Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

Senate Bill 996 (Senator DeGrange)

Budget and Taxation Ways and Means

Sales and Use Tax - Machinery and Equipment - Energy Star Windows and Doors

This bill exempts from the State sales and use tax the sale of machinery or equipment used directly and predominantly to produce Energy Star windows or Energy Star entry doors for residential real property or electricity, fuel, and other utilities used to operate that machinery or equipment.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: General fund revenues decrease by approximately $243,900 in FY 2012 and by $240,800 beginning in FY 2014. Transportation Trust Fund (TTF) revenues decrease by $13,600 in FY 2012 and by $16,700 beginning in FY 2014. Expenditures are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	($243,900)	($243,900)	($240,800)	($240,800)	($240,800)
SF Revenue	($13,600)	($13,600)	($16,700)	($16,700)	($16,700)
Expenditure	0	0	0	0	0
Net Effect	($257,500)	($257,500)	($257,500)	($257,500)	($257,500)

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

Local Effect: None.

Small Business Effect: Potential meaningful. To the extent that some of the window and door manufacturers in Maryland are small businesses, these businesses will pay less in sales and use taxes for machinery, equipment, and utility purchases.

Analysis

Current Law: The sales and use tax does not apply to (1) a sale of machinery or equipment used to produce bituminous concrete or electricity, fuel, and other utilities used to operate that machinery or equipment; (2) a sale of tangible personal property used directly and predominantly in a production activity at any stage of operation on the production activity site from the handling of raw material or components to the movement of the finished product, if the tangible personal property is not installed so that it becomes real property; (3) a melting, smelting, heating, or annealing coke oven, aluminum furnace, anode bake oven, electrolytic pot, cathode, refractory, or other material used in relining and rebuilding a furnace or oven; (4) a foundation to support other machinery or equipment or an item required to conform to an air or water pollution law and normally considered part of real property; or (5) a sale of equipment that is used by a retail food vendor to manufacture or process bread or bakery goods for resale if the taxable price of each piece of equipment is at least $2,000, and the retail food vendor operates a substantial grocery or market business at the same location where the food is sold.

The sales and use tax also does not apply to (1) a sale of electricity, steam, or artificial or natural gas for use in residential condominiums; (2) a sale of electricity, steam, or artificial or natural gas that is delivered under a residential or domestic rate schedule on file with the Public Service Commission (PSC); (3) a sale of coal, firewood, heating oil, or propane gas or similar liquefied gas for use in residential property that contains no more than four units, cooperative housing, condominiums, or other similar residential living arrangements; or (4) a sale of electricity through three or more bulk meters for use in a nonprofit planned retirement community of more than 2,000 housing cooperative or condominium units if ownership of units is restricted by age, any unit is served by an individual meter, and on or before July 1, 1979, at least three bulk meters served the community.

Background: The State sales and use tax rate is 6%. The sales and use tax is the State's second largest source of general fund revenue, accounting for $3.7 billion in fiscal 2011 and $3.8 billion in fiscal 2012, according to the December 2010 revenue forecast. In addition, TTF is projected to receive $228.7 million and $237.6 million in sales and use tax revenues in fiscal 2011 and 2012, respectively. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

Exhibit 1
Sales and Use Tax Rates in Maryland and Surrounding States

Delaware	0%
District of Columbia	6%
Maryland	6%
Pennsylvania	6% plus 1% or 2% in certain local jurisdictions
Virginia	5%; 2.5% for food, both rates include 1% for local jurisdictions
West Virginia	6%; 3% for food

There are several window and door manufacturers in Maryland, including the Thompson Creek Window Company which has a window and door manufacturing facility in Landover. According to its website, the company makes eight different types of windows, all but one of which meet Energy Star guidelines. In addition to entry doors, the company also makes and sells storm doors, sliding doors, and patio doors.

State Fiscal Effect: The bill exempts the sale of machinery, equipment, electricity, and other fuel used to make Energy Star windows and entry doors from the State sales and use tax.

The *2007 Economic Census* indicates that there are 10 establishments in Maryland that manufacture wood windows and doors and another 16 establishments that manufacture metal windows and doors. The economic census data does not capture the number of manufacturers of vinyl windows and doors. The Comptroller's Office examined a sample of tax return data from window manufacturers, in conjunction with the economic census data, and estimated that on average purchases of machinery and equipment used in the manufacturing process totals approximately $4.2 million annually. As a result, it is estimated that sales and use tax revenues associated with the machinery and equipment exemption may decrease by approximately $257,500 annually beginning in fiscal 2012.

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 percentage of revenues distributed to TTF increases to 6.5%. Accordingly, the exemptions provided by the bill will decrease general fund revenues by approximately $243,900 in fiscal 2012 and by $240,800 annually beginning in fiscal 2014. TTF revenues will decrease by $13,600 in fiscal 2012 and by $16,700 annually beginning in fiscal 2014.

It should be noted that to the extent that equipment and machinery purchases and utility usage differs from the amounts estimated, the revenue loss associated with the exemptions provided by the bill will differ accordingly.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 25, 2011
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