

## **Part B Taxes**

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### **Property Tax**

#### **Property Tax Administration**

#### **Budget Reconciliation and Financing Act**

While, the State Department of Assessments and Taxation (SDAT) supervises the assessment of all property in the State, counties and municipalities are the primary beneficiaries of property taxes in Maryland. The Budget Reconciliation and Financing Act of 2011, *House Bill 72 (passed)*, requires the counties and Baltimore City to reimburse SDAT for (1) 90% of the costs of real property valuation; (2) 90% of the costs of business personal property valuation; and (3) 90% of costs incurred by SDAT with regards to information technology in fiscal 2012 and 2013. Beginning in fiscal 2014, the counties and Baltimore City are required to reimburse SDAT for 50% of these costs. *House Bill 72* specifies how those costs must be allocated among the counties and Baltimore City and how payments must be remitted. The Comptroller may withhold a portion of a local income tax distribution if timely payment is not made.

General fund expenditures will decrease by \$34.8 million in fiscal 2012 due to the shift in costs from the State to the local jurisdictions. General funds to support SDAT and related information technology projects are included in the proposed fiscal 2012 State budget, but reductions totaling \$34.8 million are contingent on the enactment of the legislation requiring the counties to pay these costs. Local expenditures will increase by a commensurate amount.

For a more detailed discussion of the Budget Reconciliation and Financing Act of 2011, see subpart “Operating Budget” within Part A – Budget and State Aid of this *90 Day Report*.

#### **Semi-annual Payment Schedule for Business Property**

Property taxes for owner-occupied residential property are due under a semi-annual schedule. The first installment is due on July 1 and may be paid without interest on or before September 30. The second installment is due on December 1 and may be paid without interest

on or before December 31. Local governments are authorized to impose a maximum service charge of 1.65% of the second payment to cover lost interest for the three-month delay in tax collection and associated administrative fees. However, homeowners may elect to pay the full year's property tax on or before September 30 to avoid the service charge. Chapter 680 of 2010 required county and municipal governments to establish a semiannual payment schedule for State, county, municipal, and special taxing district property taxes for small business property with a property tax bill of \$50,000 or less. Property taxes for property other than owner-occupied residential property and specified small business property are due on July 1 and may be paid without interest on or before September 30.

*House Bill 463 (passed)* expands the current requirement that local governments allow certain businesses to elect to pay property taxes on a semiannual basis so that a business may make this election if total property taxes do not exceed \$100,000. The bill applies to all taxable years after June 30, 2012.

### **Property Tax Assessment Appeals Boards**

There are three levels in the appeals process that property owners may pursue when appealing a property tax assessment. The first appeal of an assessment goes to SDAT, which determines the original assessment. To the extent a property owner receives an unsatisfactory ruling, that ruling may be applied to the Property Tax Assessment Appeals Boards (PTAAB), which hear appeals in matters relating to the assessment of property throughout the State. There is one board located in each county and Baltimore City. Each board has four members (three members and one alternate) who are appointed by the Governor for five-year terms. Further appeals may be made to the Maryland Tax Court.

*Senate Bill 55 (Ch. 10)* increases the number of alternate members of the PTAAB from one to three in the following jurisdictions: Baltimore City and Anne Arundel, Baltimore, Montgomery, and Prince George's counties. Increasing the number of alternate board members will likely allow a PTAAB to hear more cases in a timely and efficient manner as they will have a greater number of alternates should the regular members be unavailable. The bill does not alter PTAAB funding levels or member compensation amounts.

### **Tax Sales**

#### **Garrett and Dorchester Counties – Auctioneer's Fees and Advertising**

The auctioneer's fee for properties sold at a tax sale auction in Garrett County is set at a maximum of \$10 on a day when up to three properties are sold and \$3 per property on a day when four or more properties are sold. *House Bill 258 (Ch. 115)* alters the auctioneer fee for property sold at a tax sale in Garrett County by setting the fee at \$8 for each property sold.

