

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 866
Ways and Means

(Delegate Ivey)

Sales and Use Tax - Exemption for Energy for Residential Use - Alteration

This bill exempts the sale of electricity, steam, or artificial or natural gas for use in cooperative housing and apartments from the State sales and use tax. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund and special fund revenues decrease by a significant amount beginning in FY 2024. Based on an analysis of housing data and energy costs of affected housing units, total sales and use tax revenues may decrease by between \$50 million and \$100 million annually. Expenditures are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful. Small businesses that own or operate rental apartments may benefit from reduced energy costs.

Analysis

Current Law: The State sales and use tax does not apply to a sale of (1) electricity, steam, or artificial or natural gas for use in residential condominiums; (2) electricity, steam, or artificial or natural gas that is delivered under a residential or domestic rate schedule on file with the Public Service Commission; (3) coal, firewood, heating oil, or propane gas or similar liquefied gas for use in residential property that contains not more than 4 units, cooperative housing, condominiums, or other similar residential living arrangements; (4) electricity through 3 or more bulk meters for use in a nonprofit planned retirement community of more than 2,000 housing cooperative or condominium units if ownership of

units is restricted by age; any unit is served by an individual meter; and on or before July 1, 1979, at least 3 bulk meters served the community; or (5) electricity generated by specified solar energy equipment or residential wind energy equipment, for use in residential property owned by an specified eligible customer-generator.

In addition, the sales and use tax does not apply to a sale of wood, wood bark or residue, or refuse-derived fuel used for heating purposes.

The following document on the Comptroller's website shows the items of tangible personal property and services that are subject to the State sales and use tax: [Sales and Use Tax List of Tangible Personal Property and Services \(marylandtaxes.gov\)](http://marylandtaxes.gov).

State Sales and Use Tax

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 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	0.0%
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.

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.

State Revenues: General fund and BMFF revenues decrease by a significant amount beginning in fiscal 2024. The amount of the revenue decrease depends on the amount of electricity, steam, or artificial or natural gas used by apartments and cooperative housing units in the State, the cost of energy used by these types of housing units, and the number of affected housing units.

As a point of reference, an analysis of housing data and energy costs by the Comptroller's Office and the Department of Legislative Services indicates that total sales and use tax revenues may decrease by between \$50 million and \$100 million annually beginning in fiscal 2024. However, as noted, the actual amount of the revenue decrease depends on the number of housing units and the cost of energy used by these housing units.

Additional Information

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

Designated Cross File: None.

Information Source(s): Comptroller's Office; Public Service Commission; Department of Legislative Services

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km/hlb

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