

**Department of Legislative Services**  
 Maryland General Assembly  
 2013 Session

**FISCAL AND POLICY NOTE**

Senate Bill 451 (Senator Astle)  
 Budget and Taxation

**Vessel Excise Tax - Exemption for Commercial Enterprises Paying the Admissions and Amusement Tax**

This bill exempts commercial enterprises from the vessel excise tax if (1) the use of the vessel will be subject to a local admissions and amusement tax and (2) the amount of admissions and amusement tax paid during the first year the vessel is in service is at least 50% of the value of the exemption. The Department of Natural Resources (DNR) must adopt specified implementing regulations and submit a report by December 31 annually providing specified information.

The bill takes effect June 1, 2013, and applies to vessels purchased after June 30, 2013.

**Fiscal Summary**

**State Effect:** DNR special fund expenditures increase by \$19,900 in FY 2014 for a part-time position. Future year expenditures reflect inflation. DNR special fund revenues decrease, potentially significantly, in FY 2014 and future years due to the tax exemption. Even though the bill takes effect June 1, 2013, it is assumed that State finances are not affected in FY 2013.

| (in dollars)   | FY 2014    | FY 2015    | FY 2016    | FY 2017    | FY 2018    |
|----------------|------------|------------|------------|------------|------------|
| SF Revenue     | (-)        | (-)        | (-)        | (-)        | (-)        |
| SF Expenditure | \$19,900   | \$15,800   | \$16,500   | \$17,200   | \$17,900   |
| Net Effect     | (\$19,900) | (\$15,800) | (\$16,500) | (\$17,200) | (\$17,900) |

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

**Local Effect:** To the extent the bill results in less revenue for local grants from the Waterway Improvement Fund (WIF), local revenues decrease.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** Regulations implementing the bill must (1) define a commercial enterprise; (2) require a commercial enterprise to provide documentation of the amount of admissions and amusement tax paid for the use of the vessel during the first year the vessel is in service; and (3) provide for recapture of the exemption if the amount of admissions and amusement tax paid in the first year the vessel is in service is less than 50% of the value of the tax exemption.

The annual report must address (1) the number and amount of tax exemptions claimed; (2) the amount of admissions and amusement tax paid on the use of vessels that receive the tax exemption; and (3) the number and amount of tax exemptions recaptured.

### **Current Law:**

#### *Local Admissions and Amusement Taxes*

Local governments are authorized to tax the gross receipts derived from (1) the charge for admission to a place, including any additional separate charge for admission within an enclosure; (2) use of a game of entertainment; (3) use of a recreational sports facility; (4) use or rental of recreational or sports equipment; and (5) merchandise, refreshments, or a service sold or served in connection with entertainment at a nightclub or room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided. An “admissions and amusement charge” does not include a charge for admission to a political fundraising event.

Local governments may also impose a tax on admission for a reduced charge or at no charge to a place that otherwise charges admission. An admissions and amusement tax may not be imposed by a county in a municipality if that municipality already imposes a similar tax or specifically exempts any gross receipts from the admissions and amusement tax.

Each local government sets its own single tax rate or range of rates. This rate is expressed as a percentage of gross receipts, up to a maximum rate of 10%. The Maryland Stadium Authority (MSA) may impose an admissions and amusement tax at its facilities of up to 8%. In those instances where gross receipts are subject to both a local and a MSA admissions and amusement tax, the MSA tax takes precedence. Local admissions and amusement tax rates may be further limited by the State sales and use tax.

**Exhibit 1** shows county admissions and amusement tax rates for fiscal 2013 and revenues for fiscal 2012. Collection of local admissions and amusement tax revenue is handled by the Comptroller’s Office.

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**Exhibit 1**  
**County Admissions and Amusement Tax Rates and Revenues**

| County          | FY 2013<br>Tax Rate | FY 2012<br>Revenue Estimate |
|-----------------|---------------------|-----------------------------|
| Allegany        | 7.5%                | \$150,000                   |
| Anne Arundel    | 10.0%               | 8,750,000                   |
| Baltimore City  | 10.0%               | 8,350,000                   |
| Baltimore       | 10.0%               | 6,267,548                   |
| Calvert         | 1.0%                | 30,000                      |
| Caroline        | 0.0%                | 0                           |
| Carroll         | 10.0%               | 275,000                     |
| Cecil           | 6.0%                | 140,000                     |
| Charles         | 10.0%               | 911,000                     |
| Dorchester      | 5.0%                | 2,500                       |
| Frederick       | *5.0%               | 800,000                     |
| Garrett         | 4.5%                | 700,000                     |
| Harford         | 5.0%                | 600,000                     |
| Howard          | 7.5%                | 2,200,000                   |
| Kent            | 4.5%                | 12,000                      |
| Montgomery      | 7.0%                | 2,581,000                   |
| Prince George's | 10.0%               | 10,437,000                  |
| Queen Anne's    | 5.0%                | 225,000                     |
| St. Mary's      | 2.0%                | 100,000                     |
| Somerset        | 4.0%                | 24,000                      |
| Talbot          | 5.0%                | 50,000                      |
| Washington      | 5.0%                | 360,000                     |
| Wicomico        | 6.0%                | 84,459                      |
| Worcester       | 3.0%                | 560,000                     |
| <b>Total</b>    |                     | <b>\$43,609,507</b>         |

\* Effective February 1, 2013, the Frederick County admissions and amusement tax rate is 0%.