The auctioneer's fee for properties sold at a tax sale auction in Dorchester County is set at \$10 per property sold, but in no event may the auctioneer's fee be less than \$50 a day or greater than \$200 a day. In addition, Dorchester County, along with most other local governments, must publish notice once a week for four successive weeks in one or more local newspapers of the

properties potentially going to a tax sale auction. *Senate Bill 279/House Bill 270 (both passed)* alter the auctioneer’s fee for property sold at a tax sale in Dorchester County by setting the fee at \$7.50 for each property sold and also repeal the auctioneer fee limit. *Senate Bill 279/House Bill 270* also specify that in Dorchester County a tax sale notice must be published three times, once a week for three successive weeks.

### **Baltimore County – Notification Process**

In Baltimore County, a specified statement and notice must be posted at least 30 days before the property is advertised, in a conspicuous place on the property to be sold. The county is authorized to collect a fee of \$7.50 when a notice is posted at a property to be sold. In addition, most local governments are authorized to impose a fee not exceeding \$15 for each property to be sold at the tax sale to cover attorney costs relating to the tax sale proceedings. *Senate Bill 431 (passed)* eliminates (1) the requirement in Baltimore County that the county post a specified statement and notice on the property before the property is advertised for sale at a tax sale; and (2) the \$7.50 notification fee. *Senate Bill 431* also authorizes the Baltimore County Executive to establish an administrative fee to cover the legal, administrative, and mailing costs associated with the tax sale of each property.

### **Baltimore City – Water and Sewer Liens**

In Baltimore City, dunning notices (a notice to a debtor demanding payment on a delinquent account) regarding unpaid water and sewer bills are typically sent out to ratepayers when delinquencies reach \$250. *Senate Bill 645/House Bill 867 (both passed)* prohibit Baltimore City from selling a property solely to enforce a lien for unpaid charges for water and sewer service unless the lien is for at least \$350 and the unpaid charges are at least three quarters in arrears. The bill also provides that Baltimore City may enforce a lien on a property for unpaid water and sewer service that is less than \$350 if the property is being sold to enforce another lien.

### **Local Option Property Tax Credits**

#### **Habitat for Humanity**

Chapters 328 and 329 of 2010 authorized local governments to grant a property tax credit against the county or municipal property tax for real property owned by Habitat for Humanity with the intention of relinquishing ownership in the immediate future and used exclusively for the purpose of rehabilitation and transfer to a private owner. *House Bill 558 (Ch. 130)* expands this local option property tax credit for real property owned by Habitat for Humanity to include undeveloped land to be relinquished in the near future.

## Local Property Tax Credits

### Anne Arundel County

*House Bill 62 (Ch. 95)* authorizes Anne Arundel County or a municipality in the county to grant a property tax credit for property that is leased to a public charter school and used exclusively for primary or secondary educational purposes. The bill also requires the public charter school to be the beneficiary of the tax credit.

### Frederick County

*Senate Bill 330/House Bill 262 (both passed)* require Frederick County or a municipality in the county to grant a property tax credit for property leased to a nonprofit school and used exclusively for primary or secondary educational purposes. In addition, *Senate Bill 330/House Bill 262* require the lessor of real property eligible for the property tax credit to reduce the amount of taxes for which a tenant is contractually liable under the lease agreement by the amount of any property tax credit allowed.

Chapter 415 of 2010 required Frederick County, for fiscal 2011, to grant a property tax setoff to its municipalities in an amount at least equal to the tax setoffs granted for fiscal 2009. For fiscal 2012, the property tax setoffs must be at least equal to the amounts granted in the prior year, adjusted for the percentage by which the county property tax rate exceeds the constant yield tax rate. *Senate Bill 760 (passed)* requires Frederick County, for fiscal 2013, to grant a property tax setoff to its municipalities in an amount at least equal to the amounts granted in the prior year, adjusted for the percentage by which the county property tax rate exceeds the constant yield tax rate.

### Prince George's County

*Senate Bill 436 (passed)* authorizes a municipality in Prince George's County to establish revitalization districts for the purpose of encouraging redevelopment and authorizes a municipality to grant a property tax credit against the municipal property tax imposed on real property located within a revitalization district. To be eligible for the credit, the property must be constructed or substantially redeveloped in conformance with adopted eligibility criteria and reassessed as a result of the construction or redevelopment at a higher value than that assessed prior to the construction or redevelopment.

