

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 469 (Delegate Love)
Ways and Means

County Property Tax - Interest in Federal Government Property - Payment in Lieu of Taxes

This bill provides that on interest in property of the federal government held in accordance with a lease executed under 10 U.S.C. § 2667 is subject to county property taxes and development impact fees. A county government may enter into a negotiated agreement for a payment in lieu of taxes (PILOT). A negotiated PILOT must be used for specific public safety, transportation, and educational facilities within five miles of the property's boundaries.

The bill takes effect June 1, 2008 and applies to all taxable years beginning after June 30, 2008.

Fiscal Summary

State Effect: None.

Local Effect: Potential increase in county revenues to the extent federal property is determined to be subject to county property taxes and/or county impact fees. Expenditures would not be affected.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, government property is not subject to State and local taxation. An interest of a person in personal property of the federal government or of the State is not subject to the property tax if the person holds an interest in the property under a contract with the federal government or the State for manufacturing, constructing, or

assembling equipment, supplies, or component parts for national defense purposes; or research or development for national defense purposes.

An interest of a person in personal property or real property of the federal government or of the State is not subject to the property tax if that property is situated on land that is owned by the federal government and located within the defined boundaries of a military installation and is used for national defense purposes, including homeland security, or for housing for military personnel and their families.

Personal property or real property is not subject to the property tax if the federal government holds at least a 50% interest in the property, or the entity that owns the property, and the property is situated on land that is owned by the federal government and located within the defined boundaries of a military installation and is used for national defense purposes, including homeland security, or for housing for military personnel and their families.

Background: In order to address an excess capacity of military facilities, the U.S. Congress created a process in 1990 known as Base Realignment and Closure. The final plans regarding military installations nationwide became effective in November 2005.

In 2003, the State created the Maryland Military Installation Strategic Planning Council (Chapter 335), consisting of 19 representatives of State agencies and federal military installations, to serve as an advocate for military facilities located in Maryland and coordinate State agency planning in response to changes caused by BRAC. After the approval of the 2005 BRAC plans, the State renamed the council the Maryland Military Installation Council (MMIC) and extended the termination date of the council through December 31, 2011 (Chapter 634 of 2006). The 2006 law also increased the membership of the council to 22 members by including representatives of local liaison organizations. MMIC is staffed by the Department of Business and Economic Development. At its meetings in 2007, MMIC addressed regional base realignment and closure preparedness by hearing briefings from all Maryland installations on their mission activities and on the workforce needs of incoming BRAC personnel. MMIC's annual report is due December 31 of each year.

The 2005 BRAC plans impact many of the federal military installations in the State, resulting in an estimated 19,500 to 20,800 direct new jobs and placing Maryland among the largest beneficiaries nationally. These changes at each of the State's installations are detailed in **Exhibit 1** and are expected to be phased in over a five- to six-year period. Most of the gains are expected at Aberdeen Proving Ground, Andrews Air Force Base, Fort Meade, and the National Naval Medical Center, and most of these jobs are projected to be medical professionals, engineers, and managers. An additional 40,000 or more

indirect jobs could be created through contractors and related services. It is further estimated that Maryland will gain approximately 28,000 households by the time the BRAC process is complete.

Exhibit 1
Impact of BRAC on Maryland
Proposed Base Changes and Estimated Employment Changes

<u>Base</u>	<u>Proposed Base Changes</u>	<u>Estimated Employment Change per BRAC Model</u>
Aberdeen Proving Ground (Harford County)	Absorb Army Test and Evaluation Command currently located in Alexandria, VA; become a center for electronic warfare research by absorbing functions currently performed at Ft. Monmouth, NJ and Ft. Belvoir, VA; absorb Army research institute now at Ft. Knox, KY	Gain of 10,426 jobs
Andrews Air Force Base (Prince George's County)	Relocation of Air Force District of Washington; realignment of Air Force headquarters from Arlington, VA; other moves	Gain of 2,000 jobs
Fort Meade (Anne Arundel County)	Absorb the Defense Information Systems Agency as well as the Army's adjudication and media activities	Gain of 6,000 jobs
Martin State Air Guard Station (Baltimore County)	Reassign eight 130J cargo planes to other bases	Loss of 237 jobs (loss of eight aircraft)
Naval Station (Annapolis/Anne Arundel County)	Minor realignment	Loss of 25 jobs
Flair Army Reserve Center (Frederick)	Closed	Loss of 37 jobs
Fort Detrick (Frederick)	Minor realignment	Gain of 185 jobs
National Naval Medical Center (Bethesda/Montgomery County)	Close the Walter Reed Medical Center (WRMC) in Silver Spring and move several WRMC functions to the National Naval Medical Center	Gain of 1,200-2,500 jobs

Exhibit 1 (continued)

<u>Base</u>	<u>Proposed Base Changes</u>	<u>Estimated Employment Change per BRAC Model</u>
Naval Surface Weapons Station (White Oak/Montgomery County)	Minor changes	Gain of 11 jobs
Army Research Laboratory (Adelphi/Prince George's County)	Minor realignment	Loss of 82 jobs
Ewvra Sheppard Air Guard Station (Hagerstown/Washington County)	Minor realignment	Gain of 17 jobs
Defense Finance & Accounting Service (Patuxent River/St. Mary's County)	Closed	Loss of 123 jobs
Naval Air Station (Patuxent River/St. Mary's County)	Minor changes	Gain of 201 jobs

Source: Department of Business and Economic Development

The affected jurisdictions – Anne Arundel, Baltimore, Cecil, Frederick, Harford, Howard, Montgomery, and Prince George's counties and Baltimore City – have been actively engaged in BRAC preparation efforts. Local officials have been meeting and working with MMIC and the subcabinet, and each has prepared a BRAC action plan. Many counties have established a web site relating to BRAC; created a BRAC office, task force, or implementing commission; and/or appointed a BRAC director. A number of the counties have also applied for and received federal grants to address BRAC-related issues such as transportation, housing, utilities, services, and education.

Local Fiscal Effect: The bill would subject interests in federal property that is leased in accordance with federal law to county property taxation and county impact fees. County property tax revenues and impact fee revenues could increase to the extent that property is taxed or PILOT agreements are negotiated. However, at this time, the increase cannot be estimated as the number of potentially affected properties and their corresponding value is not known. The increase would also depend on the specific PILOT agreements. It is also possible that any PILOT agreement would only cover the cost of any county infrastructure improvements associated with these properties.

As a point of reference, a recent opinion of the Attorney General with regards to the taxation of federal property and interests in federal property resulting from BRAC indicates the following:

- That real property located within an area of exclusive federal jurisdiction on a military base and leased to a private developer is subject to State and local taxation to the extent that the federal government has waived its tax immunity – which it has under 10 U.S.C. 2667, which authorizes EULs (Enhanced Use Leases) on military installations.
- Whether a development within a federal enclave of exclusive jurisdiction would trigger impact fees may depend on whether the federal government has waived immunity as to excise taxes. Alternatively it may depend on whether the State regulatory regime including the impact fee existed at the time the property was ceded to the federal government or whether Congress later consented to that regulatory regime.
- That the analysis would apply to real property in an enclave of exclusive federal jurisdiction that is not on a military base, although some waiver provisions may only apply on military installations.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Maryland Municipal League, Maryland State Department of Education, Maryland Department of Transportation, Public School Construction Program, Anne Arundel County, Baltimore City, Department of Legislative Services

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