

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 823  
Ways and Means

(Delegate Krebs, *et al.*)

Budget and Taxation

---

Sales and Use Tax - Nonprofit Food Vendors - Youth Sporting Events and 4-H Youth Events

---

This bill exempts from the State sales and use tax the sale of food, bottled water, soft drinks or carbonated beverages, or candy or confectionary by a nonprofit vendor at a youth sporting event or 4-H youth event for individuals under 18 years old if there are no facilities for food consumption on the premises, unless the sale is within an enclosure for which admission is charged.

The bill takes effect July 1, 2011.

---

Fiscal Summary

**State Effect:** Potential minimal reduction in general fund revenues beginning in FY 2012. The amount of the decrease depends on the amount of food, beverages, candy, and bottled water that is sold by nonprofit vendors at these types of events. State expenditures are not affected.

**Local Effect:** None.

**Small Business Effect:** Minimal.

---

Analysis

**Current Law:** The sale of food by grocery stores, except for certain prepared food, is exempt from the State sales and use tax. In addition, the sales and use tax does not apply to a sale of food (1) to patients in a hospital when the food charge is included in the regular room rate; (2) by a church or religious organization; (3) by a school other than an

institution of postsecondary education, including sales at a school by a food concessionaire that is under contract with the school or with its designated contract agent, but not including sales at events that are not sponsored by the school or are not educationally related; (4) to students at an institution of postsecondary education if the food charge is for a meal plan or is included in the regular charge for room and board; or (5) by a nonprofit food vendor if there are no facilities for food consumption on the premises, unless the food is sold within an enclosure for which a charge is made for admission.

The sales and use tax does not apply to the sale of food if (1) the proceeds of the sale are used to support a bona fide nationally organized and recognized organization of veterans of the armed forces of the United States or auxiliary of the organization or one of its units, for a sale of food or meals for consumption only on the premises, served by the organization or auxiliary; or (2) the proceeds of the sale are used to support a volunteer fire company or department or its auxiliary or a volunteer ambulance company or rescue squad or its auxiliary, for a sale of food served by the company, department, squad, or auxiliary.

**Background:** The sales and use tax is the State's second largest source of general fund revenue, accounting for \$3.7 billion in fiscal 2011 and over \$4 billion in fiscal 2012. In addition, TTF is projected to receive \$228.7 million in sales and use tax revenues in fiscal 2011. **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%
District of Columbia	6%
Maryland	6%
Pennsylvania	6% plus 1% or 2% in certain local jurisdictions
Virginia	5%; 2.5% for food, both rates include 1% for local jurisdictions
West Virginia	6%; 3% for food

---

**State Fiscal Effect:** Current law exempts from the State sales and use tax the sale of food by a nonprofit food vendor if there are no facilities for food consumption on the premises, unless the food is sold within an enclosure for which a charge is made for

admission. The *Maryland Tax Expenditures Report* for fiscal 2010 estimates that this exemption reduces revenues by approximately \$300,000 annually.

The bill specifies that food, bottled water, soft drinks or carbonated beverages, or candy or confectionary sold by vendors at youth sporting events and 4-H youth events will be exempt from the sales and use tax if there are no facilities for food consumption on the premises and the sale is not made within an enclosure for which admission is charged. The amount of the revenue decrease will depend on the amount of food and related items that is sold by nonprofit vendors at these types of events. However, due to the current exemption, exempting food sold by nonprofit vendors at specified youth sporting events or 4-H youth events is not expected to reduce general fund revenues by a significant amount.

Chapter 10 of 2008 altered the distribution of sales and use tax revenues by requiring that for fiscal 2009 through 2013, 5.3% of revenues be distributed to the Transportation Trust Fund (TTF). Beginning in fiscal 2014, the percentage of revenues distributed to TTF increases to 6.5%. The Budget Reconciliation and Financing Act of 2011 (HB 72) repeals the sales and use tax distribution to TTF which was established by Chapter 10 of 2008. Accordingly, beginning in fiscal 2012, contingent on passage of HB 72, sales and use tax revenues will no longer be distributed to TTF. As a point of reference, for every \$1,000,000 in sales subject to the exemption, general fund revenues will be reduced by approximately \$60,000.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Department of Education, Comptroller's Office, Maryland Association of Boards of Education, Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2011  
ncs/jrb Revised - Enrolled Bill - May 5, 2011

---

Analysis by: Michael Sanelli

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