## Income Taxes

### New and Extended Income Tax Credits

#### New Tax Credits

*Film Production Tax Credit: Senate Bill 672 (passed)* converts the existing Film Production Rebate Program into a new Film Production Activity Tax Credit. Subject to the

issuance of tax credit certificates by the Secretary of Business and Economic Development, a qualified film production entity may claim a credit against the income tax in an amount equal to 25% of the qualified direct costs of a film production activity, or 27% of the direct qualified costs if the production activity is for a television series. The Secretary is authorized to award a maximum of \$7.5 million in tax credit certificates for each fiscal year. The bill also alters several provisions from the former rebate program related to eligibility and program reporting requirements. The tax credit terminates July 1, 2014, and the Secretary may not issue tax credit certificates for any fiscal year after 2014.

It is estimated that the tax credit will decrease State revenues by \$7.5 million annually in fiscal 2012 through 2014. Repealing the rebate program will decrease general fund expenditures by \$2.0 million for fiscal 2012 and by an estimated \$1.0 million annually beginning in fiscal 2013. For further discussion of this issue, see subpart “Economic Development” in Part H – Business and Economic Issues of this *90 Day Report*.

***Electric Vehicle Recharging Property:*** Chapter 490 of 2010 established a three-year motor vehicle excise tax credit of up to \$2,000 for the purchase of plug-in hybrid vehicles (PHEVs). ***House Bill 163 (passed)*** allows an income tax credit for 20% of the cost of qualifying PHEV recharging equipment, not to exceed the lesser of \$400 for each recharging system or the State income tax imposed in the tax year. Under the bill, the credit allowed is subject to a maximum of one recharging system for an individual and 30 recharging systems for a business entity and is subject to the issuance of tax credit certificates by the Maryland Energy Administration. The administration is authorized to award credits for tax years 2011 through 2013, totaling not more than \$400,000 for tax year 2011, \$500,000 for tax year 2012, and \$600,000 for tax year 2013.

### **Tax Credit Extensions**

***Senate Bill 830 (passed)*** extends through June 30, 2012, the Qualifying Employees with Disabilities Tax Credit, which is scheduled under current law to terminate on June 30, 2011.

***Senate Bill 959 (passed)*** extends through June 30, 2018, the bio-heating oil income tax credit, currently scheduled to expire on June 30, 2013. The bill also alters the definition of bio-heating oil for purposes of the credit to conform the definition to specified federal standards.

### **Additional Tax Credit and Subtraction Modification Legislation**

#### **Volunteer Police, Fire, Rescue, and Emergency Medical Services Personnel Subtraction Modification Program**

Eligible individuals who serve in a volunteer capacity and qualify for active duty service during the tax year qualify for a \$3,500 subtraction modification provided under the Honorable Louis L. Goldstein Volunteer Police, Fire, Rescue, and Emergency Medical Services Personnel Subtraction Modification Program. ***Senate Bill 346/House Bill 11 (both passed)*** expand eligibility for this subtraction modification to include members of the Maryland Defense Force.

### Other Tax Credit Legislation

**House Bill 587 (passed)** provides that, for purposes of the biotechnology investment tax credit, for fiscal 2012 and 2013 only, a biotechnology company that has been in active business for up to 15 years is eligible to receive investments for which the tax credits are awarded.

**Senate Bill 958 (passed)** expands the energy resources eligible for the Maryland clean energy incentive tax credit, by allowing any nonhazardous waste material that is segregated from other waste materials to qualify as a qualified energy resource.

**Senate Bill 494/House Bill 461 (both passed)** expand the existing quality teacher incentive tax credit to allow the credit for certified teachers at a State or local correctional facility or a juvenile facility operated by the Department of Juvenile Services.

