

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 115

(Senator Garagiola, *et al.*)

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 2006, \$175,000 in tax year 2007, and \$250,000 in tax year 2008.

The bill takes effect July 1, 2005 and applies to tax years 2006, 2007, and 2008. The bill terminates June 30, 2009.

Fiscal Summary

State Effect: General fund revenues could decrease by approximately \$5,000 beginning in FY 2007 due to subtraction modifications being claimed against the personal and corporate income tax. Transportation Trust Fund (TTF) revenues could decrease by approximately \$800 due to subtraction modifications being claimed against the corporate income tax. FY 2008 and 2009 revenue decreases reflect the limit on the total amount of subtraction modifications. Expenditures would not be affected.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 decrease as a result of the subtraction modification being claimed against the corporate and personal income tax. Local revenues would decrease by approximately \$1,800 in FY 2007 if half the subtraction modifications are claimed against the corporate income tax, and decrease by approximately \$3,200 in FY 2008 and by approximately \$4,500 in FY 2009.

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 2006.

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 submit 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 and federal 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 40 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 International Telework Association and Council estimated that 41.3 million Americans teleworked at any time during 2003. The number of teleworkers has more than doubled since 1999. Locally, the Metropolitan Washington Council of Governments estimated that in 2001 approximately 400,000 people, and 13% of all the Maryland workers, in the Washington metropolitan area telecommuted. The Baltimore Metropolitan Council estimated that in 1999 50,000 people or approximately 4% of all workers in the Baltimore metropolitan area telecommuted.

State Revenues: This bill authorizes subtraction modifications to be earned beginning in tax year 2006 and limits the total amount of the subtractions to \$100,000 in tax year 2006, \$175,000 in tax year 2007, and \$250,000 in tax year 2008. 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 2007, \$8,800 in fiscal 2008, and \$12,600 in fiscal 2009. The TTF will decrease by approximately \$800 in fiscal 2007, \$1,500 in fiscal 2008, and \$2,100 in fiscal 2009.

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 MDOT will certify less than 100 applications annually. Approximately 20,000 taxpayers could

qualify for the tax credit in tax year 2006. It is assumed that MDOT will administer the program in a way that announces when applications are no longer being accepted due to 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: HB 1101 of 2004, a similar bill, passed the House but was not reported from the Senate Budget and Taxation Committee.

Cross File: HB 41 (Delegate Cryor) – Ways and Means.

Information Source(s): Baltimore Metropolitan Council, Clean Air Campaign, Comptroller's Office, International Telework Association and Council, Maryland Department of Transportation, U.S. Census Bureau, Washington Council of Governments, Department of Legislative Services

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