

**MEMORANDUM**

TO: County Council

FROM: *MP* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Expedited Bill 44-10, Room Rental and Transient Tax – Exemption – Corporate Facility

Expedited Bill 44-10, Room Rental and Transient Tax – Exemption – Corporate Facility, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on July 27, 2010. A public hearing is tentatively scheduled for September 21.

Bill 44-10 would exempt a corporate lodging facility from the County’s hotel-motel tax if the facility supports that company’s headquarters, campus, training facility, or conference facility; provides lodging exclusively for that company’s employees, contractors, vendors, and other business invitees; and does not offer lodging to the public. As the Legislative Request Report on ©4 noted: “At this time, the County is aware of one facility that this amendment would impact, the Lockheed Martin Center for Leadership Excellence (CLE). Lockheed Martin’s annual transient room taxes for the CLE are approximately \$450,000.”

In the 2010 session the state legislature enacted a similar law, HB 855 (see ©7-8), exempting this kind of facility from the state sales tax at an estimated state revenue loss of \$370,900.<sup>1</sup>

This packet contains:	Circle #
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<sup>1</sup>This state law did not receive universal support. In its state legislative candidates’ questionnaire, reprinted on the *Maryland Politics Watch* blog, the Montgomery County Peace Action Coalition asked:

In 2010, the Maryland General Assembly enacted H.B.855, which eliminated sales and use taxes for the lodging of staff, contractors, vendors, and other invitees in certain corporate training facilities. In fact, this corporate tax break applies only to a permanent training facility for Lockheed Martin, a company that in 2009 reported revenue of \$45.2 billion and, according to Forbes, paid its CEO more than \$42 million. The tax break reduces Maryland revenue by \$370,900 a year, at a time when 19,000 developmentally disabled Marylanders are on a waiting list for services and the county education budget has been cut by \$97 million. Would you support rescinding H.B.855?

Expedited Bill No. 44-10  
Concerning: Room Rental and Transient  
Tax – Exemption – Corporate Facility  
Revised: 7-21-10 Draft No. 1  
Introduced: July 27, 2010  
Expires: January 27, 2012  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: July 1, 2010  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN EXPEDITED ACT to:**

- (1) exempt certain corporate facilities from the County room rental and transient tax;  
and
- (2) generally amend the law authorizing the County room rental and transient tax.

By amending

Montgomery County Code  
Chapter 52, Finance  
Section 52-16

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Section 52-16 is amended as follows:**

2   **52-16.       Room rental and transient tax.**

3                                   \*       \*       \*

4       (b)   The following words and phrases, when used in this Section, have the  
5       following meanings:

6                                   \*       \*       \*

7       *Broker:* A person, other than the owner or operator of a hotel or motel,  
8       that receives payment for hotel or motel accommodations from a  
9       transient who is subject to tax under subsection (a).

10      *Hotel or motel:*

11      (1)   Any hotel, inn, hostelry, tourist home or house, motel, apartment  
12           hotel, rooming house, or other lodging place that offers for  
13           compensation sleeping accommodations in the County to 5 or  
14           more transients at any one time.

15      (2)   A hotel or motel does not include:

16           (A)   a hospital, medical clinic, nursing home, rest home,  
17                 convalescent home, assisted living facility, or home for  
18                 elderly individuals; [or]

19           (B)   a facility owned or leased by an organization that is  
20                 exempt from taxation under section 501(c)(3) of the  
21                 Internal Revenue Code if the primary use of the facility is  
22                 other than housing overnight guests[.]; or

23           (C)   a lodging facility operated solely to support the  
24                 headquarters, campus, training facility, or conference  
25                 facility, of the corporation that owns the facility, which  
26                 offers lodging solely for that corporation's employees,

27 contractors, vendors, or business invitees, and does not  
28 offer lodging to the public.

29 *Hotelkeeper: A person that:*

30 (1) owns or operates a hotel or motel; or

31 (2) acts as a broker.

32 \* \* \*

33 **Sec. 2. Expedited Effective Date.**

34 The Council declares that this Act is necessary for the immediate protection of  
35 the public interest. This Act takes effect on the date when it becomes law, and  
36 applies to any tax levied under County Code Section 52-16 on or after July 1, 2010.

37 *Approved:*

38 \_\_\_\_\_  
Nancy Floreen, President, County Council Date

39 *Approved:*

40 \_\_\_\_\_  
Isiah Leggett, County Executive Date

41  
42 *This is a correct copy of Council action.*

43  
44 \_\_\_\_\_  
Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

### Bill 44-10

### Room Rental and Transient Tax – Exemption – Corporate Facility

**Description:** The proposed amendment to County Code Section 52-16 seeks to clarify that a lodging facility that is owned by a company and exists for the purpose of supporting that company's operations and is used exclusively by its staff, contractors, vendors and other invitees is not considered to be a hotel, and, as such, is not subject to the County's transient room tax.

**Problem:** Transient lodging facilities that are owned by a private company and used solely to accommodate its staff, contractors and vendors are currently required to pay the County transient room tax, although they are not open to the general public.

**Goals & Objectives:** To help Montgomery County companies be competitive in bidding on federal government contracts by ensuring that they are not required to pay the County transient room taxes for lodging facilities that are for the exclusive use of their staff, contractors, vendors and other invitees and that are not open to the general public.

**Coordination:** Department of Economic Development

**Fiscal Impact:** At this time, the County is aware of one facility that this amendment would impact, the Lockheed Martin Center for Leadership Excellence (CLE). Lockheed Martin's annual transient room taxes for the CLE are approximately \$450,000.

