

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 446
Ways and Means

(St. Mary's County Delegation)

**Admissions and Amusement Tax - Exemption for Activities Related to
Agricultural Tourism**

This bill authorizes a county or municipality to exempt from the admissions and amusement tax gross receipts from any admissions and amusement charge for activities related to agricultural tourism.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: None.

Local Effect: Potential minimal decrease in admissions and amusement taxes collected in certain counties. The extent to which these transactions occur cannot be reliably estimated.

Small Business Effect: Minimal.

Analysis

Current Law: A county or municipality is authorized to impose an admissions and amusement tax, unless expressly provided otherwise, on the gross receipts of the following activities: (1) admission to a place, including any additional separate charge for admission within an enclosure; (2) use of a game of entertainment; (3) use of a recreational or sports facility; (4) use of recreational or sports equipment; and (5) merchandise, refreshments, or a service sold or served in connection with

entertainment at a nightclub or a room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided.

The Code of Maryland Regulations (COMAR 03.06.02.05) establishes that a county or incorporated city or town authorized to impose the admissions and amusement tax may enact exemptions from the tax.

A county may not impose an admissions and amusement tax on gross receipts within a municipality if the municipality imposes an admissions and amusement tax on the activity or specifically exempts any certain activity from an admissions and amusement tax. Furthermore, State law prohibits counties and municipalities from collecting admissions and amusement tax on the operation of an agricultural fair as long as the net earnings are not paid to the benefit of any stockholder or member of the association conducting the fair. Several counties exempt activities relating to agricultural tourism from admissions and amusement taxes. The term “agricultural tourism” is not defined in State law.

Background: Agricultural tourism activities are exempted from the admissions and amusement tax in Baltimore County (Chapter 402 of 2006), Harford County (Chapter 531 of 2005), Howard County (county resolution No. 70 of 2005), and Montgomery County (local law – Expedited Bill 16-07).

Agricultural tourism as defined by Baltimore County, Howard County, and the Maryland Department of Agriculture refers to activities that involve the act of visiting a working farm or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment and education, or active involvement in the activities of the farm or operation. Howard County specifies these activities as including farm tours, hay rides, corn mazes, classes related to agricultural products or skills, and picnic and party facilities offered in conjunction with the above and similar uses. Montgomery County specifies agricultural tourism as the act of visiting a farm, vineyard, winery, or orchard for entertainment, education, or participation in agricultural tourism.

The Comptroller’s Office indicates that because counties are authorized to impose an admissions and amusement tax and receive the revenues from the tax, it would generally be up to each individual county to define the scope of the term “agricultural tourism.” Also, current law allows a county to exempt specific activities from an admissions and amusement tax.

Local admissions and amusement tax rates range from the maximum allowed rate of 10% in Anne Arundel, Baltimore, Carroll, Charles, and Prince George’s counties and Baltimore City to a low of 0.5% in Dorchester County. Calvert County does not impose

the admissions and amusement tax on any transaction on which the sales tax is collected. Caroline County is the only jurisdiction that does not impose an admissions and amusement tax. If sales and use tax applies to the transaction, a county or municipality may not set a rate when combined with the sales and use tax that would be higher than 10%. County admissions and amusement tax revenues are estimated at \$43.8 million in fiscal 2007.

Local Revenues: The Comptroller's Office advises that the only tax industry codes clearly or arguably related to agriculture are horse racing, horse rentals, and riding academies; these activities resulted in just under \$500,000 of admissions and amusement revenue each of the last two years. It is unclear what other activities may be considered agricultural tourism, but the impact is expected to be minimal. In addition, agricultural tourism is already exempted from the admissions and amusement tax in Baltimore, Harford, Howard, and Montgomery counties, which represents 40% of the State's population.

Additional Information

Prior Introductions: HB 621 of 2007, a similar bill, passed both the House and Senate; but differences between the two chambers were not reconciled. SB 230 of 2007 passed the Senate and was assigned to the House Ways and Means Committee. No further action was taken.

Cross File: None.

Information Source(s): Caroline County, Carroll County, Howard County, Montgomery County, Prince George's County, Maryland Association of Counties, Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2008
mcp/hlb

Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510