Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 659 (Delegate Mandel)
(Maryland Gives! Task Force on Charitable Giving)
Ways and Means

Income Tax Credit - Endowment Gifts

This bill allows a State income tax credit for individuals equal to 10% of the present value of the aggregate amount of an "endowment gift." The bill also allows a State income tax credit to corporations equal to 10% of the amount of the charitable gift for a charitable contribution made during the taxable year to a qualified endowment. The credit allowed for any taxable year may not exceed the lesser of $10,000 or the State income tax for that taxable year. Any unused credit cannot be carried forward to any other taxable year.

The bill takes effect July 1, 2000, and applies to all taxable years beginning after December 31, 1999.

Fiscal Summary

State Effect: Potential significant decrease in general fund and Transportation Trust Fund (TTF) revenues. The extent of any revenue decrease depends on the number of individuals and corporations claiming the credit and the amount of the credits claimed. If, for example, 5% of the tax year 1996 charitable contributions on itemized returns by individuals were endowment gifts, and thereby eligible for the credit proposed by the bill, general fund revenues would decrease by approximately $10 million.

Local Effect: Potential local government revenue loss. To the extent that credits are taken by corporations, local revenues would decline as a portion of the corporate income tax is distributed to the TTF to which a distribution to local governments is made.

Small Business Effect: Potential meaningful. Small businesses will benefit in that they will now be eligible to claim a credit against the State income tax for charitable contributions, thereby reducing their income tax liability.

Analysis

Bill Summary: An endowment gift is defined as an irrevocable contribution to a fund held by or for a charitable organization if the contribution is made with a donor-imposed restriction that the principal amount or value be kept intact, in perpetuity or until the passage of a specified time or the occurrence of a particular event, and that the income from the use or investment of the principal be used to further a mission of the organization. An endowment gift includes:

- a charitable remainder unitrust or charitable remainder annuity trust;
- a pooled income fund;
- a charitable lead unitrust or charitable lead annuity trust;
- a charitable gift annuity or deferred charitable gift annuity;
- a charitable life estate agreement;
- a paid-up life insurance policy; or
- a gift fund held by or for a charitable organization that is used for the acquisition or construction of a permanent facility, including real property on which it is to be situated, to be used for the furtherance of the mission of the charitable organization.

Current Law: See below.

Background: The Maryland Gives! Task Force on Charitable Giving was created by Chapter 383 of 1996 to study charitable giving in the State and to make recommendations to the Governor and the General Assembly on ways to increase charitable contributions from both individuals and corporations in Maryland. Specifically, the task force was charged with:

- recommending to the Governor and to the General Assembly appropriate changes in Maryland's tax laws and in other State policies that would improve the level of charitable giving in the State;
- recommending how the State's public relations resources can be better used to promote increased charitable giving throughout the State;

- conducting an economic impact analysis on the effect that increased charitable contributions to nonprofit organizations in the State would have on Maryland's economy;

- recommending how State agencies can employ existing State data sources to develop benchmarks and to analyze and chart progress in the level of individual and corporate philanthropy; and

- reviewing any other matter relating to charitable contributions that the task force considers appropriate and consistent with the mission of the task force.

The task force made several recommendations in its 1998 annual report which aimed at increasing charitable contributions among Maryland taxpayers, including several proposals for offering incentives to taxpayers in addition to those incentives currently provided under the federal and State income tax laws.

HB 581/SB 670, introduced during the 1999 session on behalf of the task force, were based on these recommendations and were designed to increase charitable giving by Maryland taxpayers by offering tax incentives. According to testimony presented on behalf of the task force, charitable giving in Maryland ranks behind the national average. According to data for tax year 1996, the average charitable contribution in Maryland was $2,438 per return claiming a charitable deduction, compared to the national average of $2,698. In addition, Maryland had the fifth highest per capita income in the United States, yet ranked 47th in charitable contributions by taxpayers earning over $100,000 ($5,531 compared to $7,434 nationally) and 22nd among taxpayers earning less than $100,000. According to a 1997 Price Waterhouse study, charitable giving does react to tax benefits and a $10 reduction in the cost of giving leads to a $19 increase in contributions.

