

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 780

(Senator Waldstreicher)

Budget and Taxation

Ways and Means

Transfer Tax - Transfers by Governmental Entities

This bill clarifies that an instrument of writing that transfers property from (1) the United States; (2) the State; (3) an agency of the State; or (4) a political subdivision of the State is not subject to the transfer tax. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: State transfer tax revenues decrease beginning in FY 2019 depending on the number of property transfers from governmental entities that occur each year. The number of affected transfers that may occur each year cannot be reliably estimated. General fund revenues decrease as a result of commissions not being collected. State expenditures are not affected.

Local Effect: Local transfer tax revenues in code counties decrease beginning in FY 2019 depending on the number of property transfers from governmental entities that occur each year. Local transfer tax revenues in charter or commission counties also may decrease beginning in FY 2019. The number of affected transfers that may occur each year cannot be reliably estimated. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: The State, Baltimore City, and 18 counties currently impose a transfer tax. Calvert, Carroll, Frederick, Somerset, and Wicomico counties do not impose a local transfer tax.

The State transfer tax rate is 0.5% of the consideration payable for an instrument of writing conveying title to, or a leasehold interest in, real property (0.25% for first-time Maryland homebuyers). In some jurisdictions, a local property transfer tax may be imposed on instruments transferring title to real property. A distinction is made in the local codes between instruments transferring title such as a deed and certain leaseholds and instruments securing real property such as a mortgage.

Exemptions from the transfer tax are generally the same as the exemptions from recordation taxes and include conveyances to a government, including the United States, State, or a municipality in the State, or public agency; conveyances involving related corporations; and transfers between spouses, relatives, or specified domestic partners.

The clerks of the circuit court in several jurisdictions collect a number of different taxes and fees, including local recordation and transfer taxes. The Administrative Office of the Courts reports that the clerk of the circuit court collects local recordation and transfer taxes in the following 12 jurisdictions: Allegany; Calvert; Dorchester; Garrett; Harford; Kent; Queen Anne's; St. Mary's; Somerset; Washington; Wicomico; and Worcester. In the remaining jurisdictions, local finance offices are responsible for the collection of these taxes.

State Fiscal Effect: State special fund revenues decrease beginning in fiscal 2019. The amount of the revenue decrease due to the transfer tax exemption depends on the number of property transfers from governmental entities that occur each year and the amount of consideration associated with each transfer. The number of these transfers that may occur each year cannot be reliably estimated. As a point of reference, the State transfer tax on a transaction valued at \$250,000 is \$1,250.

The clerks of the circuit court who collect recordation and transfer taxes are entitled to a commission of between 3% and 5% of all public monies collected, which, unless otherwise specified, are remitted to the State's general fund. The exemption proposed by the bill will reduce the amount of transfer taxes collected by the clerks of the circuit court and thereby the amount of commission revenue remitted to the general fund. The amount of the general fund revenue decrease cannot be reliably estimated.

Local Fiscal Effect: Local transfer tax revenues decrease beginning in fiscal 2019 depending on the number of property transfers from governmental entities that occur. In code counties – Allegany, Caroline, Charles, Kent, Queen Anne's, and Worcester – transfers that are exempt from the State transfer tax are also exempt from the county transfer tax. As a result, transfer tax revenues in the six code counties will decrease beginning in fiscal 2019. To the extent that the transfer tax in a charter county or a commission county is linked to the State transfer tax, transfer tax revenues in these counties will decrease as well. The amount of the revenue decrease due to the exemption depends

on the number of property transfers from a governmental entity that occur and the amount of consideration associated with each transfer. The number of affected transfers that may occur in any year cannot be reliably estimated.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Association of Counties; Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of General Services; Board of Public Works; State Department of Assessments and Taxation; Department of Legislative Services

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