

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 95 (Delegate Murphy, *et al.*)
 Ways and Means

Sales and Use Tax - Exemption - Veterans' Organizations

This bill extends the termination date for a State sales and use tax exemption for sales to specified veterans' organizations from June 30, 2009, to June 30, 2012.

The bill takes effect June 1, 2009.

Fiscal Summary

State Effect: General fund revenues decrease by \$76,900 in FY 2010 and Transportation Trust Fund (TTF) revenues decrease by \$4,300. Future year revenues reflect a 2.2% increase in tax-exempt purchases through FY 2012. Expenditures are not affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	(\$76,900)	(\$82,500)	(\$88,300)	\$0	\$0
SF Revenue	(\$4,300)	(\$4,600)	(\$4,900)	\$0	\$0
Expenditure	0	0	0	0	0
Net Effect	(\$81,200)	(\$87,100)	(\$93,200)	\$0	\$0

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapters 217 and 218 of 2006 provided for 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.

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 fund-raising campaign.

Sales made to certain organizations are also 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 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 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.

Background: The sales and use tax is the State's second largest source of general fund revenue accounting for \$3.7 billion in both fiscal 2009 and 2010, according to the December 2008 revenue forecast. In addition, the 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 will continue to decrease from fiscal 2010 through 2012 from the extension of the sales and use tax exemption proposed by the bill. Based on the following facts and assumptions, total sales and use tax revenues will decrease by approximately \$81,200 in fiscal 2010:

- The *Tax Expenditure Report* indicates that the current sales and use tax exemption for charitable or nonprofit sales will reduce total sales tax revenues by approximately \$1.4 million in fiscal 2008.
- Approximately 20% of these sales are applicable to taxable sales to bona fide veterans' organizations.
- There are 493 veterans' organizations located in Maryland of which 90 have been issued a sales tax exemption certificate; these organizations will have

approximately \$2,000 in taxable sales associated with maintenance and administration costs.

- These sales will increase by 2.2% annually.
- Five additional sales tax exemption certificates will be issued each year.

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 the TTF. Beginning in fiscal 2014, the amount distributed to the TTF increases to 6.5%. Accordingly, extending the exemption will reduce general fund revenues by approximately \$76,900 and TTF revenues by \$4,300 in fiscal 2010. Future year revenues reflect a 2.2% increase in tax-exempt purchases through fiscal 2012. To the extent more organizations are granted sales tax exemption certificates, sales tax revenues will decrease accordingly.

Additional Information

Prior Introductions: HB 1521 of 2008 passed the House and had a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Cross File: SB 44 (Senator Peters) - Budget and Taxation.

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

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