

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 455 (Delegate Walker)
Ways and Means

Sales and Use Tax - Snack Food - Application

This bill imposes the State sales and use tax on snack food by repealing the current exemption. “Snack food” is defined as potato chips and sticks, corn chips, pretzels, cheese puffs and curls, pork rinds, extruded pretzels and chips, popped popcorn, and specified snack mixtures.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: General fund revenues increase by approximately \$13.3 million beginning in FY 2013. Expenditures are not affected.

(\$ in millions)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Revenue	\$13.3	\$13.7	\$14.1	\$14.5	\$15.0
Expenditure	0	0	0	0	0
Net Effect	\$13.3	\$13.7	\$14.1	\$14.5	\$15.0

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: The State sales and use tax rate is 6%, except for the sale of alcoholic beverages, which are taxed at a rate of 9%. The State sales and use tax is not generally imposed on the sale of food (including snack food) by retail stores.

Background: The General Assembly approved a tax on the retail sale of snack food at the first special session of 1991. The “snack tax” was repealed at the 1996 session with a delayed effective date of July 1, 1997. At the 2004 session, the Senate approved a provision in the Budget Reconciliation and Financing Act that would have imposed the sales and use tax on snack food; however, this provision was not included in the enacted legislation.

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.

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

State Fiscal Effect: General fund revenues increase by approximately \$13.3 million in fiscal 2013 from imposing the State’s 6% sales and use tax on specified snack foods. The estimate is based on available data provided by Symphony IRI Group, a Chicago-based market research firm, and the following facts and assumptions:

- snack food sales data for certain salted snack foods totaled approximately \$13.5 billion for the 52-week period ending January 22, 2012, according to data provided by Symphony IRI Group; the data includes snack food sales made in supermarkets, drugstores, gas stations, and convenience stores, but excludes snack food sold at Walmart, club stores, and liquor stores;
- snack food sales in Maryland are proportionate to its share of the U.S. population (1.87%); and

- total snack food sales in Maryland will decline 6% in the first year as a result of the imposition of the tax.

Future year estimates reflect annual sales growth for selected snack food sales and do not account for any potential changes in consumption beyond fiscal 2013. It should be noted that snack food sales data is not available for all categories of snacks included in the bill. In addition, as previously noted, sales data for snack foods sold at Walmart, club stores, and liquor stores is not available. As a result, the actual revenue increase may vary from the estimate.

Small Business Effect: Revenues for small businesses (such as convenience stores) that sell snack foods, could decrease if consumers alter their purchasing behavior due to the imposition of the tax. Expenditures may increase for small businesses that must modify their current systems to account for the collection of the sales and use tax on specific products that are considered snack foods.

Additional Information

Prior Introductions: SB 40 of 2009 was introduced, but a scheduled hearing in the Senate Budget and Taxation Committee was cancelled. HB 39 of the 2007 special session received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Symphony IRI Group, *Snack Food and Wholesale Bakery*, *Progressive Grocer*, Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2012
mc/jrb

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510