

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1643  
Ways and Means

(Delegate Frick, *et al.*)

---

**Income Tax - Credit for Contributions to the Maryland Excellence in Education Fund**

---

This bill creates a tax credit against the State income tax for eligible contributions made to the Maryland Excellence in Education Fund. The value of the credit is equal to 95% of the eligible donation, not to exceed the amount by which the taxpayer's federal deduction for property taxes paid is reduced as required under the Internal Revenue Code (IRC). Expenditures from the fund may only be used for specified education purposes and are supplemental and not intended to replace funding that would otherwise be appropriated for these purposes.

The Maryland State Department of Education (MSDE) and the Maryland Higher Education Commission (MHEC), in consultation with the Interagency Committee on School Construction, must jointly administer the fund and adopt regulations implementing the fund. **The bill takes effect July 1, 2018, and applies to tax years 2018 and beyond.**

---

**Fiscal Summary**

**State Effect:** General fund revenues decrease significantly beginning in FY 2019 due to tax credits claimed against the personal income tax. Revenue losses will likely total over \$500 million annually. Special fund revenues and expenditures at MSDE and MHEC will increase by similar amounts beginning in FY 2019.

**Local Effect:** State aid for local school systems may increase by a significant amount. No effect on expenditures.

**Small Business Effect:** None.

---

## Analysis

**Bill Summary:** Resident taxpayers who itemize on their federal income tax returns and claim the state and local tax deduction are eligible to claim the tax credit. The amount of the tax credit may not exceed the tax liability imposed in the tax year, and any unused amount of the credit may be carried forward to five tax years. Taxpayers claiming the tax credit must reduce their itemized deductions claimed for State income tax purposes by the amount of tax credit claimed.

The purpose of the Maryland Excellence in Education Fund is to accept contributions exclusively for public purposes as specified under Section 170 under the IRC related to (1) public school construction projects; (2) public primary and secondary education programs; or (3) scholarships at institutions of higher education for low-income students. Expenditures from the fund may only be made in accordance with the State budget. Money expended from the fund is supplemental to and is not intended to replace funding that would otherwise be appropriated for these purposes.

The bill is null and void if the U.S. Congress, the President by executive order, or the Internal Revenue Service (IRS) expressly disallow a deduction under Section 170 of the IRC for contributions of the type authorized by the bill. The Comptroller's Office must notify the Department of Legislative Services within five days after receiving notice of an applicable federal law, executive order, or IRS determination.

### **Current Law/Background:**

#### *Federal and State Tax Treatment of Charitable Contributions*

Individuals who itemize deductions can deduct eligible charitable donations, which typically lowers federal and State income tax liability.

#### *Federal and State Itemized Deductions*

##### *Federal Income Tax*

To determine federal taxable income, a taxpayer may reduce their federal adjusted gross income (FAGI) by either claiming the standard deduction or itemizing allowable deductions.

Under the federal Tax Cuts and Jobs Act which passed on December 22, 2017, the federal standard deduction in tax year 2018 increases to \$12,000 for an individual taxpayer (\$24,000, if married filing jointly, and \$18,000 for a head of household). These values are indexed in future years for inflation.

In lieu of claiming the standard deduction, an individual may elect to itemize deductions. The expenses that may be itemized include certain home mortgage interest, charitable contributions, certain investment interest, medical expenses (in excess of 7.5% of FAGI in tax year 2018), certain casualty and theft losses attributable to federally declared disasters, and State and local taxes.

Beginning in tax year 2018, the federal Act also limits the maximum State and local tax deduction that is allowed as an itemized deduction to \$10,000 – \$5,000 for married taxpayers filing separately – in aggregate of income or sales taxes, real property taxes, and certain personal property taxes.

Prior to tax year 2018, Section 68 of the IRC required high-income taxpayers to reduce certain itemized deductions, including the State and local tax deduction, if certain conditions were met and the taxpayer's income exceeded specified amounts – \$287,650 in tax year 2017 (\$313,800 for married filing jointly). This limitation is repealed in tax year 2018. Most of the individual income tax provisions in the federal Act expire after tax year 2025.

### *State Income Tax*

An individual is allowed to itemize deductions for State income tax purposes only if the individual itemizes for federal income tax purposes. An individual who itemizes for State income tax purposes is required to reduce the sum of the individual's federal itemized deductions by any amount:

- required by the IRC;
- deducted under Section 170 of the IRC for contributions of a preservation or conservation easement for which a State credit is claimed; and
- claimed as taxes on income paid to a state or political subdivision of the state, after subtracting a pro rata portion of the reduction to itemized deductions required under Section 68 of the IRC.

**State Fiscal Effect:** Tax credits can be claimed beginning in tax year 2018. As a result, general fund revenues will decrease significantly beginning in fiscal 2019.

The Comptroller's Office estimates that in tax year 2014 about 56,900 taxpayers deducted over \$10,000 in real estate taxes for State income tax purposes. The total amount deducted in excess of \$10,000 totaled \$561.5 million, before any limitation required under Section 68 of the IRC. Given the potential combined State and federal tax benefit, it is expected that most taxpayers will opt to make a contribution and claim the State tax credit.

Contributions to the fund may only be used for specified education purposes. Money expended from the fund is supplemental to and is not intended to replace funding that would otherwise be appropriated for these purposes. Accordingly, special fund revenues and expenditures will increase by similar amounts beginning in fiscal 2019.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 6, 2018  
mag/hlb

---

Analysis by: Robert J. Rehrmann

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