

Contact:

Melvin Thompson

443-539-2455 (office direct dial)

mthompson@marylandrestaurants.com



Maryland Restaurant & Foodservice Recovery

The restaurant and foodservice industry continues to struggle to survive the COVID pandemic and related business losses. Due to the financial strain and lack of resources, as many as 40% of Maryland restaurants could close permanently. At the height of the pandemic and statewide shutdown of indoor dining, 150,000 restaurant employees were either laid off or furloughed. Most foodservice employers have not yet returned to pre-pandemic staffing levels. These are alarming numbers that will impact every community across Maryland if actions are not taken soon enough.

The restaurant/foodservice industry needs help in various ways on the long road to recovery. We are grateful for the State/local assistance provided thus far, including the additional industry support provided by the Senate Recovery Now amendments to the RELIEF Act. But more help is needed.

The Restaurant Association of Maryland (RAM) requests the passage of legislation that will help restaurants remain open, retain jobs, and eventually move us into a phase of full recovery that could take three to five years. We have been working with legislators on some of these issues, and would appreciate your support of these efforts and ways to also help restaurants and foodservice businesses in the long term.

SALES TAX

RAM appreciates the enhanced sales tax vendor credit in the Governor's RELIEF Act, which allows businesses (including restaurants, caterers and foodservice) to retain a credit of up to \$3,000/month for 4 months (up to \$12,000 maximum) in collected sales tax revenue. This will help to provide additional revenue to restaurants and other foodservice establishments that are open for business.

RAM also requests your consideration and support of the following permanent sales tax changes:

Double the Sales Tax Vendor Timely Filing Discount

The Maryland sales tax vendor timely filing discount should be doubled. Currently, sales tax vendors who file their returns on time (*restaurants, foodservice, retailers, etc.*) receive a filing discount of 1.2% on the first \$6,000 collected and 0.9% on the amount above \$6,000 (*up to a maximum of \$500 for each sales tax return*). The purpose of the discount is to help compensate businesses for costs associated with collecting/remitting sales tax. Because most sales transactions are now via credit/debit card (*and sales tax is included in the transaction*

total), restaurants and other foodservice establishments (*also retailers and other small businesses*) are paying more to collect/remit sales tax than the current discount provides because average bank credit/debit card processing fees are 2.5%. The discount should be doubled to 2.4% on the first \$6,000 and 1.8% on the amount above \$6,000 (*up to a maximum of \$1,000 for each sales tax return*).

Restore Restaurant Energy Sales Tax Exemption

Before 1992, restaurant/foodservice establishment purchases of energy (*electricity, oil, liquified petroleum gas, or artificial or natural gas*) used to produce food for resale were exempt from sales tax. The General Assembly repealed this tax exemption through a budget reconciliation bill passed during an April 1992 Special Session. Other manufacturers continue to benefit from such a sales tax exemption for energy used in their production activities. The District of Columbia, Virginia, Rhode Island, Iowa, Kansas, Indiana and other states also exempt restaurants/foodservice establishments from energy sales tax. Maryland should restore the energy sales tax exemption for restaurants and defined foodservice establishments.

Designate Annual Maryland Restaurant Week Sales Tax Holiday

To incentivize customers to support restaurants during *Maryland Restaurant Week*, restaurant food/beverage purchases would be exempt from sales tax during this week in September each year. A limited dollar amount per menu item (excluding alcohol) would be exempt from sales tax during this week.

ALCOHOL

Alcohol To-Go (Carryout & Delivery*) – House Bill 12 & Senate Bill 205

The Governor's Executive Order allowing restaurants to sell alcoholic beverages (*including mixed drinks/cocktails in sealed containers*) for carryout, curbside pickup and delivery* has become a welcomed privilege for businesses that did not previously have such authorization. The Executive Order also allows licensees who already had authorization for selling alcohol for off-premise consumption (*in manufacturer's original sealed container*) to also sell mixed drinks/cocktails in sealed containers for carryout, curbside pickup or delivery. Customers have become accustomed to the convenience of ordering alcoholic beverages with their carryout and delivery food orders, and restaurants have benefited from the additional revenue.

RAM strongly supports legislation (*HB 12 & SB 205*) to permanently allow for alcohol to-go sales along with food purchases. In recent years, the growth of online/app ordering for carryout, curbside pick-up and delivery has had a major impact on restaurant operations. The pandemic has accelerated customer preference for this convenience, which will continue to grow. The availability of alcohol to-go should be part of such foodservice purchase options, and it has been demonstrated over the past 10 months that it can be done in a safe and responsible manner.