Tax credits for charitable giving are not offered to individuals under current federal or State law. The federal and State income tax laws do, however, allow deductions from income for donations made to qualified charitable organizations.

Examples of qualified organizations include: churches and other religious organizations; charitable organizations like the Red Cross and the United Way; nonprofit educational organizations such as the Boy Scouts, museums, and colleges; nonprofit hospitals and research facilities; and public parks and recreational facilities. Under federal law, an individual who itemizes deductions may deduct charitable contributions up to a set limit - 50%, 30%, or 20% - of the individual’s contribution base depending on the type of organization to which the donation is made and/or the type of property that is donated.

Under current State law, only individuals who itemize deductions on their federal income tax return may itemize deductions on their State income tax return. Unless an individual itemizes deductions, no tax incentive is currently provided for making charitable contributions. Prior to 1987, taxpayers who did not itemize deductions could claim their charitable contributions as an adjustment to gross income on their federal return, which would flow through to the calculation of the Maryland income tax.

Current federal law provides that a corporation may take a deduction for charitable contributions that do not exceed 10% of its taxable income for the year. Contributions made in excess of the 10% limit may be carried forward for up to five years. Contributions to certain organizations are not deductible. For example, contributions to organizations that conduct lobbying activities on matters of direct financial interest to the corporation's trade or business are not deductible. Also, contributions are not deductible, even if to a qualified charity, if the donor receives an economic benefit from the contribution.

Deductions for charitable contributions by corporations that are taken for federal income tax flow through to the State income tax because Maryland taxable income begins with federal taxable income, which is taxable income minus any deductions.

Qualifying charitable contributions are irrevocable planned gifts to a qualified endowment. Planned gifts are generally used by individuals and families as part of estate planning, to make an irrevocable commitment of a principal asset for the future benefit of a charity while the donor may retain the use of the asset during the donor's lifetime. Planned gifts to qualified endowments can provide tax benefits to the contributor under current law, including a charitable contribution deduction, avoidance of capital gains tax on appreciated assets, and/or a reduced estate tax liability.

State Fiscal Effect: The actual cost of this bill depends on a number of unknown factors, including the number of individuals and corporations that would make endowment gifts that would qualify for the credit during any taxable year, the amount of contributions made, and whether the contributions were made by individuals or corporations.

Credits taken on personal income tax returns will reduce general fund revenues in the amount of the credits. Because 75% of all corporate income tax revenues are distributed to the general fund and 25% are distributed to the TTF, credits taken on corporate income tax returns will reduce general fund revenues by 75% of the amount of the credits taken, and TTF revenues will be reduced by 25% of the credits taken. In addition, 30% of the 25% of revenue distributed to the TTF is distributed to local governments. At this time, the number of credits expected to be claimed on personal or corporate income tax returns cannot be reliably estimated.

For illustrative purposes only, each $10,000 credit claimed by an individual would reduce general fund revenues by $10,000. If the credit is claimed by a corporation, general fund revenues would be reduced by $7,500, TTF revenues would be reduced by $1,750, and local revenues would be reduced by $750. If, for example, 5% of the tax year 1996 charitable contributions on itemized returns by individuals were endowment gifts, and thereby eligible for the credit proposed by the bill, general fund revenues would decrease by approximately $10 million.

Local Fiscal Effect: Local government revenues would decline as a result of corporate taxpayers claiming the credits proposed in the bill. As mentioned above, 75% of corporate tax revenues are distributed to the general fund, and 25% are distributed to the TTF. Of the 25% distributed to the TTF, approximately 30% is distributed to local jurisdictions.

Additional Information

Prior Introductions: A similar bill was introduced as HB 581/SB 670, and were referred to interim study by the House Ways and Means Committee.

Cross File: SB 772 (Senator McFadden) - Budget and Taxation.

Information Source(s): Comptroller of the Treasury (Bureau of Revenue Estimates), Department of Legislative Services

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