**Economic Impact:** The CLE has created 175 new permanent jobs in the County. From April through December of 2009, the CLE brought 9,000 Lockheed employees, contractors, vendors and other invitees to Bethesda. They generated 6,000 spillover room nights in County hotels and substantial new revenues for County retail, restaurant and service establishments. According to Lockheed figures, the projected total economic impact of its overall Montgomery County operations from direct and induced employment for the period 2007 - 2009 was \$7.1 billion.

**Experience Elsewhere:** In the 2010 Maryland General Assembly, legislation (HB 855) was passed that provides an exemption under the State sales and use tax for the "sale of a right to occupy a room or lodgings as a transient guest at a dormitory or other lodging facility that is operated solely in support of specified facilities or campuses, that provides lodging solely for employees, contractors, vendors, and other invitees of the corporation that owns the dormitory or lodging facility, and that does not offer lodging services to the general public."

**Sources of Information:** Corinne Rothblum, Department of Economic Development  
240-777-2011; [corinne.rothblum@montgomerycountymd.gov](mailto:corinne.rothblum@montgomerycountymd.gov)  
Mike Coveyou, Department of Finance  
240-777-8878; [mike.coveyou@montgomerycountymd.gov](mailto:mike.coveyou@montgomerycountymd.gov)

Bill



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OFFICES OF THE COUNTY EXECUTIVE

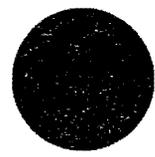
Isiah Leggett  
County Executive

Timothy L. Firestine  
Chief Administrative Officer

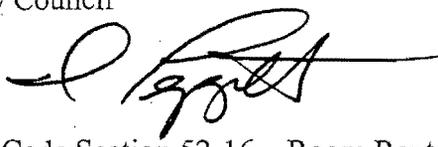
MEMORANDUM

June 21, 2010

057656



TO: Nancy Floreen, President, County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Amendment to County Code Section 52-16 – Room Rental and Transient Tax.

I am transmitting for Council introduction a bill that amends County law governing the County's transient room tax. Specifically, the bill clarifies that a lodging facility that is owned by a company and exists for the purpose of supporting that company's operations and that is used exclusively by its staff, contractors, vendors and other invitees is not considered to be a hotel and is not subject to the County's transient room tax.

The Maryland General Assembly recognized this distinction during the 2010 session. It passed legislation (HB 855) that provides an exemption under the State sales and use tax for the "sale of a right to occupy a room or lodgings as a transient guest at a dormitory or other lodging facility that is operated solely in support of specified facilities or campuses, that provides lodging solely for employees, contractors, vendors, and other invitees of the corporation that owns the dormitory or lodging facility, and that does not offer lodging services to the general public." To synchronize the attached bill with the 2010 State legislation, the effective date of the bill is retroactive to July 1, 2010

At this time, the County is aware of one facility that falls into this category - Lockheed Martin's recently constructed Center for Leadership Excellence (CLE) on the campus of its corporate headquarters in Bethesda. The \$110 million CLE provides a high-security, full service, state-of-the-art training facility with 183 single occupancy sleeping rooms that are for the exclusive use of Lockheed Martin employees, contractors, vendors and other invitees. The Defense Contract Audit Agency requires the company to use its internal employee credit card system to allocate charges to the appropriate federal contract (Lockheed Martin has an agreement to charge the federal *per diem* rate in all of its federal contracts). As a consequence, since opening in April 2009, the CLE has been treated as a hotel and has been subject to the County's room rental transient tax, even though it is not open or accessible to the general public and is not operated on a for profit basis.

Nancy Floreen  
June 21, 2010  
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In these challenging economic times, it is critically important that the County create an enabling business environment, that we identify and address unwarranted impediments to private sector growth, and that we help our companies be competitive in bidding on federal government contracts. I ask that you introduce this bill on my behalf and thank you for your prompt consideration.

#### Attachments

cc: Jennifer Barrett, Director, Department of Finance  
Joe Beach, Director, Office of Management and Budget  
Kathleen Boucher, Assistant County Administrative Officer  
Jennifer Hughes, Special Assistant to the County Executive  
Steve Silverman, Director, Department of Economic Development

# Chapter 706

(House Bill 855)

AN ACT concerning

## Sales and Use Tax – Exemption – Lodging at a Corporate Training Center ~~in~~ ~~Montgomery County~~

~~MC 22-10~~

FOR the purpose of providing an exemption under the sales and use tax for the sale of a right to occupy a room or lodgings as a transient guest at certain facilities ~~in a certain county~~ operated ~~primarily~~ in support of certain facilities or campuses; and generally relating to a sales and use tax exemption for the sale of certain lodging at certain facilities.

BY adding to

Article – Tax – General  
Section 11-231  
Annotated Code of Maryland  
(2004 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### Article – Tax – General

#### 11-231.

THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF A RIGHT TO OCCUPY A ROOM OR LODGINGS AS A TRANSIENT GUEST AT A DORMITORY OR OTHER LODGING FACILITY ~~IN MONTGOMERY COUNTY~~ THAT:

(1) IS OPERATED ~~PRIMARILY~~ SOLELY IN SUPPORT OF A CORPORATE OR ANY OTHER HEADQUARTERS, TRAINING, CONFERENCE, OR AWARDS FACILITY OR CAMPUS;

(2) PROVIDES LODGING ~~PREDOMINANTLY~~ SOLELY FOR EMPLOYEES, CONTRACTORS, VENDORS, AND OTHER INVITEES OF THE CORPORATION THAT OWNS THE DORMITORY OR LODGING FACILITY; AND

**(3) DOES NOT OFFER LODGING SERVICES TO THE GENERAL PUBLIC.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 20, 2010.**