Chapter 487 of 2010 reestablished the Heritage Structure Rehabilitation tax credit as the Sustainable Communities tax credit and extended the termination date of the credit through fiscal 2014. **House Bill 1196 (passed)** increases the amount of fees the Maryland Historical Trust is authorized to charge to pay for the administrative costs of the tax credit program and authorizes the use of funds in the Sustainable Communities tax credit reserve fund for the payment of administrative costs if the fees charged are inadequate to pay those costs. **House Bill 1196** also clarifies that special tax credit provisions in current law for high-performance buildings and qualified rehabilitated structures are applicable only to the rehabilitation of commercial buildings. **House Bill 601 (Ch. 133)** allows an applicant that has proceeded with a substantial portion of a commercial rehabilitation to apply for the Sustainable Communities tax credit if the rehabilitation work has been approved under the federal historic tax credit.

The designation of a county as a “qualified distressed county” impacts several State programs, including the One Maryland economic development tax credit. **Senate Bill 891 (passed)** alters the definition of qualified distressed county under State law, extending from 12 months to 24 months the period that a county will maintain the designation even if the county no longer meets either the unemployment or personal income criterion specified under current law. It is estimated that the altered definition of qualified distressed county under the bill will result in a reduction of State revenues of \$1.5 million annually beginning in fiscal 2012. For a further discussion of **Senate Bill 891**, see the subpart “Economic and Community Development” within Part H – Business and Economic Issues of this *90 Day Report*.

**House Bill 620 (failed)** would have established a legislative review and evaluation process for various tax credits, to be undertaken by the Department of Legislative Services, to determine whether the tax credits are necessary for the public interest.

### Tax Administration

Under current law, employers and other payors of payments subject to income tax withholding are required to submit annual withholding statements to the Comptroller on magnetic media or in other machine-readable form or electronic format that the Comptroller

requires by regulation if the total number of statements required to be submitted by the employer or payor for the calendar year exceeds 100. *House Bill 1233 (Ch. 161)* reduces the threshold number of statements per calendar year for purposes of the electronic filing requirement from 100 to 25.

*House Bill 632 (passed)* requires the Comptroller annually to calculate and publish the maximum income eligibility at which an individual may be eligible for the State earned income tax credit (EIC) and to mail this information to all employers in the State. Under the bill, employers are required annually to provide written or electronic notice to an employee who may be eligible for the State EIC a statement that the employee may be eligible for the federal and State earned income tax credits.

## Sales and Use Tax

### Sales Tax Rate on Alcoholic Beverages

Legislation has been introduced during the past several legislative sessions that would have increased the excise tax imposed on alcoholic beverages in order to fund a variety of mental health and addiction related services, as well as services for the developmentally disabled. In the 2011 session, *Senate Bill 168/House Bill 121 (both failed)* were introduced, proposing an increase in the excise tax on alcoholic beverages by approximately “a dime a drink” in order to support funding for several special funds, including the Developmental Disability Support Fund.

In addition to State and federal excise taxes that are imposed on alcoholic beverages at the wholesale level, Maryland’s 6% sales tax is imposed on the retail sale of alcoholic beverages. Except for Delaware, all of Maryland’s surrounding states and the District of Columbia also impose a sales tax on alcoholic beverages. In lieu of its general sales and use tax rate of 6%, the District of Columbia imposes a 9% sales tax rate for off-premises sales and a 10% sales tax rate for on-premises sales of alcoholic beverages.

*Senate Bill 994 (passed)* and *House Bill 1213 (passed)* increase the State sales and use tax rate imposed on the retail sale of alcoholic beverages from 6% to 9% beginning in fiscal 2012. Both bills provide for supplementary appropriations from the resulting revenue increase.

*Senate Bill 994* provides for a supplementary appropriation of \$15.0 million in fiscal 2012 to be used to fund a Waiting List initiative for the Developmental Disabilities Administration. Priority must be given to individuals in the Crisis Prevention and Crisis Resolution categories of the Waiting List. The bill further provides that the appropriation under *Senate Bill 994* has priority over any other appropriation for fiscal 2012 from the additional revenues resulting from the increase in the sales and use tax rate for the sale of an alcoholic beverage.

*House Bill 1213* provides for a supplementary appropriation of \$47.5 million in fiscal 2012 from the additional revenues resulting from the sales tax rate increase on sales of

alcoholic beverages for public school construction projects in local jurisdictions. The Board of Public Works must approve the individual projects for each local jurisdiction.