Restaurants operate on razor-thin profit margins (*typically between 4% to 6%*). The sale of alcohol is a necessary component of the business model for restaurants with alcohol licenses. Modernizing Maryland's alcohol laws to reflect changes in restaurant customer purchasing preferences protects the value of the liquor license fees that such businesses pay.

**NOTE: Per Maryland law, delivery is restricted to using the licensee's own employees only. Third-party delivery is prohibited. This legislation does not change that.*

Annual Liquor License Fee Forgiveness

Because of pandemic-related restrictions, restaurants, caterers and other foodservice establishments with liquor licenses did not receive as much return on investment as they normally do. Liquor license renewal fees for 2020 were suspended by Executive Order until 30 days after the state of emergency ends.

Restaurant, caterer* and other foodservice establishment liquor license fees for 2020 and 2021 should be forgiven. If there is no way for State action to forgive local liquor license fees, perhaps a refundable State tax credit could be an alternative.

**NOTE: Some caterers also have a Statewide Caterers License (SCAT) that authorizes the sale of alcohol for catered events in multiple jurisdictions or statewide (depending on the license type).*

PROPERTY TAX

Business Personal Property Tax Relief

Through annual State Department of Assessments and Taxation (SDAT) assessments on business equipment/fixtures, restaurants and other foodservice establishments pay significant business personal property taxes into local coffers. The tax is based on the original cost of the equipment/fixtures and depreciates annually (*as determined by property category*) until it reaches a depreciation floor of 25% of the original cost. Property cannot be depreciated below 25%.

RAM requests that the General Assembly evaluate the feasibility of providing some form of business personal property tax relief for restaurants and other foodservice establishments that can demonstrate need.

For example:

If a restaurant/foodservice establishment suffers a 20% decline in gross sales for at least one calendar quarter of 2020 compared to that same quarter in 2019, they could be eligible for a 20% reduction in their annual SDAT personal property tax assessment (*e.g., \$50,000 business property assessment – 20% = \$40,000 assessment*). This 20% assessment reduction could be phased out over 5 years.

If a restaurant/foodservice establishment suffers a 40% decline in gross sales for at least one calendar quarter of 2020 compared to that same quarter in 2019, they could be eligible for a 40% reduction in their annual SDAT personal property tax assessment (*e.g., \$50,000 business property assessment – 40% = \$30,000 assessment*). This 40% assessment reduction could be phased out over 5 years.

If it is not possible for State action to reduce SDAT assessments for local tax by the percentage of business sales decline, perhaps a State refundable tax credit (*in the amount of the difference in owed tax*) could be an alternative.

Property Tax Relief

RAM requests that the General Assembly evaluate the feasibility of providing some form of real property tax relief for restaurants and other foodservice establishments that can demonstrate need. Some restaurant/foodservice property owners think their assessed values should be reduced after operating for most of the year with shutdowns and restrictions, and have asked about reducing their property tax or creating a related State tax credit.

Like the example used above for possible business personal property relief, a property tax assessment could be reduced by the percentage of gross sales decline a restaurant or other foodservice establishment experienced in at least one calendar quarter of 2020 compared to the same quarter in 2019. The assessment reduction could be phased out over 5 years.

A method for allowing similar property tax relief to restaurants/foodservice establishments that lease their business space and pay property taxes as part of their lease agreements (known as net leases) should also be considered.

OTHER

Two-Year Moratorium on Legislation that Further Burdens Foodservice Industry

In recent years, the foodservice industry has been burdened with higher labor costs associated with Maryland's sick and safe leave law, and annual minimum wage increases to be phased in through 2026. Although other Maryland industries are also subject to these laws, they disproportionately affect the foodservice industry because our businesses operate on razor-thin profit margins (*4% to 6%*) and restaurant operations require 4 times more labor per \$1 million in sales than the average of most other Maryland industry sectors. Many foodservice businesses also had to switch to costlier disposable food containers when the new polystyrene foam ban took effect last year.

Given the increased burdens of recent laws and the catastrophic impact of the COVID-19 pandemic on the foodservice industry, the Restaurant Association of Maryland respectfully requests that the Maryland General Assembly refrain from passing any legislation in 2021 or 2022 that would ultimately:

1. increase operating costs for restaurants/caterers/foodservice establishments;
2. increase or create any new taxes or fees on restaurants/caterers/foodservice establishments; or
3. increase any taxes, fees or surcharges on customer transactions at restaurants/caterers/foodservice establishments.