

Tax Alert



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Tax Alert

On May 12, 2015, Senate Bill 868, which revised the Public Utilities Article by adding a regulatory framework for “transportation network services” that encompasses “transportation network companies and transportation network operators,” was signed into law by Governor Hogan. The purpose of this Tax Alert is to clarify, update, and, in some cases, revise the previous communications regarding the Act. To the extent that there is a conflict between this Tax Alert and any prior communications, this Tax Alert controls.

- The Act authorizes a county or municipality to impose an assessment on transportation network services that originate in the county or municipality. Transportation network companies, such as Uber, Lyft and Sidecar, will be issued permits by the Public Utilities Commission and will operate in the State using a digital network to connect passengers to transportation network operators (“drivers”) for transportation network services. Transportation network services are the activities of a driver, which include three periods: (Period 1) the period in which the driver is logged onto and ready to accept a prearranged ride request made through a transportation network company’s digital network application; (Period 2) the period in which the driver accepts a ride request from a passenger that is prearranged through a transportation network company’s digital network application, and is traveling to a predetermined location to pick up the passenger; and (Period 3) the period in which the driver transports the passenger and continuing until the passenger departs the motor vehicle.
- A licensed transportation network company must: collect assessments on behalf of its drivers; collect any assessment, fee, charge, or tax imposed by an exempt jurisdiction on a transportation network service; and submit to the Comptroller (1) the assessments and other revenues collected by the transportation network company on behalf of the drivers; (2) the allocation of the assessments and other revenues attributable to each county or municipality that has imposed an assessment; and (3) under oath, a certification that it has submitted the correct amount of assessments and revenues.
- Except in an exempt jurisdiction, an assessment may not exceed 25 cents per trip. An exempt jurisdiction is a county or municipality that imposed a tax, fee, or charge on for-hire transportation services provided on a per-ride or per-passenger basis operated in that county or municipality on or before January 1, 2015. A county and a municipality may enter into an agreement to share the assessment revenue and allocate the proceeds in any manner. The Comptroller will not allocate the revenue it distributes in accordance with the terms of a revenue sharing agreement between counties and their municipalities; it is up to the parties to redistribute shared revenue per their agreement.
- A jurisdiction’s ability to impose an assessment is affected by its past licensing or regulating of taxi cab services, certain time factors, and certain priority rules.

Assessments by “Regulating” Jurisdictions imposed prior to July 2, 2016

- Counties that licensed or regulating taxi cab services on or before January 1, 2015, either directly or through the Public Service Commission as provided in Section 10-202 of the Public Utilities Article (“regulating counties”) are: Anne Arundel, Baltimore, Harford, Howard, Montgomery, and Prince George’s.
- Municipalities that licensed or regulating taxi cab services on or before January 1, 2015, either directly or through the Public Service Commission as provided in Section 10-202 of the Public Utilities Article (“regulating municipalities”) are: Aberdeen, Bel Air, Havre de Grace, Annapolis, Cambridge, Crisfield, Cumberland, Elkton, Brunswick, Fredrick, Thurmont, Hagerstown, La Plata, Mt. Airy, Ocean City, Salisbury and Westminster. The assessment imposed by a regulating municipality always takes priority over the assessment imposed by a regulating county.

Assessments by all Jurisdictions imposed after July 1, 2016

- A regulating county may preempt a non-regulating municipality from imposing an assessment if the regulating county imposes its assessment **before July 2, 2016**. If a regulating county imposes an assessment after July 1, 2016, there is no preemption of a non-regulating municipality’s ability to impose an assessment in the municipality. In such case, the county must follow the notification requirements explained below and any assessment imposed by a municipality under these circumstances takes priority in the municipality over the county’s assessment (which means only the municipality’s assessment will be collected therein.)
- The assessment imposed by a non-regulating municipality located within a non-regulating county has priority over a non-regulating county’s assessment (which means the municipality’s assessment will be collected on rides originating within the municipality instead of any county assessment), irrespective of when the county imposed the assessment, provided the municipality complies with the notification requirements explained below.
- The assessment imposed by a regulating municipality after July 1, 2016 will take priority over the assessment imposed by a regulating county, provided the municipality complies with the notification requirements explained below.

Notification Requirements

- **Any** county that imposes an assessment after July 1, 2016, must notify its municipalities of its intent to impose an assessment, and provide the municipalities with reasonable time to pass an ordinance authorizing the imposition of an assessment. **Any** municipality that imposes an assessment after July 1, 2016, must notify the county of its intent to impose an assessment, and if the county has already imposed an assessment, allow the county reasonable time to notify the Comptroller before the municipality’s assessment becomes effective.
- Counties and municipalities must notify the Comptroller in writing of the assessment amount, effective date, and, where applicable, submit a copy of the relevant ordinance or documentation of the appropriate legal action authorizing the assessment and the notice issued pursuant to the notification requirement.

Notice is effective upon receipt by the Comptroller, and it must be received at least 120 days before the first day of the calendar month in which the newly imposed assessment becomes effective.

The Comptroller will publish on its website, www.marylandtaxes.com, a rate chart, including effective dates, for transportation network service assessments.