It is estimated that increasing the sales and use tax rate on alcoholic beverages as provided in *Senate Bill 994* and *House Bill 1213* will increase annual general fund revenues by \$84.8 million in fiscal 2012, growing to \$90.7 million by fiscal 2016. In addition to the supplementary appropriations provided for in *Senate Bill 994* and *House Bill 1213*, the Fiscal 2012 Budget Bill, *House Bill 70 (enacted)*, and *House Bill 72 (passed)*, the Budget Reconciliation and Financing Act, include provisions that are made contingent on the enactment of *Senate Bill 994* increasing the sales tax on alcohol.

For a further discussion of these issues, see the subpart “Operating Budget” within Part A – Budget and State Aid, the subpart “The Disabled” within Part J – Health and Human Services, and the subpart “Primary and Secondary Education” within Part L – Education of this *90 Day Report*.

### **Vendor Collection Credit**

For the expense of collecting and remitting to the Comptroller the State sales and use tax, current law allows vendors who file timely returns a credit against the gross tax remitted. Chapter 3 of the 2007 special session provided a limit on the amount of the vendor credit of \$500 per filing period (typically, monthly). Under current law, the \$500 per filing period cap on the vendor credit is scheduled to expire June 30, 2011. *House Bill 72* repeals the June 30, 2011, termination date applicable to this provision, making the \$500 credit limit per filing period permanent.

It is estimated that extending the \$500 per filing period cap on the credit will increase general fund revenues by approximately \$18.8 million beginning in fiscal 2012.

### **Sales Tax Revenue Distribution to the Transportation Trust Fund**

Chapter 6 of the 2007 special session altered the distribution of sales and use tax revenues by requiring a percentage of the revenues to be distributed to the Transportation Trust Fund (TTF). As part of a broader reconciliation of various revenue distributions between TTF and the general fund, *House Bill 72* eliminates the distribution of sales and use tax revenues to TTF so that all sales and use tax revenues (other than a portion of the sales and use tax revenues attributable to short-term rental vehicles) will be distributed to the general fund beginning in fiscal 2012.

For a further discussion of the reconciliation of various revenues distributed to TTF and the general fund under *House Bill 72*, see the subpart “Operating Budget” within Part A – Budget and State Aid of this *90 Day Report*.

## Sales and Use Tax Exemptions

### Solar and Wind Energy

Generally, the sale of electricity for residential use is exempt from the State sales and use tax. *Senate Bill 398/House Bill 502 (both passed)* exempt the sale of electricity generated by solar energy equipment or residential wind energy equipment for use in residential property owned by an eligible customer-generator from the State sales and use tax. *Senate Bill 398/House Bill 502* are intended to provide individuals who receive electricity generated by solar or wind energy equipment, whether the equipment is owned by them or by another person, the same sales tax exemption for the purchase of electricity as if it were provided to them under a rate schedule on file with the Public Service Commission.

### Youth Sporting Events and 4-H Events

*House Bill 823 (passed)* 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.

## Miscellaneous Taxes

### Alcoholic Beverage Taxes

*Senate Bill 168/House Bill 121 (both failed)* would have increased the State tax rates for alcoholic beverages by an estimated “dime a drink” from \$1.50 to \$10.03 per gallon for distilled spirits, from 40 cents to \$2.96 per gallon for wine, and from 9 cents to \$1.16 per gallon for beer. These bills also would have distributed the resulting increase in revenues from the alcoholic beverage taxes to various special funds, to be used for various health care related purposes, including support of services provided to developmentally disabled individuals and for addiction treatment and prevention services.

While *Senate Bill 168/House Bill 121* failed, the General Assembly did pass bills to increase taxes on alcoholic beverages in the State. *Senate Bill 994* and *House Bill 1213 (both passed)* increase the State sales and use tax rate imposed on alcoholic beverages from 6% to 9%. For a further discussion of these bills, see the subpart “Sales and Use Taxes” within this Part – B Taxes of this *90 Day Report*.

