

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 40 (Senator Lam)
 Budget and Taxation

Sales and Use Tax - Diapers - Exemption

This bill exempts the sale of diapers from the State sales and use tax. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: General fund revenues decrease by approximately \$7.2 million in FY 2021 and by \$8.0 million in FY 2025. Future year revenues reflect inflation and population growth. General fund expenditures increase by \$81,300 in FY 2021.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	(\$7.2)	(\$7.4)	(\$7.6)	(\$7.8)	(\$8.0)
GF Expenditure	\$0.1	\$0	\$0	\$0	\$0
Net Effect	(\$7.2)	(\$7.4)	(\$7.6)	(\$7.8)	(\$8.0)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The sale of diapers is subject to the State sales and use tax. The sale of baby oil, baby powder, sanitary napkins, or tampons is exempt from the State sales and use tax. In addition, the sales and use tax does not apply to the sale of disposable medical supplies. Disposable medical supplies are articles consumed in a single use to cure, mitigate, treat, prevent, or diagnose illnesses. Exempt items include incontinent pants, diapers, and other incontinent supplies for adults; adhesive tape; bandages; gauze and

gauze pads; antiseptics; disposable gloves; lubricating jelly; colostomy supplies; absorbent pads; dressing supplies; spray bandages; disposable syringes; condoms; and glucose monitoring strips.

Background: The sales and use tax is the State’s second largest source of general fund revenue, accounting for approximately \$5.0 billion in fiscal 2020 and fiscal 2021, according to the December 2019 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%; 2.5% for eligible food items; 2.5% for specified essential personal hygiene items; both rates include 1.0% for local jurisdictions
West Virginia	6.0% plus 0.5% (in one municipality) or 1.0% (in 45 municipalities)

*An additional state tax of 0.7% is imposed in localities in Northern Virginia and the Hampton Roads region and an additional 1.7% is imposed in localities in the Historic Triangle.

The City Council and Mayor of the District of Columbia approved legislation exempting feminine hygiene products and diapers from the district’s sales and use tax in 2016. Beginning January 1, 2020, Virginia reduced the sales tax on specified feminine hygiene products and diapers to 2.5%.

2017 Joint Chairman's Report

The 2017 *Joint Chairman's Report* expressed the committees concern regarding the high cost of purchasing diapers by low-income households and requested that the Department of Human Services (DHS), in conjunction with the Maryland Department of Health and the Maryland State Department of Education, submit a report discussing the feasibility of creating a supplemental benefit to assist these families. DHS submitted its report in December 2017 – [Joint Chairman's Report – Feasibility of Creating a Benefit for the Purchase of Diapers](#).

State Revenues: General fund revenues decrease by a significant amount beginning in fiscal 2021. There are two factors that will determine the actual revenue decrease resulting from this proposed sales and use tax exemption. The first factor is the price of diapers. A recent DHS study found the average retail price for packages of diapers ranged from \$44.75 for a package of 276 size 1 diapers to \$36.32 for a package of 192 size 4 diapers. The second factor is the number of diapers used per child per day. It is assumed that infants and babies will require more diapers than toddlers and older children. The DHS study assumed that infants one month of age and younger will use approximately 10 diapers per day, infants between one month of age and one year old will use 8 diapers per day, and children ages one and two will use 6 diapers per day.

Based on findings from the DHS study, general fund revenues decrease by approximately \$7.2 million in fiscal 2021 and by \$8.0 million in fiscal 2025. This estimate is based on the following:

- the U.S. Census Bureau projected approximately 291,200 children age three and younger in Maryland as of July 1, 2018;
- the average cost of a diaper ranges from \$0.18 to \$0.20;
- families use an average of between 6 and 10 diapers per child per day, depending on age; and
- revenues decrease by an additional 3% annually in future years.

State Expenditures: The Comptroller's Office will incur a one-time expenditure increase of \$81,300 in fiscal 2021 to notify the approximately 130,000 sales and use tax account holders of the sales tax change.

Additional Information

Prior Introductions: HB 345 of 2018 received a hearing in the House Ways and Means Committee, but no further action was taken. HB 1245 of 2017 received a hearing in the House Ways and Means Committee, but no further action was taken. Similar bills introduced during the 2016 session include SB 904, HB 784, HB 807, and HB 1510. SB 904 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 784 and HB 807 received hearings in the House Ways and Means Committee, but no further action was taken on either bill. HB 1510 was assigned to the House Rules and Executive Nominations Committee but was withdrawn.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Department of Human Services; U.S. Census Bureau; Department of Legislative Services

Fiscal Note History: First Reader - January 8, 2020
af/hlb

Analysis by: Michael Sanelli

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