

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 976 (Senator Middleton)  
Budget and Taxation

---

**Income Tax - Credit for Charitable Contributions to Community Foundations**

---

This bill creates a credit against the State income tax in an amount equal to 100% of the unrestricted charitable contributions made by an individual to a community foundation's endowment during the taxable year. The credit may not exceed the difference between the State income tax and the State income tax that would be payable on the individual's Maryland taxable income reduced by the amount of the individual's qualified capital gain. The credit is only allowed if the individual's qualified capital gain for the taxable year is at least \$10.0 million.

The bill takes effect July 1, 2011, and applies to tax year 2011 and beyond.

---

**Fiscal Summary**

**State Effect:** General fund revenues may decrease significantly beginning in FY 2012 due to eligible individuals claiming income tax credits. General fund expenditures increase by \$40,000 in FY 2012 for one-time tax form changes and computer programming modifications at the Comptroller's Office.

**Local Effect:** Local income tax revenues may increase beginning in FY 2012 due to the requirement that an individual claiming the credit reduce the amount of itemized deductions claimed under specified circumstances. No effect on expenditures.

**Small Business Effect:** Minimal.

---

## Analysis

**Bill Summary:** The bill creates a credit against the State income tax in an amount equal to 100% of the unrestricted charitable contributions made by an individual to a community foundation's endowment during the taxable year. The credit may not exceed the difference between the State income tax and the State income tax that would be payable on the individual's Maryland taxable income reduced by the amount of the individual's qualified capital gain.

The credit is only allowed if the individual's qualified capital gain for the taxable year is at least \$10.0 million. Community foundation is defined as an organization located in the State that (1) is a 501(c)(3) tax-exempt organization; (2) is commonly known as a community trust, fund, or foundation or by another similar name; (3) maintains a capital or permanent endowment fund to support charitable activities in the community or area it serves; and (4) satisfies the public support test under Section 170(B)(1)(A)(VI) of the Internal Revenue Code (IRC).

Qualified capital gain is defined as the net capital gain, as defined under Section 1222(11) of the IRC, that is included in the Maryland adjusted gross income of the individual.

An individual claiming the credit is required to reduce the amount of itemized deductions claimed by the amount of qualifying contributions made to the extent this amount is itemized for federal income tax purposes.

**Current Law:** No similar State income tax credit exists, although charitable contributions may be deducted for federal income tax purposes. Maryland conforms to federal tax treatment, so any amount deducted for federal purposes flows through for State income tax purposes.

**State Revenues:** Tax credits can be claimed beginning in tax year 2011. As a result, general fund revenues may decrease significantly beginning in fiscal 2012 due to eligible individuals claiming income tax credits. The amount of the revenue loss depends on the number of individuals making qualifying contributions, the amount of contributions, and State income tax liability.

The Comptroller's Office advises that in tax year 2004 through 2008 an average of 146 State income tax returns had a qualified capital gain of \$10.0 million or greater.

**State Expenditures:** The Comptroller's Office reports that it will incur a one-time expenditure increase of \$40,000 in fiscal 2012 to add the tax credit to the income tax

forms. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

---

### **Additional Information**

**Prior Introductions:** Similar legislation was introduced in the 2001 session. HB 1429 received a favorable with amendments report from the House Ways and Means Committee, but failed on the House floor.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - March 22, 2011  
ncs/jrb

---

Analysis by: Robert J. Rehrmann

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510