Department of Fiscal Services

Maryland General Assembly

FISCAL NOTE

Senate Bill 204 (Senator Della)
Budget and Taxation

State Income Tax - Credit for Federal Harbor Maintenance Tax Paid

This bill creates a credit against the State corporate or individual income tax for the federal harbor maintenance tax paid with respect to the shipment of break-bulk cargo or containerized cargo by ocean-going vessels through a port in the State. If the full amount of the credit is not used in the year in which the credit is claimed, it can be carried forward for up to five years.

This bill is effective July 1, 1997, and applies to all taxable years beginning after December 31, 1996.

Fiscal Summary

State Effect: General fund revenues may decline by $6.2 million, and Transportation Trust Fund (TTF) revenues may decline by $2.1 million in FY 1998, increasing at 5% per year. Expenditures would not be affected, as discussed below.

($ in thousands)	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
GF Revenues	($6,150)	($6,519)	($6,910)	($7,325)	($7,764)
SF Revenues	(2,050)	(2,173)	(2,303)	(2,442)	(2,588)
GF Expenditures	0	0	0	0	0
Net Effect	($8,200)	($8,692)	($9,213)	($9,767)	($10,352)

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

Local Effect: Local revenues could decline an estimated $615,000 in FY 1998 as part of the TTF loss. Expenditures would not be affected.

Small Business Effect: Minimal effect on small businesses, as discussed below.

Fiscal Analysis

State Revenues: The federal harbor maintenance tax is 0.125% of the value of commercial cargo. In 1995, total cargo value of $20.8 billion passed through Maryland. Thus, about $26 million was paid. About 90% of this cargo is containerized or break-bulk cargo, and so would qualify for the credit, for potential total credits of $23.4 million.

The portion of this which is attributable to shippers, importers and exporters subject to the Maryland income tax is unknown; the Maryland Port Administration estimates between 20% to 50% of those businesses are subject to the tax, and virtually all are incorporated businesses which would pay the corporate income tax. Assuming 35% of the $23.4 million is paid by entities subject to the Maryland income tax, the total revenue loss would be $8.2 million. About 75% of corporate income tax revenue is distributed to the general fund; the remainder is credited to the TTF. Thus, in fiscal 1998, the general fund would lose about $6.15 million, while the TTF would lose $2.05 million.

State Expenditures: Expenditures would not be affected, unless the federal harbor maintenance tax is declared unconstitutional (see additional comments, below). If the tax is found unconstitutional, some taxpayers would receive refunds, but would have to pay back the State credit they would have received under this bill. The Office of the Comptroller advises that, in this eventuality, additional costs could be incurred for the processing of amended returns. The Department of Fiscal Services advises that these costs could be absorbed within existing resources.

Local Revenues: A portion of the local income tax is distributed to local governments through the TTF. Local revenues will decline by 30% of the TTF revenue loss, or $615,000 in fiscal 1998.

Small Business Effect: This bill would reduce the cost of importing and exporting through the Port of Baltimore by one-eighth of one percent of the value of commercial cargo. Thus, small businesses shipping or receiving cargo would realize a commensurate tax savings.

Additional Comments: The harbor maintenance tax has been under court challenge. A lower federal court found that the tax is unconstitutional as applied to exports. The tax is still being paid on imports and exports, but the tax on exports is deposited into an escrow account. If the tax is ultimately found unconstitutional, funds in the escrow account would be repaid to the taxpayers. Thus, any credits under this bill attributable to the tax on exports would have to be repaid to the State.

Taxes on exports are about one-third of harbor maintenance tax collected. If that portion of the tax is found unconstitutional, the fiscal impact of this bill would be about two-thirds of that stated above. The losses in fiscal 1998 would be about $5.5 million total, $4.1 million from the general fund and $1.4 million from the TTF, of which local governments would lose about $420,000.

Information Source(s): Office of the Comptroller (Revenue Administration Division), Department of Fiscal Services

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