

Department of Legislative Services
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 451

(Senators Manno and Miller)

Budget and Taxation

Transportation - Sales and Use Tax - Funding for Mass Transit Projects

This bill imposes a 4% sales tax on motor fuel. The bill dedicates 25% of the tax revenues generated from the motor fuel sales tax in Montgomery County, Prince George's County, and Baltimore City to provide funding for new mass transit projects in those local jurisdictions.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues increase by \$373.1 million in FY 2012, with the amount dedicated to mass transit projects totaling \$30.0 million. Future year revenues reflect the application of the sales tax as specified by the bill and current fuel consumption and price forecasts. Potential increase in special fund expenditures beginning in FY 2012 at the Comptroller's Office due to administrative costs.

| (\$ in millions) | FY 2012 | FY 2013 | FY 2014 | FY 2015 | FY 2016 |
|------------------|---------|---------|---------|---------|---------|
| SF Revenue | \$373.1 | \$397.8 | \$404.2 | \$404.8 | \$414.1 |
| Expenditure | 0 | 0 | 0 | 0 | 0 |
| Net Effect | \$373.1 | \$397.8 | \$404.2 | \$404.8 | \$414.1 |

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill imposes a 4% sales tax on the sale of motor fuel, which includes all fuels except aviation and turbine fuel. The Comptroller is required to distribute 25%

of the sales tax revenue collected from the sale of motor fuel in Montgomery County, Prince George's County, and Baltimore City to the Mass Transit Facility Revenue Account (MTFRA) within TTF. The remaining revenue is to be distributed to TTF. Money that accrues to MTFRA is to provide funding for new mass transit facilities specified in a transit plan in Montgomery County, Prince George's County, and Baltimore City.

Except as otherwise provided by the bill, a person who is required to pay the motor fuel tax is required to prepay the sales and use tax imposed on the motor fuel and collect this prepayment from the purchaser. For each fiscal year, the Comptroller is required to determine the prepayment amount, which is equal to the sales tax rate applied to the average retail price of gasoline sold in the calendar year that ended prior to the beginning of the fiscal year. The Comptroller is required to round the amount of prepayment to the nearest half cent per gallon. However, the bill requires that in fiscal 2012 the amount of the prepayment is equal to 13 cents per gallon. The Comptroller is authorized to adjust the prepayment rate or establish separate prepayment rates for each type of motor fuel if (1) as a result of significant motor fuel price changes, the established prepayment rate results in prepayments that are consistently higher or significantly lower than the sales tax imposed on motor fuel; or (2) the Comptroller otherwise determines that it is appropriate to adjust the prepayment rate or establish separate prepayment rates. The bill provides for a separate determination of the sales and use tax imposed for the purposes of the motor carrier tax.

The bill also imposes a floor tax on any person possessing tax-paid motor fuel for sale at the start of business on July 1, 2011. Individuals are required to compile and file an inventory of the motor fuel tax held at the close of business on June 30, 2011, and remit within 30 days any additional motor fuel tax that is due.

Current Law: The State motor fuel tax rate per gallon or gasoline-equivalent gallon is 23.5 cents for gasoline; 24.25 cents for special fuel (diesel); 7 cents for aviation gasoline and turbine fuel; and 23.5 cents for clean burning fuel. The motor fuel tax rate is not indexed or automatically adjusted. Motor fuel tax revenues are projected to total \$737.6 million in fiscal 2012. The State imposes a sales and use tax of 6%; but sales of motor fuel are exempt from the tax.

Background: Some states, including Maryland, impose only a motor fuel excise tax, while other states impose both an excise tax and a sales tax. The total state motor fuel tax rates for gasoline in neighboring jurisdictions are shown in **Exhibit 1**. These rates are in addition to a federal motor fuel tax of 18.4 cents per gallon of gasoline and 24.4 cents per gallon of diesel fuel. Maryland's gasoline tax rate is about one-fifth less than the average rate imposed by all states.

Exhibit 1
Total State Motor Fuel Tax Rates in Surrounding Jurisdictions
(Cents per Gallon)

| | <u>Gasoline</u> | <u>Diesel</u> |
|----------------------|-----------------|---------------|
| Delaware | 23.0¢ | 22.0¢ |
| District of Columbia | 23.5 | 23.5 |
| North Carolina | 32.8 | 32.8 |
| Pennsylvania | 32.3 | 39.2 |
| Virginia | 19.7 | 19.8 |
| West Virginia | 32.2 | 32.1 |
| Maryland | 23.5¢ | 24.25¢ |
| National Average | 29.7¢ | 28.7¢ |

Note: The tax rates for other states may include other state taxes and fees.
Source: American Petroleum Institute

State Fiscal Effect: The bill imposes a 4% sales tax on motor fuel. As a result, TTF revenues will increase by \$373.1 million in fiscal 2012. Of this amount, \$30.0 million will be credited to MTFRA for new transit projects in Montgomery County, Prince George’s County, and Baltimore City. **Exhibit 2** illustrates the fiscal effect of imposing the sales tax on motor fuel under the bill.

Exhibit 2
Estimated Revenue Impact of SB 451
(\$ in Millions)

| | <u>FY 2012</u> | <u>FY 2013</u> | <u>FY 2014</u> | <u>FY 2015</u> | <u>FY 2016</u> |
|------------------|----------------|----------------|----------------|----------------|----------------|
| TTF Total | \$373.1 | \$397.8 | \$404.2 | \$404.8 | \$414.1 |
| MDOT | 343.1 | 365.8 | 371.7 | 372.2 | 380.8 |
| MTFRA | 30.0 | 32.0 | 32.5 | 32.6 | 33.3 |

This estimate is based on the current forecast of gasoline sales, the tax rate specified by the bill, and the following facts and assumptions:

- about one-third of total motor fuel sales occur in Montgomery County, Prince George's County, and Baltimore City; and
- about 6% of sales are made to an entity that is exempt from the sales and use tax.

Small Business Effect: Small businesses for which motor fuel constitutes a significant portion of their costs (transportation firms, delivery companies, taxicabs, etc.) will have increased tax burdens as a result of the bill. The incidence of the tax will be shared by customers (which include other businesses) through higher product prices, which will also impact the owners of the small businesses. Small businesses may potentially benefit to the extent that additional funding improves the State's transportation infrastructure.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): American Petroleum Institute, Comptroller's Office, Moody's.com, U.S. Census Bureau, U.S. Energy Information Administration, Department of Legislative Services

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mc/jrb

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