

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

Senate Bill 317 (Senator Simonaire)
 Budget and Taxation

Income Tax - Subtraction Modification - Stormwater Remediation Fee (Rain Tax)

This bill creates a subtraction modification under the State income tax for 100% of the stormwater remediation fees paid by a business or individual. In order to qualify, the fees (1) must be imposed under Section 4-202.1 (e) of the Environment Article and (2) cannot be deductible for federal income tax purposes.

The bill takes effect July 1, 2014, and applies to tax year 2014 and beyond.

Fiscal Summary

State Effect: General fund revenues decrease by \$5.4 million in FY 2015 due to subtraction modifications claimed against the income tax. Transportation Trust Fund (TTF) revenues decrease by \$0.1 million in FY 2015, and Higher Education Investment Fund (HEIF) revenues decrease by \$0.1 million. General fund expenditures increase by \$0.1 million in FY 2015 for one-time tax form changes and computer programming modifications at the Comptroller’s Office.

(\$ in millions)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
GF Revenue	(\$5.4)	(\$5.7)	(\$5.9)	(\$6.7)	(\$7.2)
SF Revenue	(\$.2)	(\$.2)	(\$.2)	(\$.2)	(\$.2)
GF Expenditure	\$.1	\$0	\$0	\$0	\$0
Net Effect	(\$5.6)	(\$5.9)	(\$6.1)	(\$6.9)	(\$7.4)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local income tax revenues will decrease in counties that impose stormwater remediation fees, decreasing by a total of \$3.0 million in FY 2015 and by \$4.0 million in FY 2019. Local highway user revenues decrease by about \$14,000 annually beginning in FY 2015. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law/Background:

State and Federal Income Tax

No similar State income tax credit exists.

Subject to limitations, individuals and businesses under the federal income tax may deduct State and local real estate and personal property taxes. Deductible real estate taxes are generally any state, local, or foreign taxes on real property levied for the general public welfare. They must be charged uniformly against all real property in the jurisdiction at a like rate. According to the Internal Revenue Service, deductible real estate taxes generally do not include taxes charged for local benefits and improvements tending to increase the value of a property including assessments for streets, sidewalks, water mains, sewer lines, public parking facilities, and similar improvements. However, local benefit taxes are deductible only if they are for maintenance, repair, or interest charges related to those benefits. If only a part of the tax is for maintenance, repair, or interest, a business must show the amount of that part to claim the deduction.

Stormwater Remediation Fees

Chapter 151 of 2012 requires a county or municipality that is subject to a National Pollutant Discharge Elimination System Phase I municipal separate storm sewer system permit (Phase I MS4 permit) to adopt and implement, by July 1, 2013, local laws or ordinances that establish an annual stormwater remediation fee and a local watershed protection and restoration fund.

Fee revenues from each jurisdiction must be deposited into its local watershed protection and restoration fund and may not revert or be transferred to a local general fund. Each fund must also consist of interest or other investment income and any other money made available to the fund. Money in each fund is intended to be used only to support additional (not existing or ongoing) efforts for:

- capital improvements for stormwater management, including stream and wetland restoration projects;
- operation and maintenance of stormwater management systems and facilities;
- public education and outreach relating to stormwater management or stream and wetland restoration;

- stormwater management planning, including mapping and assessment of impervious surfaces;
- stormwater management monitoring, inspection, and enforcement activities to carry out the purposes of the watershed protection and restoration fund;
- review of stormwater management plans and permit applications for new development, only if fees to support these activities associated with new development are also deposited into the new watershed protection and restoration fund;
- grants to nonprofit organizations for specified watershed restoration and rehabilitation projects; and
- reasonable administrative costs.

Beginning on July 1, 2014, and every two years thereafter, a county or municipality subject to the law is required to make a publicly available report on the number of properties subject to a stormwater remediation fee, the amount of money deposited into the watershed protection and restoration fund for the previous two fiscal years, and the percentage of funds spent on each of the purposes authorized by the bill.

Exhibit 1 shows the projected stormwater remediation fee revenues by county for fiscal 2004 through 2018.

