HB 1163

Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1163 (Delegates Sydnor and Barron)
Ways and Means

Income and Property Taxes - Qualified Maryland Opportunity Zone Investments

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This bill creates a subtraction modification against the State income tax for certain capital gains that qualify for federal income tax benefits under the federal opportunity zone program. In addition, the bill creates a tax credit against the local property tax credit for qualified investments made within a federal opportunity zone. The State must reimburse local governments for one-half of the local revenue loss associated with the property tax credit. **The bill takes effect June 1, 2019, and is applicable for tax year 2019 and beyond for the subtraction modification and for fiscal 2019 and beyond for the property tax credit.**

Fiscal Summary

State Effect: State revenues may decrease beginning in FY 2020 due to subtraction modifications claimed against the income tax. General fund expenditures may increase beginning in FY 2021 due to property tax credit reimbursements mandated by the bill.

Local Effect: Property tax revenues in counties and municipalities in which an opportunity zone is located will decrease beginning in FY 2020 as a result of the bill. Local income tax revenues and local highway user revenues may decrease beginning in FY 2020 due to subtraction modifications claimed against the income tax. Local expenditures may increase minimally to administer the program.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

State Subtraction Modification

The bill creates a subtraction modification against the State income tax related to capital gains that qualify for federal income tax benefits under the federal opportunity zone program. A taxpayer must generally meet the requirements under the federal program as specified in Section 1400-Z of the Internal Revenue Code. It is assumed that the intent of the legislation is to provide an enhanced State subtraction modification based on the length of time an investment is held and that a taxpayer who claims the enhanced State subtraction modification must add back to Maryland income any capital gains excluded under the federal income tax. These provisions apply to property that is acquired after December 31, 2018.

Property Tax Credit

A local government must grant a property tax credit against local real property taxes imposed on the eligible assessment of qualified Maryland opportunity zone property. In order to qualify, the property must have been vacant for at least 12 months prior to the acquisition of the property by a qualified Maryland opportunity zone fund. The amount of the property tax credit is based on a specified percentage of assessment increases, which is calculated by the State Department of Assessments and Taxation (SDAT).

The credit is applied to the tax imposed on 100% of the eligible assessment during the first year and 10% in the second through sixth year. The property tax can be granted in the taxable year following the calendar year in which the property first becomes qualified Maryland opportunity zone business property. The property tax credit is in addition to any other allowable property tax credit.

SDAT must certify to the Comptroller the real properties that qualify for each taxable year and the date that the real properties became qualified properties. Local governments are required to grant the property tax credits and calculate the value of the credit each year.

Current Law: As discussed below, the federal opportunity zone program allows a person to exclude certain capital gains if program requirements are met. The State conforms to the federal income tax treatment of these qualified capital gains – qualified capital gains that are not subject to the federal income tax are also exempt from State and local income taxation.

Background: The Federal Tax Cuts and Jobs Act of 2017 established the Qualified Opportunity Zones Program to incentivize private investment in distressed communities. Under the Act, states may nominate up to 25% of specified low-income census tracts for designation by the U.S. Treasury as Opportunity Zones. Maryland designated zones in 2018. The Administration has also established the Opportunity Zone Leadership Task Force by executive order to provide guidance and coordinate efforts related to Opportunity Zone investment.

The program offers three federal tax incentives related to capital gains: (1) a temporary tax deferral for capital gains reinvested in an Opportunity Fund; (2) a step up in basis for capital gains reinvested in an Opportunity Fund, which excludes up to 15% of the original capital gain from taxation; and (3) a permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Fund, if the investment is held for at least 10 years. More information on the tax incentives can be found on the Economic Innovation Group's website.

Appendix – Federal Opportunity Zones shows the current federal opportunity zones in Maryland.

State Revenues: State revenues may decrease beginning in fiscal 2020 as a result of subtraction modifications claimed against the personal and corporate income tax. The amount of the State revenue loss depends on the applicable amount of capital gains income in each year.

State Expenditures: As provided in the budget, the State must reimburse local governments for one-half of the local revenue loss associated with the property tax credit established by the bill. General fund expenditures to reimburse local governments may increase beginning in fiscal 2021.

Local Revenues: Property tax and local income tax revenues will decrease in counties and municipalities in which federal opportunity zones are designated. In addition, local highway user revenues distributed to all counties and Baltimore City will decrease as a result of credits claimed against the corporate income tax.

A total of 149 census tracts are currently designated as federal opportunity zones. This is about 10% of all census tracts in the State and roughly the same percentage of the adult population. About 60% of all opportunity zones are located in Baltimore City (42) and Prince George's (25), Montgomery (14), and Baltimore (10) counties. The counties that have the highest share of a county's population that is within a federal opportunity zone are Garrett, Somerset, Wicomico, Kent, and Talbot counties.

