

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

House Bill 1222 (Delegate Murphy, *et al.*)
 Ways and Means

Sales and Use Tax - Nonprofit Charitable Organizations

This bill exempts from the State sales and use tax a purchase by a nonprofit charitable organization if the organization makes the purchase to donate the property to another nonprofit charitable organization.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: General fund revenues decrease by \$3.3 million in FY 2010 and Transportation Trust Fund (TTF) revenues decrease by \$187,200. Future years reflect a 3% annual increase in tax exempt purchases. Expenditures are not affected.

(\$ in millions)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	(\$3.3)	(\$3.4)	(\$3.5)	(\$3.7)	(\$3.7)
SF Revenue	(\$.2)	(\$.2)	(\$.2)	(\$.2)	(\$.3)
Expenditure	0	0	0	0	0
Net Effect	(\$3.5)	(\$3.6)	(\$3.7)	(\$3.9)	(\$4.0)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: The State sales and use tax rate is 6%. The 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 fundraising 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 (IRC) for the purpose of mitigating spills of oil or other substances occurring in U.S. coastal and tidal waters.

To qualify as a tax-exempt organization, 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 for the exemption.

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 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 \$3.6 billion in both fiscal 2009 and 2010, according to the March 2009 revenue forecast. In addition, TTF is projected to receive \$0.2 billion in sales and use tax revenues in both fiscal 2009 and 2010. **Exhibit 1** shows the sales and use tax rates in surrounding states.

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%

State Fiscal Effect: Total sales tax revenues may decrease by \$3.5 million in fiscal 2010 based on the following facts and assumptions:

- It is estimated that the sales and use tax exemption for sales made to charitable organizations will result in approximately \$70.6 million in foregone sales and use tax revenues in fiscal 2010.
- 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 3% annually.

Chapter 10 of 2008 altered the distribution of sales and use tax revenues by requiring that, for fiscal 2009 through 2013, 5.3% of revenues be distributed to TTF. Beginning in fiscal 2014, the amount distributed to TTF increases to 6.5%. Accordingly, extending the exemption will reduce general fund revenues by approximately \$3.3 million and TTF revenues by \$187,200 in fiscal 2010. Future year revenues reflect a 3.0% increase in tax-exempt purchases. To the extent the amount and cost of purchases made by charitable organizations that are donated to other similar organizations differs from the estimate, the associated general fund and TTF revenue decrease will vary accordingly.

Additional Information

Prior Introductions: HB 1094 of 2008 received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

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

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