

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 691

(Senator King)

Budget and Taxation

Ways and Means

Home Amenity Rentals - Sales and Use Tax Imposed and Local Tax Authorized

This bill imposes the State sales and use tax on specified home amenity rentals; and authorizes counties and municipalities to impose a home amenity rental tax. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: General fund and special fund revenues increase by a potentially significant amount beginning in FY 2025 depending on the value of home amenity rentals subject to the State sales and use tax. General fund expenditures may increase for administrative costs to implement the sales and use tax on home amenity rentals.

Local Effect: County and municipal revenues increase beginning in FY 2025 to the extent home amenity rental taxes are imposed. Local expenditures may increase for administrative costs to implement a new tax.

Small Business Effect: Potential meaningful. Small businesses that rent home amenities will be responsible for collecting and remitting State and local taxes.

Analysis

Bill Summary:

State Sales and Use Tax

The bill alters the definition of taxable price under the State sales and use tax to include the full amount of consideration paid by a buyer for the sale or use of a home amenity

rental facilitated by a home amenity rental intermediary or home amenity rental platform. Taxable price does not include a commission paid by a home amenity rental provider to a person after facilitating the sale or use of a home amenity rental. In addition, the taxable price does not include any tax that is remitted to a taxing authority.

County Home Amenity Rental Tax

The bill authorizes counties to impose, by resolution, a home amenity rental tax. The bill specifies that in Calvert, Charles, and St. Mary's counties, the county must hold a public hearing before imposing a home amenity rental tax. The hearing must be advertised twice in a newspaper of general circulation in the county at least 10 days before the hearing and may not be part of the annual budget hearing.

The county home amenity rental tax rate must be set by the county through a resolution; however, in certain counties the tax rate cannot exceed a certain limit, as shown in **Exhibit 1**.

Counties may adopt regulations to provide for the orderly, systematic, and thorough administration of the home amenity rental tax that are consistent with provisions of the bill and conform to the applicable provisions and regulations for the sales and use tax under Title 11 of the Tax – General Article.

Municipal Home Amenity Rental Tax

The bill authorizes municipalities to impose, by ordinance or resolution, a home amenity rental tax. A municipality is prohibited from imposing a home amenity rental tax if the municipality is located in a county that does not impose a home amenity rental tax. A municipal home amenity rental tax may not exceed 1%.

A municipality that imposes a home amenity rental tax may provide for the administration and collection of the tax.

Exhibit 1
County Home Amenity Rental Tax Rates

County	Tax Rate
Allegany	up to 4%*
Anne Arundel	set by resolution
Baltimore City	set by resolution
Baltimore	set by resolution
Calvert	up to 2.5%
Caroline	up to 2.5%*
Carroll	up to 2.5%
Cecil	up to 1.5%
Charles	up to 2.5%*
Dorchester	up to 2.5%
Frederick	up to 2.5%
Garrett	up to 4%
Harford	set by resolution
Howard	set by resolution
Kent	up to 2.5%*
Montgomery	set by resolution
Prince George's	set by resolution
Queen Anne's	up to 2.5%*
St. Mary's	up to 2.5%
Somerset	up to 2.5%
Talbot	up to 2%
Washington	3%
Wicomico	up to 3%
Worcester	up to 2.5%*

*With unanimous consent of county commissioners

Source: Department of Legislative Services

Definitions

- *home amenity* – any portion, whether indoors or outdoors, of a residential property, excluding bedrooms or any portion of the property intended for sleeping quarters, that is occupied by the hour and for not more than 15 hours consecutively;
- *home amenity rental* – the temporary use in exchange for consideration of a home amenity;
- *home amenity rental intermediary* – a person, other than a home amenity rental provider, who facilitates the sale or use of a home amenity and charges a buyer the taxable price for the home amenity rental. A person is considered to facilitate the sale or use of a home amenity if the person brokers, coordinates, or in any other way arranges for the sale or use of a home amenity by a buyer;
- *home amenity rental platform* – an Internet-based digital entity that advertises the availability of home amenities and receives compensation for facilitating reservations or processing booking transactions on behalf of the owner, operator, or manager of a home amenity;
- *home amenity rental charge* – a charge for a home amenity rental, excluding any charge for services; and
- *home amenity rental tax* – the tax on a home amenity rental charge.

Current Law: The State general sales and use tax rate is 6%. The sales and use tax is imposed on (1) the purchase of goods, including certain digital products and codes, sold in Maryland; (2) the use, storage, or consumption in Maryland of tangible personal property purchased outside the State; (3) certain services defined as taxable services under State law; and (4) remote sales of goods or taxable services for delivery in Maryland by out-of-state vendors. Vendors who are engaged in business in the State are required to collect the tax from purchasers.