Exhibit 1
Projected Stormwater Remediation Fees by County
Fiscal 2014-2018

<u>Fee Revenues</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
Anne Arundel	\$13,900,000	\$18,600,000	\$23,200,000	\$23,200,000	\$31,300,000
Baltimore City	16,700,000	24,600,000	25,600,000	26,300,000	36,000,000
Baltimore	24,300,000	24,300,000	24,300,000	24,300,000	24,300,000
Charles	1,416,186	1,442,431	1,471,721	1,501,011	1,530,301
Frederick	488	488	488	488	488
Harford	1,050,000	10,500,000	10,500,000	10,500,000	10,500,000
Howard	10,800,000	10,800,000	10,900,000	10,900,000	11,000,000
Montgomery	22,882,420	26,368,228	29,986,310	33,437,684	34,576,280
Prince George's	12,000,000	12,000,000	11,500,000	11,500,000	11,000,000
State Totals	\$103,049,094	\$128,611,147	\$137,458,519	\$141,639,183	\$160,207,069

Source: Department of Legislative Services

State Revenues: Subtraction modifications may be claimed beginning in tax year 2014. As a result, general fund revenues will decrease by \$5.4 million in fiscal 2015. TTF revenues will decrease by \$134,300 in fiscal 2015, and HEIF revenues will decrease by \$48,700. **Exhibit 2** shows the estimated State and local revenue losses resulting from the proposed subtraction modification.

Exhibit 2
Projected Impact on State and Local Revenue
Fiscal 2015-2019

	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Total State Revenue	(\$5,537,000)	(\$5,917,900)	(\$6,097,900)	(\$6,897,400)	(\$7,426,800)
General Fund	(5,354,000)	(5,722,300)	(5,913,800)	(6,689,100)	(7,202,600)
HEIF	(48,700)	(52,100)	(53,600)	(60,700)	(65,300)
TTF	(134,300)	(143,500)	(130,500)	(147,600)	(158,900)
MDOT	(121,400)	(129,800)	(117,900)	(133,400)	(143,600)
LHUR	(12,900)	(13,800)	(12,500)	(14,200)	(15,300)
Local Income Tax Revenues	(\$3,008,400)	(\$3,204,600)	(\$3,308,000)	(\$3,727,600)	(\$4,013,800)

LHUR = Local Highway User Revenues

This estimate is based on the projected amount of stormwater remediation fees and the following facts and assumptions:

- About 90% of subtraction modifications will be claimed under the personal income tax with the remaining amount claimed against the corporate income tax.
- Fees imposed will be subtracted the following tax year.
- 15% of all fees are not subtracted on a taxable return.

State Expenditures: The Comptroller's Office reports that it will incur a one-time expenditure increase of \$103,400 in fiscal 2015 to add the subtraction modification to the income tax returns. This includes data processing changes to the SMART income tax return processing and imaging systems and system testing.

Local Revenues: Local income tax revenues will decrease in counties that impose stormwater remediation fees. In addition, local governments receive, as highway user revenues, a share of the TTF portion of corporate income taxes. Therefore, local highway user revenues will decrease as a result of subtraction modifications claimed against the corporate income tax as shown in Exhibit 2. **Exhibit 3** illustrates by county the estimated decrease in local income tax revenues in fiscal 2015 through 2019.

Exhibit 3
Projected Impact on Local Income Tax Revenue by County
Fiscal 2015-2019

<u>County</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Anne Arundel	(\$368,300)	(\$459,400)	(\$459,400)	(\$619,800)	(\$667,400)
Baltimore City	(608,900)	(633,700)	(651,000)	(891,100)	(959,500)
Baltimore	(531,900)	(531,900)	(531,900)	(531,900)	(572,800)
Charles	(33,800)	(34,500)	(35,200)	(35,900)	(38,600)
Harford	(248,500)	(248,500)	(248,500)	(248,500)	(267,600)
Howard	(267,300)	(269,800)	(269,800)	(272,300)	(293,200)
Montgomery	(652,700)	(742,200)	(827,600)	(855,800)	(921,500)
Prince George's	(297,000)	(284,600)	(284,600)	(272,300)	(293,200)
Total	(\$3,008,400)	(\$3,204,600)	(\$3,308,000)	(\$3,727,600)	(\$4,013,800)

Note: Carroll and Frederick counties will have a negligible or no revenue loss based on the current amount of fees imposed by these counties

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mc/jrb

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