Data on the total number of vacant properties within federal opportunities zones are not readily available. The U.S. Census Bureau reports the total number of vacant housing units in each census tract. Based on the most recent data available, about 42,300 vacant housing units are located in a Maryland opportunity zone. This is about 17% of all vacant housing units in the State. About two-thirds of the vacant housing located within an opportunity zone is located in Baltimore City and Worcester, Prince George's, Montgomery, and Somerset counties.

Small Business Impact: Small businesses located in an area designated as a federal opportunity zone will potentially benefit from the proposed tax benefits. Conversely, any small businesses that are competitors of these businesses and do not qualify will be at a competitive disadvantage due to higher relative tax burdens.

Additional Information

Prior Introductions: None.

Cross File: SB 795 (Senator Hayes) - Budget and Taxation.

Information Source(s): U.S. Census Bureau; Internal Revenue Code; Department of Legislative Services

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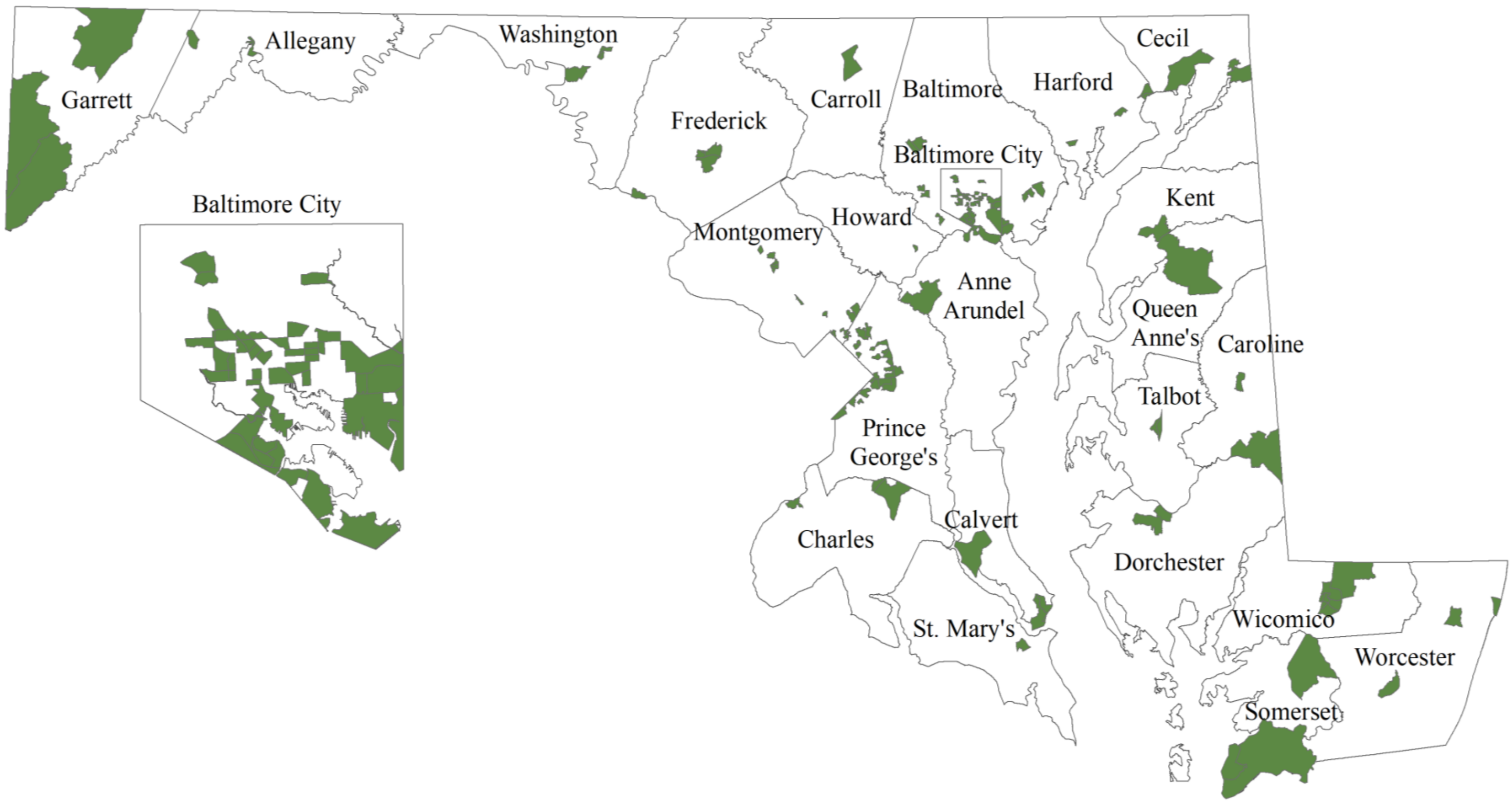
Appendix – Federal Opportunity Zones



Source: Department of Information Technology (MD iMAP)