public libraries; and 5% for parks and recreational facilities, public safety, water and sewer infrastructure, and agricultural land preservation. Revenues collected from residential building types and used for schools must be used for capital costs that primarily provide additional capacity. Residential revenues used for public libraries, water and sewer infrastructure, and parks and recreation must be used for capital costs of public works, improvements, and facilities.

Washington County first imposed a building excise tax in fiscal 2004 after receiving authorization from the General Assembly in 2003. This authorization was amended by Chapter 598 of 2005, which increased the limits on the excise tax rates. The county subsequently increased the excise tax rates in fiscal 2006, and revenues increased from \$3.5 million in fiscal 2005 to \$7.7 million in fiscal 2006. Revenues decreased in fiscal 2007 to \$5.3 million. **Exhibit 1** shows the building excise tax rates applicable to residential and nonresidential development in Washington County in fiscal 2008.

Despite Chapter 277 of 2007 having suspended applicable building excise tax rates and limits for fiscal 2008, the county commissioners did not increase the excise tax rates in fiscal 2008. Chapter 277 also required the county commissioners to appoint a task force to study and make recommendations concerning the excise tax rates and structure for residential development. The task force, at the direction of the county commissioners,

undertook an expanded scope of study, addressing the entire building excise tax ordinance. The task force submitted its findings and recommendations to the county delegation and commissioners in September 2007, including, among other things, a recommendation to base the excise tax imposed on residential construction on construction activity (defined by square footage) instead of dwelling units.

Local Fiscal Effect: The effect on Washington County revenues, and revenues for its municipalities that retain a portion of the excise tax revenues, depends on the building excise tax rates set by the county commissioners within the prescribed limits.

Based on historical information, including average square footage of new houses in Washington County, if the excise tax on residential development is set at a flat rate of \$3 per square foot, it is estimated that excise tax revenues from residential development would remain roughly consistent with revenues that would be generated under the current rate structure of \$13,000 per single-family unit, \$15,500 per multifamily unit, and \$1.00 per square foot for small residential development (under 1,500 square feet), based on certain assumptions. This estimate, however, could be affected by a change in the average square footage of new units in the county in the future or other factors.

The building excise tax is applied to nonresidential development based on a graduated rate schedule and type of development (retail, industrial, warehouse/distribution, office, hotels/motels) as shown in Exhibit 1. It is estimated that if the excise tax on nonresidential development is set at a flat rate of \$3 per square foot for retail development and \$1 per square foot for nonretail development, excise tax revenues would remain roughly consistent with revenues that would be generated under the current rate structure, based on revenues generated and the associated square footage of retail and nonretail nonresidential development in fiscal 2007.

To the extent the excise tax rates for residential and nonresidential development are set at a higher or lower levels or if graduated rates are used, revenues could be higher or lower. Revenues could also increase as a result of the bill's elimination of the availability of certain exemptions or credits.

The City of Hagerstown retained \$719,300 in excise tax revenues in fiscal 2007 and identified specific developments within the city from which collected revenues would have been • between 33% and 67% lower if a flat rate of \$3 per square foot had been applied to residential development instead of the existing \$13,000 and \$15,500 per unit rates; and • between 25% and 60% lower if the flat rates of \$3 per square foot and \$1 per square foot had been applied to retail and nonretail nonresidential development, respectively, instead of the current rates.

Small Business Effect: Small businesses could potentially be affected by the bill's changes, to the extent a given developer would have benefited from building excise tax exemptions or credits no longer allowed for under the bill. Developers could also be affected by changes made to building excise tax rates applicable to residential development, though any impact would depend on subsequent local legislation defining residential rates within the \$5 per square foot limit. Any impact on developers could be wholly or partially mitigated to the extent any changes in the building excise tax applicable to a given property resulting from the bill are able to be passed on to the property owner or buyer.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Washington County, City of Hagerstown, Department of Legislative Services

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Exhibit 1
Excise Taxes in Washington County
Fiscal 2008

<u>Land Use Type</u>	<u>Levy</u>	<u>Excise Tax</u>
Residential Development (units 1-25)		
Small Residential ¹	per sq. ft.	\$1.00
Single-family	per unit	13,000
Multifamily	per unit	15,500
Large Residential Development (over 25 units)		
Single-family ²	per unit	26,000
Multifamily ²	per unit	31,000
Retail ³	per sq. ft.	3.00-4.00
Industrial ³	per sq. ft.	0.20-2.00
Warehouse/Distribution ³	per sq. ft.	0.70-2.50
Office ³	per sq. ft.	0.50-1.50
Hotels/Motels ³	per sq. ft.	1.00-3.00

¹Less than 1,500 gross square feet.

²Excise tax imposed beginning with the twenty-sixth unit and only under specified circumstances.

³Rates vary according to the total square footage of the development.

Source: Washington County
