

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 1304  
Ways and Means

(Delegate Ramirez)

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Sales and Use Tax - Pawn Transactions

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This bill specifies that an exemption from the sales and use tax for specified casual or isolated sales does not apply to the sale by a person who engaged in pawn transactions over the preceding calendar year involving property having an aggregate value of at least \$1,000.

The bill takes effect July 1, 2010.

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Fiscal Summary

**State Effect:** General fund and Transportation Trust Fund revenues increase beginning in FY 2011. The amount of the revenue increase depends on the number of specified pawn transactions that occur each year and the value of the transactions.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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Analysis

**Bill Summary:** The bill specifies that retail sale does not include a sale of tangible personal property if the buyer intends to resell the tangible personal property in the form that the buyer receives or is to receive the property, unless the seller is a person who during the preceding calendar year engaged in pawn transactions involving property having a value in the aggregate of at least \$1,000.

The bill expands the definition of sale to include a pawn transaction if the person pawning the property engaged in pawn transactions during the preceding calendar year involving property having a value in the aggregate of at least \$1,000.

**Current Law:** Retail sale does not include a sale of tangible personal property if the buyer intends to resell the tangible personal property in the form that the buyer receives or is to receive the property.

A sale is defined as a transaction for a consideration whereby: (1) title or possession of property is transferred or is to be transferred absolutely or conditionally by any means, including by lease, rental, royalty agreement, or grant of a license for use; or (2) a person performs a service for another person. A sale does not include a transaction whereby an employee performs a service for the employee's employer.

The sales and use tax does not apply to a casual and isolated sale by a person who regularly does not sell tangible personal property or a taxable service if the sale price is less than \$1,000 and the sale is not made through an auctioneer or a dealer.

A pawn transaction is defined as a loan of money by a dealer on deposit or pledge of personal property or other valuable thing other than securities or printed evidences of indebtedness, or a purchase by a dealer of personal property or other valuable things on condition of selling the same back at a stipulated price.

**Background:** The sales and use tax is the State's second largest source of general fund revenue accounting for \$3.5 billion in fiscal 2010 and \$3.7 billion in fiscal 2011, according to the December 2009 revenue forecast. In addition, TTF is projected to receive \$0.2 billion in sales and use tax revenues in both fiscal 2010 and 2011. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

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**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%

Pawnbrokers licensed by the Department of Labor, Licensing, and Regulation (DLLR) are subject to the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act. DLLR regulates dealers who acquire and trade secondhand precious metal objects; dealers of these objects, including individuals, retail jewelers, and pawnbrokers must be licensed before doing business in the State. Pawnbrokers, however, may be licensed by DLLR, a local government, or both. Licensees are subject to civil and criminal penalties for violations of the Act.

As of May 2009, there were 403 dealers licensed by DLLR; DLLR advises that about 20% have the term “pawn” or “pawn broker” in their trade names. Baltimore City currently licenses 37 pawnbrokers.

**State Fiscal Effect:** General fund and Transportation Trust Fund revenues increase beginning in fiscal 2011. The amount of the increase cannot be reliably estimated and depends on the number of pawn transactions where the aggregate value is greater than \$1,000 that occur each year and the value of the transactions.

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%. As a point of reference, State sales tax revenues would increase by \$60 for each \$1,000 in aggregate pawn transactions pursuant to the bill. General fund revenues would increase by 94.7% (\$57) of the total increase and TTF revenue would increase by 5.3% (\$3).

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller’s Office; Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - March 23, 2010  
mlm/hlb

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