The taxable price of goods subject to tax is defined by statute to include any consideration of any kind for a sale, including the value of a trade-in. Exclusions are provided for separately stated charges for installation, professional services, finance charges, delivery charges, certain taxes, certain mandatory gratuities for serving food or beverages, certain service charges in connection with the rental of video and audio equipment, or reimbursement of certain expenses in connection with providing a taxable detective service, and for the value of certain used parts on sales of remanufactured truck parts.

The sales and use tax is the State's second largest source of general fund revenue, accounting for approximately \$6.2 billion in fiscal 2023 and 2024, according to the December 2022 revenue forecast. **Exhibit 2** shows the sales and use tax rates in surrounding states and the District of Columbia.

Exhibit 2
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; 8.0% for specified soft drinks
Maryland	6.0% 9.0% for alcoholic beverages
Pennsylvania	6.0% plus 1.0% or 2.0% in certain local jurisdictions
Virginia*	5.3%; 1.0% for eligible food items; 1.0% for specified essential personal hygiene items
West Virginia	6.0% plus 1.0% in specified municipalities

*An additional state tax of (1) 0.7% is imposed in localities in Central Virginia, Northern Virginia, and the Hampton Roads region; (2) 1.0% in Charlotte, Gloucester, Halifax, Henry, Northampton, and Patrick counties; and (3) 1.7% is imposed in localities in the Historic Triangle. The sales and use tax rate for food and personal hygiene products decreased to 1.0% as of January 1, 2023.

Source: Department of Legislative Services

Blueprint for Maryland's Future Fund

Chapter 33 of 2022 altered the distribution of sales and use tax revenues beginning in fiscal 2023. Chapter 33 requires the Comptroller, after making certain other distributions, to pay to Blueprint for Maryland's Future Fund (BMFF) the following percentage of the remaining sales and use tax revenues:

- 9.2% for fiscal 2023;
- 11.0% for fiscal 2024;
- 11.3% for fiscal 2025;
- 11.7% for fiscal 2026; and
- 12.1% for fiscal 2027 and each subsequent fiscal year.

Chapter 33 also repealed the distribution of sales and use tax revenues to the BMFF from marketplace facilitators, certain out-of-state vendors, and specified digital products or digital codes.

County Sales and Service Taxes

Currently, most counties and Baltimore City impose one or more local sales and service taxes. Hotel and motel rentals and utilities are typical examples of services subject to these taxes. Counties, municipalities, and special taxing districts are generally limited to imposing sales and use taxes on fuels, utilities, space rentals, controlled dangerous substances, and, in code counties only and to a limited extent, on food and beverages in a resort area. For example, Worcester County, a code county, imposes a 0.5% food and beverage tax within the Town of Ocean City. A county must have specific authorization from the General Assembly to impose these taxes. The authorizations in some cases allow for exemptions to be granted by the counties, restrict the use of the revenue collected, set a limit on the tax rate, or require certain procedures such as a public hearing before imposing a tax.

These taxes generally are a percentage of the item's selling or rental price, or, in the case of fuels and utilities, a dollar amount per gallon, kilowatt hour, etc. The tax rate may be set by State statute or by the county, depending upon the type of tax and the county in which it is imposed. Typically, these taxes are collected by the vendor and remitted directly to the local governments.

State Fiscal Effect: General fund and special fund revenues increase by a potentially significant amount beginning in fiscal 2025. The amount of the revenue increase depends on the number of home amenity rentals that occur each year and the value of the home amenity rentals that are subject to the State sales and use tax, which cannot be reliably estimated. As a point of reference, total sales and use tax revenues increase by \$6,000 for each \$100,000 of taxable home amenity rentals. General fund expenditures may increase for administrative costs to implement the sales and use tax on home amenity rentals.

Local Fiscal Effect: County and municipal revenues increase beginning in fiscal 2025 to the extent home amenity rental taxes are imposed. The amount of the revenue increase will vary by jurisdiction and will depend on the number of home amenity rentals that occur each year, the value of home amenity rentals subject to local taxes, and the local tax rates imposed. Local expenditures may increase for administrative costs associated with implementing and administering a new home amenity rental tax.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1064 (Delegate Vogel) - Ways and Means.

Information Source(s): Comptroller's Office; Charles, Garrett, and Howard counties; City of Havre de Grace; Maryland Municipal League; Department of Legislative Services

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Analysis by: Michael Sanelli

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