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FISCAL AND POLICY NOTE
Revised

House Bill 1101
 Ways and Means

(Delegate Cryor)

Budget and Taxation

Income Tax Subtraction Modification for Cost of Employee Teleworking Expenses

This bill creates a subtraction modification under the State income tax for certain teleworking expenses paid by an employer in order for an employee to work from home or at an alternative work site. The total amount of subtraction modifications that can be approved are limited to \$100,000 in tax year 2005, \$175,000 in tax year 2006, and \$250,000 in tax year 2007.

The bill takes effect July 1, 2004 and applies to tax years 2005, 2006, and 2007. The bill terminates June 30, 2008.

Fiscal Summary

State Effect: General fund revenue decrease of approximately \$5,000 beginning in FY 2006 due to subtraction modifications being claimed against the personal and corporate income tax. Transportation Trust Fund (TTF) decrease of approximately \$800 due to subtraction modifications being claimed against the corporate income tax. FY 2007 and FY 2008 revenue decreases reflect the cap on the total amount of subtraction modifications. No effect on expenditures.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	\$0	(\$5,000)	(\$8,800)	(\$12,600)	\$0
SF Revenue	0	(800)	(1,500)	(2,100)	0
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$0	(\$5,800)	(\$10,300)	(\$14,700)	\$0

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

Local Effect: Local revenues would decline as a result of the subtraction modification being claimed against the corporate and personal income tax. Local revenues would decline by approximately \$1,600 in FY 2006 if half the subtraction modifications are claimed against the corporate income tax. Local revenues would decline by approximately \$4,100 in FY 2008.

Small Business Effect: Minimal.

Analysis

Bill Summary: The amount of the subtraction modification is equal to 100% of employer-paid teleworking expenses. The maximum amount of subtraction modification cannot exceed \$5,000. Subtraction modifications may be applied for and approved beginning in tax year 2005.

Eligible employee teleworking expenses are defined as expenses paid by an employer for equipment or services used by an employee to work from home or at an alternative work site approved by the employer. Qualifying expenses are the installation and maintenance of telephone lines, cable modems, and telecommunications equipment at either the residence of the employee or at an alternative work site as well as payment of telecommunication services that are necessary for an employee to telework.

By October 1 of each year, an employer who is seeking the subtraction modification for the next tax year must submit an application to the Maryland Department of Transportation (MDOT). By November 15 of that year, MDOT must certify the amount of subtraction modification approved. This certification must be included when the subtraction modification is being claimed.

By December 15, the Secretary of Transportation must report to the Comptroller, Speaker of the House, and President of the Senate, a report that includes the following information for that tax year: (1) the total number of employers that applied and were approved for the subtraction modification; (2) the total amount of subtraction modification sought and the total amount of subtraction modification approved; and (3) for each subtraction modification application approved: the name and address of the employer, the number of employees that are teleworking, the amount of eligible teleworking expenses, and the amount of subtraction modification applied for and the amount of subtraction modification approved. MDOT must adopt regulations to carry out the provisions of this bill.

Current Law: No State subtraction modification of this type exists. Businesses can typically deduct teleworking expenses as business expenses, resulting in a lower State tax liability.

Background: Maryland currently operates a public-private teleworking program through MDOT called the Telework Partnership with Employers. The program provides up to \$15,000 per business, nonprofit organization, or local government to hire a teleworking consultant. So far, approximately 30 organizations, including Discovery Communications, the City of Rockville, and Montgomery County Public Schools have participated.

Additionally, the U.S. General Services Administration, under the federal telework center program, provides funds for numerous telework centers throughout Maryland open to both public and private sector teleworkers.

The Metropolitan Washington Council of Governments estimated that in 2001, approximately 400,000 people in the Washington metropolitan area telecommuted. The Baltimore Metropolitan Council estimated that in 1999, 55,000 people in the Baltimore metropolitan area telecommuted. The number of employees teleworking at least part time has dramatically increased within the last few years. The International Telework Association and Council estimates that the number of Americans who work from home at least one day per month has increased nearly 40% since 2001.

State Revenues: This bill authorizes subtraction modifications to be earned beginning in tax year 2005 and limits the total amount of credits to \$100,000 in tax year 2005, \$175,000 in tax year 2006, and \$250,000 in tax year 2007. It is estimated that half of the returns will be claimed against the personal income tax and the other half against the corporate income tax. Subtraction modifications claimed against the personal income tax reduce tax revenues by 4.75% of the total subtraction modification, while subtraction modifications claimed against the corporate income tax reduce tax revenues by 7.0% of the total subtraction modification.

As a result, general fund revenues will decline by approximately \$5,000 in fiscal 2006, \$8,800 in fiscal 2007, and \$12,600 in fiscal 2008. The TTF will decrease by approximately \$800 in fiscal 2006, \$1,500 in fiscal 2007, and \$2,100 in fiscal 2008.

State Expenditures: The program could be administered within existing budgeted resources at MDOT. The number of applications requiring processing is limited due to the aggregate cap in place for each tax year. Based on the average start-up and ongoing teleworking expenses estimated by the Clean Air Campaign, it is estimated that the average applicant will seek a subtraction modification of \$2,500 for teleworking

expenses. Accordingly, it is estimated that MDOT will process approximately 40 applications in tax year 2005, 70 in tax year 2006, and 100 in tax year 2007. It is estimated that approximately 19,500 taxpayers have teleworking expenses that qualify for the tax credit in tax year 2005. It is assumed that MDOT will administer the program in a way that announces when applications are no longer being accepted to due the cap being reached in that tax year and not be required to correspond to applicants who would not qualify due to the cap being reached in that tax year.

Additional Comments: The bill provides that MDOT certify teleworking expenses based on the estimated teleworking expenses that will be incurred by a taxpayer for the next tax year. There is no provision for verifying that these expenses are actually incurred, which could lead to tax administration and compliance difficulties.

Additional Information

Prior Introductions: None.

Cross File: SB 486 (Senator Garagiola, *et al.*) – Budget and Taxation.

Information Source(s): Baltimore Metropolitan Council, Bureau of Labor and Statistics, U.S. Census Bureau, Comptroller's Office, International Telework Association and Council, Maryland Association of Nonprofit Organizations, Washington Council of Governments, Department of Legislative Services

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