

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

House Bill 215 (Delegate Hixson, *et al.*)
 Ways and Means

Income Tax - Subtraction Modification for Members of the Maryland National Guard

This bill provides a \$3,500 subtraction modification to members of the Maryland Air National Guard or the Maryland Army National Guard who are in active service or on active status as specified under federal law (10 U.S.C. Section 101).

The bill takes effect July 1, 2002 and applies to all taxable years beginning after December 31, 2001.

Fiscal Summary

State Effect: Annual general fund revenue decrease of approximately \$1.5 million beginning in FY 2003. Future years assume constant membership.

(\$ in millions)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
GF Revenue	(\$1.5)	(\$1.5)	(\$1.5)	(\$1.5)	(\$1.5)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$1.5)	(\$1.5)	(\$1.5)	(\$1.5)	(\$1.5)

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

Local Effect: Local government revenues would decrease by approximately 2.8% of the total State subtraction, or by 55% of the State revenue decrease. Based on the State estimate, local revenues would decrease by approximately \$770,000 annually.

Small Business Effect: Minimal.

Analysis

Current Law: A subtraction modification for National Guard members who are in active service or on active status does not exist under the Maryland income tax.

Under federal law (10 U.S.C. Section 101), *active duty* is defined as full-time duty in the active military service of the United States, which includes full-time training, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. This does not include full-time National Guard duty.

Active service, as defined by federal law, means on active duty, or full-time National Guard duty. *Active status* is defined as the status of a member of a reserve component who is not in the Inactive Army National Guard or Inactive Air National Guard, on an inactive status list, or in the Retired Reserve.

Full-time National Guard duty is defined as training, or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a state or territory for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

State Fiscal Effect: There are 8,300 members of the Maryland National Guard. National Guard members typically serve one weekend each month and two weeks a year. This service requirement falls within the definition of active service. Because the bill does not indicate at what point during the year, or the amount of time during the year the individual must be on active status or active duty in order to qualify for the subtraction, it is assumed that all members of the Maryland National Guard would be eligible for the subtraction under the bill. As a result, general fund revenues would decrease by approximately \$1.5 million (revenues would decrease by \$166.25 for each eligible individual claiming the subtraction) annually (assuming a constant membership) beginning in fiscal 2003.

Local Fiscal Effect: Local government revenues would decrease by approximately 2.8% of the total State subtraction taken, or by 55% of the State revenue decrease. Based on the State estimate, local revenues would decrease by approximately \$770,000.

Additional Comments: Approximately 2,000 Maryland National Guard troops have been activated since September 1, 2001. Three hundred Maryland National Guard troops are also on active duty in Bosnia. Because some of these troops were called to active duty under Title 32, United States Code, Section 101, which deals specifically with the

National Guard, it is unclear whether all these guard members would be eligible for the subtraction under the bill because the bill only applies to those under Title 10 United States Code, Section 101, which deals with the entire United States Armed Forces.

Finally, for income tax purposes, federal law prohibits states from treating their own employees differently from federal employees who are deemed to be in similar situations. In other words, a state is prohibited from granting a state employee a tax benefit without extending the same benefit to a similarly classified federal employee. In the context of the bill, it is unclear whether or not this subtraction would then have to be extended to members of the U.S. armed forces reserves, of which there are approximately 10,000 in Maryland. If the subtraction proposed by the bill is extended to these individuals, general fund revenues would decrease by an additional \$1.7 million.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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