### Insurance Premium Tax

*House Bill 173 (passed)* establishes the Invest Maryland Program, providing funding for a new State-supported venture capital program and additional funding for the existing Enterprise Fund and Maryland Small Business Development Financing Authority (MSBDFA) within the Department of Business and Economic Development (DBED) to make investments in qualified

businesses in the State. Under the bill, funding is provided for the program in fiscal 2012 through 2014 through a tax credit allowed against the insurance premium tax for insurance companies that make qualified contributions to the program. Subject to an auction process for the awarding for the tax credits, an insurance company may claim a credit for the amount it contributes to the program against the insurance premium tax, to be allowed over a five-year period beginning in calendar 2015. The maximum amount of premium tax credits that may be allocated for all years is \$100 million.

Under the provisions of the bill, it is expected that the tax credit program will make available at least a total of \$70 million in designated capital available for investment. If the December 2011 Board of Revenue Estimates' general fund forecast for fiscal 2012 exceeds the amount forecasted in March 2011 by at least \$70 million, after adjusting for legislation passed in the 2011 session, the bill requires the Governor to submit during the 2012 session a fiscal 2012 deficiency appropriation of up to \$70 million for the program. The maximum amount of insurance premium tax credits that may be awarded under the bill is required to be reduced based on the amount of any deficiency appropriation, so that the resulting amount of designated capital available for investment under the program is equal to the amount of designated capital that the auction would have otherwise been provided if \$100 million in credits were awarded. For a further discussion of this bill, see the subpart "Economic Development" within Part H – Business and Economic Issues of this *90 Day Report*.

## **Motor Fuel Tax**

*Senate Bill 145 (Ch. 31)* establishes personal liability for unpaid motor fuel tax, interest, and penalties for members of limited liability companies and partners of a limited liability partnership. Personal liability for the unpaid motor fuel taxes will extend to any person who exercises direct control over the fiscal management of the company or partnership.

## **Recordation and Transfer Taxes**

### **Exemptions for Grandparent or Step-grandparent**

Under current law, the recordation tax and the State transfer tax do not apply to the principal amount of debt assumed by the transferee if the property is transferred to specified relatives. *House Bill 1245 (passed)* adds grandparents and step-grandparents to the list of relatives eligible for this exemption under the recordation tax and State transfer tax.

### **Estates and Trusts – Transfers without Consideration**

Under current law, clerks of the court in some counties treat the assumed mortgage in a transfer of property without consideration from an estate as consideration and impose transfer and recordation taxes on the transaction. *Senate Bill 328 (passed)* exempts from recordation and transfer taxes the transfer of property without consideration from an estate to specified types of trusts, or from specified types of trusts to one or more beneficiaries under specified circumstances. For these purposes, "consideration" does not include the amount of any obligation under a mortgage or deed of trust encumbering the transferred property.

## **Admissions and Amusement Tax**

*House Bill 499 (Ch. 125)* addresses recent advice from the General Counsel’s Office of the U.S. Department of Transportation that imposition of admissions and amusement taxes on hot air balloon ride operators carrying passengers in air commerce would be preempted by federal law. The bill prohibits a county or municipal corporation from imposing admissions and amusement taxes on gross receipts derived from a charge for admission to or use of a nontethered hot air balloon.

## **Estate Tax**

Chapter 554 of 2010 required the Comptroller to allow a payment deferral for up to three years for the Maryland estate tax imposed on qualified agricultural property that passes from a decedent to or for the use of a qualified recipient. The provision allowing an interest-free deferral of estate taxes of up to \$375,000 expires June 30, 2014.

*Senate Bill 513 (passed)* authorizes the Comptroller to grant an extension of the deferred estate tax payment period allowed for qualified agricultural property. To qualify for an extension, the recipient must have a pending application to place the land on which the deferred estate tax is due under a permanent land conservation easement with the Maryland Agricultural Land Preservation Foundation, the Rural Legacy Board, or a similar easement purchase program.

## **Miscellaneous Local Taxes**

### **Howard County**

*House Bill 700 (Ch. 139)* authorizes Howard County to increase its hotel rental tax rate from 5% to 7%. From the revenue attributable to the hotel rental tax rate greater than 5%, Howard County is required to distribute two-thirds to the Howard County Tourism Council and one-third to the Howard County Economic Development Authority.

