

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 434  
Ways and Means

(Delegate O'Donnell)

Budget and Taxation

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Sales and Use Tax - Sales of Dyed Diesel Fuel

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This bill specifies that for the sale of dyed diesel fuel by a marina the 6% sales and use tax rate must be applied to 94.5% of gross receipts of dyed diesel fuel sales. Marinas are required to pay the sales tax to the Comptroller and may not collect the tax from the buyer as a separately stated item. A marina is defined as a person who maintains a place of business where motor fuel is sold primarily to vessels.

The bill takes effect July 1, 2012.

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Fiscal Summary

**State Effect:** None. The bill does not change the amount of sales and use taxes collected, but rather how it is collected at the point of sale and remitted to the Comptroller.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful. The bill may lessen the administrative burden of sales tax collections by marinas. The *2007 Economic Census* reports 186 marinas in Maryland.

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Analysis

**Current Law:** Generally, for each retail sale or sale for use other than sales made through a vending machine and under a prepayment arrangement, the sales and use tax must be (1) stated separately from the sale price; and (2) shown separately from the sale

price on any record of a sale at the time of the sale, when the vendor issues evidence of the sale, or when the vendor uses evidence of the sale.

A vendor who sells tangible personal property or a taxable service through a vending or other self-service machine (1) must pay the sales and use tax to the Comptroller; and (2) may not collect the sales and use tax from the buyer as a separately stated item.

**Background:** The sales and use tax is the State’s second largest source of general fund revenue, accounting for approximately \$4.0 billion in both fiscal 2012 and 2013, according to the December 2011 revenue forecast. **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	6%
Maryland	6% 9% for alcoholic beverages
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%; 2% for food

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**State Fiscal Effect:** The bill does not alter the amount of sales taxes due on the sale of dyed diesel fuel but rather how marinas are required to collect and remit the tax. Currently the sales and use tax due is stated separately from the sales price for most retail sales. The bill requires any marina selling motor fuel primarily to vessels to include the sales and use tax from sales of dyed diesel fuel in the price paid by the buyer. The tax reported to the Comptroller’s Office would be handled in a similar manner as retail sales made through vending machines where the sales tax is imposed on a percentage of sales rather than by the bracket system used for other retail sales.

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 446 (Senator Colburn) - Budget and Taxation.

**Information Source(s):** Department of Natural Resources, Maryland Department of the Environment, Department of General Services, Comptroller's Office, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2012  
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