

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 454
 Ways and Means

(Delegate Kipke)

Budget and Taxation

Sales and Use Tax - List of Tangible Personal Property and Services - Publication

This bill requires the Comptroller’s Office to publish a comprehensive list, on the agency’s website, of tangible personal property and services that are subject to the State sales and use tax. The list must be updated at least quarterly and detail any additions, deletions, or revisions to the list.

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$60,000 in FY 2020. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	60,000	0	0	0	0
Net Effect	(\$60,000)	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: The State sales and use tax is imposed on (1) the purchase of goods sold in Maryland; (2) the use, storage, or consumption in Maryland of tangible personal property purchased outside the State; and (3) certain services defined as taxable services under State law. Vendors who are engaged in business in the State are required to collect the tax from purchasers.

Generally, the presumption is that tangible personal property is taxable under the State sales and use tax, unless otherwise specified by statute. Title 11, Subtitle 2 of the Tax General Article specifies exemptions from the State sales and use tax.

Taxable Services

Several services are taxed under the Maryland sales and use tax. These include: cellular phone and other mobile telecommunications services; telephone custom calling features; 900-type telephone services; telephone answering services; prepaid telephone calling arrangements; security services; commercial building cleaning; certain commercial cleaning and laundering of textiles for businesses; credit reporting services; pay-per-view television; production of tangible personal property by special order; transportation services for transmission, distribution, or delivery of taxable electricity or natural gas; and consumption of wine not provided by a restaurant, club, or hotel.

For a further detailed discussion of Maryland's sales and use tax, please see *Chapter 4, Volume III - Maryland's Revenue Structure*, of the 2018 Legislative Handbook Series.

Background: The sales and use tax is the State's second largest source of general fund revenue, accounting for approximately \$4.9 billion in fiscal 2019 and \$5.0 billion in fiscal 2020, according to the December 2018 revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

The Pennsylvania Department of Revenue is required to compile a [list of taxable and exempt property](#) as a general guide to vendors. The list must be published by notice in the *Pennsylvania Bulletin* at least once every three years. In addition, the department must publish a quarterly notice of additions, deletions, or revisions to the list in the *Pennsylvania Bulletin*. The department includes a disclaimer on the front page of the document noting that the document is for informational purposes only and is not intended to be binding on the department if the information contradicts statute, regulation, case law, or binding letter ruling.

The list can be found on the department's website and contains information on licensing, tax rates, and a description of the various taxes that retailers must collect. The publication also includes a listing by category of the types of items that are taxable and exempt in Pennsylvania.

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

Delaware	0.0%
District of Columbia	6.0%; 10.0% for liquor sold for on-the-premises consumption and restaurant meals; 10.25% for alcoholic beverages for consumption off the premises, tickets to specified sporting events, and specified rental vehicles
Maryland	6.0% 9.0% for alcoholic beverages
Pennsylvania	6.0% plus 1.0% or 2.0% in certain local jurisdictions
Virginia*	5.3%; 2.5% for eligible food items; both rates include 1.0% for local jurisdictions
West Virginia	6.0% plus 0.5% (in two municipalities) or 1.0% (in 41 municipalities)

*An additional state tax of 0.7% is imposed in localities in Northern Virginia and the Hampton Roads region and an additional 1.7% is imposed in localities in the Historic Triangle.

State Fiscal Effect: General fund expenditures increase in fiscal 2020 to comply with the reporting requirements of the bill. The extent of the expenditure increase depends on the magnitude and scope of the comprehensive list of taxable tangible personal property and services required by the bill.

The Comptroller's Office advises that if the comprehensive list is similar in magnitude and scope to what is published in Pennsylvania, general fund expenditures will increase by approximately \$60,000 in fiscal 2020. This estimate reflects the cost of hiring one contractor to compile the list of various categories of tangible personal property and services that are taxable and exempt under State law. Future year updates could be handled with existing budgeted resources. However, if a more comprehensive publication is required, general fund expenditures may increase by a significant amount.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Pennsylvania Department of Revenue;
Department of Legislative Services

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