Source: Maryland Association of Counties; Department of Legislative Services

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*State Boat Act – Vessel Excise Tax*

The State Boat Act, enacted in 1960, governs boating in the State. Any revenue DNR collects under the State Boat Act must be deposited in the State Treasury and used exclusively for the administration, functions, and objectives of the State Boat Act. These funds are credited to DNR's WIF.

Except under specified conditions, an excise tax is levied at the rate of 5% of the fair market value of a vessel on (1) the issuance of every original certificate of title required for a vessel; (2) the issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel; (3) the sale within the State of every other vessel; and (4) the possession within the State of a vessel purchased outside the State to be used principally in the State. The fair market value is determined by means of a national publication of used vessel values (specifically, the *Used Boat Price Guide*), and there is a minimum value of \$100 that applies to all sales.

**Background:** Since 1965, WIF has been essential in financing projects and activities that promote, develop, and maintain Maryland's waterways for the benefit of the boating public. Among other things, WIF is used to (1) mark channels and harbors and establish aid to navigation; (2) clear debris, aquatic vegetation, and obstructions from State waters; (3) dredge channels and harbors and construct jetties and breakwaters; (4) construct and maintain marine facilities beneficial to the boating public; (5) provide matching grants to local governments for the construction of specified marine facilities, vessels, and equipment; (6) construct structural and nonstructural shore erosion projects; and (7) provide boating information and education.

The vessel excise tax serves as the major source of funding for WIF and, consequently, public boating projects. Due to a significant decrease in boat sales in recent years, WIF revenues have declined by 50% since fiscal 2006. WIF vessel excise tax revenues totaled approximately \$14.0 million in fiscal 2012 and are estimated to remain level in fiscal 2013 and 2014. Based on program funding requests, DNR estimates the annual need for boating-related projects and services in Maryland is approximately \$21.0 million. Additional State funds may be required for dredging to offset recent decreases in federal funding for shallow water dredging projects in the State.

**State Revenues:** DNR special fund revenues decrease, potentially significantly, in fiscal 2014 and future years to the extent commercial enterprises purchase vessels and qualify for the vessel excise tax exemption. Any revenue decrease cannot be reliably estimated at this time, as it depends on, among other things, the number and value of commercial vessels purchased and the admissions and amusement tax charged.

**State Expenditures:** DNR special fund expenditures increase by \$19,856 in fiscal 2014, which assumes DNR can absorb any fiscal 2013 expenditures associated with developing implementing regulations. This estimate reflects the cost of hiring a part-time technician (25% of a full-time position) in early fiscal 2014 to track reported admissions and amusement tax revenue and take steps to recapture vessel excise tax should any vessel generate less than the required amusement tax revenue. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

|   |                 |
|---|-----------------|
| Position                                | 0.25            |
| Salary and Fringe Benefits              | \$12,697        |
| Computer and Other Equipment            | 4,615           |
| Other Operating Expenses                | <u>2,544</u>    |
| <b>Total FY 2014 State Expenditures</b> | <b>\$19,856</b> |

Future year expenditures reflect annual increases and employee turnover as well as annual increases in ongoing operating expenses.

The Comptroller's Office can absorb any costs associated with working with DNR to develop a process for verifying admissions and amusement tax payments.

**Local Revenues:** Local jurisdictions receive grant revenues from WIF for local waterway improvement projects. To the extent vessel excise tax revenues decrease, grants to locals likely decrease. Any such decrease cannot be reliably estimated at this time.

**Small Business Effect:** The bill has a meaningful impact on small commercial businesses that purchase vessels in the State. Small businesses purchasing vessels benefit to the extent they are not required to pay vessel excise taxes. *For illustrative purposes*, under the bill, a small boat tour business that purchases a \$2.0 million vessel is exempt from \$100,000 in vessel excise taxes if it generates at least \$50,000 in local admissions and amusement taxes in its first year. Small businesses benefit to the extent the bill prompts additional boat sales due to the tax exemption. In addition, an unknown number of small businesses are used by DNR and local governments to plan, design, and build waterway improvement projects. To the extent that the bill results in a decrease in the number of such projects undertaken, those small businesses may be negatively affected.

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 412 (Delegates George and W. Miller) - Ways and Means.

**Information Source(s):** Kent, Montgomery, and Worcester counties; Baltimore City; Department of Natural Resources; Comptroller's Office; Maryland Association of Counties; Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2013  
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