

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1011 (Delegate Arentz, *et al.*)

Environment and Transportation and
Ways and Means

Vessel Transfers - Excise Tax and Title Fee Exemption and Transfer-on-Death
Beneficiary Designation

This bill exempts from the vessel excise tax and the certificate of title fee, vessels that are transferred without consideration to or from a trust under specified circumstances. In addition, the bill authorizes an individual who is the sole owner of a vessel to designate a beneficiary to take ownership of the vessel on the death of the owner outside of estate administration.

Fiscal Summary

State Effect: Special fund revenues decrease, beginning in FY 2025, as discussed below. Under one set of assumptions, special fund revenues decrease by \$93,750 in FY 2025 and by \$125,000 annually thereafter. General fund revenues may also decrease each year, potentially only minimally, beginning in FY 2025, as discussed below. Expenditures are not affected.

Local Effect: The bill is not expected to directly affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary:

Trust Exemptions from the Vessel Excise Tax and Certificate of Title Fees

The vessel excise tax and certificate of title fee exemptions apply if a vessel is transferred without consideration and:

- the transfer is to a trust, and the transfer would be exempt from the excise tax if the transferor transferred the vessel directly to one or more of the beneficiaries of the trust; or
- the transfer is from a trust to one or more of the beneficiaries of the trust and (1) the transfer is made during the life of the settlor of the trust and the trustee originally acquired the vessel for adequate consideration or (2) the transfer is made to a beneficiary of a revocable trust as a result of the death of the settlor of the trust.

Transfer-on-death Beneficiary Designation

An individual who is the sole owner of a vessel may apply to the Department of Natural Resources (DNR) to designate a beneficiary to take ownership of the vessel on the death of the owner. The designation of a beneficiary may be shown by the words “transfer-on-death” (TOD) after the name of the registered owner on a certificate of title. DNR is authorized to charge a fee, not to exceed its costs, for issuing the certificate of title. Designation of a beneficiary does not affect the ownership of the vessel until the owner dies.

The owner of a vessel may cancel or change the designation of a beneficiary at any time without the consent of the beneficiary by applying to DNR. The designation of a beneficiary is not required to be supported by consideration, and the certificate of title of the vessel for which the designation is made is not required to be delivered to the beneficiary in order for the designation to be effective.

On the death of the owner, ownership of the vessel passes to the beneficiary if the beneficiary survives the owner. If a designated beneficiary does not survive the owner, the vessel is part of the deceased owner’s estate.

A surviving designated beneficiary must apply to DNR for a new certificate of title for the vessel. The application must include (1) the original certificate of title designating the beneficiary; (2) a death certificate for the deceased owner; (3) proof of the identity of the beneficiary; and (4) any applicable taxes or fees. The bill does not limit the rights of creditors of vessel owners against beneficiaries and other transferees under Maryland law.

DNR is authorized to adopt regulations to carry out these provisions.

Vessel Definition

“Vessel” means a vessel, as the term is defined under the vessel excise tax and certificate of title fee provisions of the Natural Resources Article.

Current Law:

Vessel Excise Tax and Certificate of Title Fees

A vessel excise tax of 5% (of the fair market value of the vessel) is levied on the issuance of every original certificate of title for a vessel and every subsequent certificate of title for the sale, resale, or transfer of a vessel. The requirement that the vessel excise tax be paid is subject to exceptions/exemptions as well as a limitation on the maximum amount that can be levied of \$15,800, as of July 1, 2023, which increases by \$100 July 1 of each year. DNR also charges a \$2 fee to issue a certificate of title, a transfer of title, or a duplicate or corrected certificate of title.

For purposes of the vessel excise tax and the certificate of title fee, “vessel” means every description of watercraft, including an ice boat but not including a seaplane, that is used or capable of being used as a means of transportation on water or ice. However, “vessel” does not include a ship’s lifeboat, a vessel propelled only by sail, or a vessel that is manually propelled.

Exemptions from the Vessel Excise Tax – Transfers to Immediate Family

One of the exemptions from the vessel excise tax is for a transfer between immediate family members as determined by DNR regulations. Under the regulations, immediate family members include a spouse, son, daughter, mother, father, sister, brother, grandmother, grandfather, son-in-law, father-in-law, mother-in-law, daughter-in-law, grandson, granddaughter, stepfather, stepmother, half brother, half sister, stepson, or stepdaughter, and persons related by virtue of adoption.

Property of a Deceased Person

Under the Estates and Trusts Article, all property of a decedent (deceased person) is subject to the estates of decedents law, and upon the person’s death must pass directly to the personal representative (a fiduciary who settles and distributes the estate of the decedent in accordance with the terms of any will and the estates of decedents law) for administration and distribution. “Property” is all real and personal property of the decedent and any right or interest in the property, which does not pass, at the time of the decedent’s death, to another person by the terms of the instrument under which it is held, or by operation of law.

State Revenues:

Waterway Improvement Fund

Special fund revenues for the Waterway Improvement Fund decrease as a result of transfers of vessels to or from a trust (under the circumstances specified in the bill) no longer being subject to the vessel excise tax. The extent to which revenues decrease cannot be reliably estimated. However, DNR indicates that approximately 700 vessels have Maryland certificates of title that are in the name of a trust. The fair market value of boats that are transferred to or from a trust could vary significantly; however, *for illustrative purposes*, if it is assumed that transfers of 50 boats per year, with an average fair market value of \$50,000 each, are no longer subject to the vessel excise tax as a result of the bill, special fund revenues decrease by \$93,750 in fiscal 2025, accounting for the bill's October 1, 2024 effective date, and by \$125,000 annually thereafter.

State Boat Act Fund

Special fund revenues for the State Boat Act Fund are not expected to be materially affected by the likely minimal, offsetting impacts of (1) certificate of title fees no longer being paid for certain transfers of vessels to or from a trust and (2) more certificate of title fees or other fees (authorized in the bill) being paid by individuals applying to designate a TOD beneficiary on a certificate of title.

General Fund

General fund revenues may decrease beginning in fiscal 2025 due to reduced probate fee and inheritance tax revenues collected by the registers of wills, which oversee administration of decedents' estates. Vessels transferred under the bill's TOD provisions are transferred outside of the probate estate, removing property from the probate estate, and probate fees are collected by the registers of wills based on the value of the probate estate. The transfers are still subject to inheritance tax if the beneficiary is a taxable individual, but if the decedent has no other probate assets, the transfer may not be reported, and the tax may not be collected. The extent of any decrease in general fund revenues cannot be reliably estimated but may only be minimal. Registers of wills' salaries and office expenses are paid from fees and inheritance tax revenues collected by the registers, with the remainder of the revenues deposited in the State general fund.

Additional Information

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

Designated Cross File: None.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Register of Wills; Department of Natural Resources; Department of Legislative Services

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km/sdk

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