

**Letter of Information – House Bill 1215 – Transportation Financing – Retail Delivery Fee and
Transportation Network Company Impact Fee**

*Environment and Transportation Committee
February 29, 2024*

We thank Delegate Korman for putting forward this bill focused on funding transportation needs through the imposition of fees on retail deliveries and transportation network companies. This is an important initiative, and the collection of these fees will provide a steady stream of revenue that can be used to improve the state's transportation systems.

We appreciate Delegate Korman's willingness to meet with our office and work through various amendments and proposed changes to this legislation to address some of our operational challenges. We are confident that the bill will have a positive impact on the state's economy, environment, and overall quality of life.

In order to best operationalize this legislation, the Office of the Comptroller is offering five technical considerations:

1. (Page 5 of the bill): In **18-101(c)(1)** it states that "retail delivery means...Tangible Personal Property purchased by a person located in the state." This definition creates an ambiguity around if a retail delivery is also defined as a purchase made by someone outside of the state and shipped into the state. If the intention is for the retail delivery fee to be applicable in that instance, then we suggest adding clarifying language to section 18-101(c)(1).
2. (Page 8 of the bill): In **18.8-104** it states: "THE RETAIL DELIVERY FEE DOES NOT APPLY TO THE SALE OR PURCHASE OF TANGIBLE PERSONAL PROPERTY THAT IS EXEMPT FROM THE SALES AND USE TAX."
 - a) In addition to the sales and use tax exemptions in Tax-General Article Title 11, Subtitle 2, there are exclusions from the sales and use tax that arise from the definitions in TG §11-101. The most notable of these is that sales for resale are excluded from the definition of a retail sale so as to avoid the pyramiding of tax.
 - b) Is it the intent of the sponsors that sales or purchases of tangible personal property that are excluded from the sales and use tax should not be subject to the retail delivery fee, or should that be strictly limited to the item exempt from the sales and use tax? If the former, in order to remove ambiguity, we propose the language of 18.8-104 be amended to read:



THE RETAIL DELIVERY FEE DOES NOT APPLY TO THE SALE OR PURCHASE OF TANGIBLE PERSONAL PROPERTY THAT IS EXEMPT FROM THE SALES AND USE TAX **OR EXCLUDED.**”

3. Language should be added to the bill to clarify if it is the intent of the sponsor that a vendor or marketplace facilitator be eligible for a collection discount (for example, it's up to \$500 for SUT if they report and remit timely) against the Retail Delivery Fee.
4. Language should be added to the bill to clarify if it is the intent of the sponsor that a transportation network company be eligible for a collection discount for the transportation network company impact fee for remitting and reporting in a timely manner.
5. (Page 7, line 9): We appreciate the language added that states “A VENDOR OR MARKETPLACE FACILITATOR SHALL EITHER COLLECT THE RETAIL DELIVERY FEE FROM A BUYER OR PAY THE RETAIL DELIVERY FEE ON BEHALF OF A BUYER.” We read this to mean there is no option or obligation for a marketplace seller to collect and remit the tax.
 - a) For further clarification, we recommend adding language similar to that in 11-403.1(a)(2) to read “A Marketplace seller is not required to collect the applicable sales and use tax...”

Again, we are thankful the sponsor of this legislation has been open to ongoing conversations with our office to ensure we are able to implement this bill as intended. We are committed to providing answers to the sponsor and the committee should any questions arise.

As always, the Comptroller's Office remains committed to supporting initiatives that benefit the community and look forward to working with you on this matter. Please contact Justin Hayes, Director of State Affairs at jhayes@marylandtaxes.gov or 410-260-7696, with any questions.