

**Department of Legislative Services
Maryland General Assembly
2006 Session**

FISCAL AND POLICY NOTE

House Bill 860
Ways and Means

(Delegate Cryor, *et al.*)

Budget and Taxation

Income Tax - Subtraction Modification for Living Organ Donors

This bill creates a subtraction modification under the State income tax for the loss of earned income incurred by a living organ donor during the 90-day period after the donation of an organ. The amount of the subtraction modification cannot exceed \$10,000.

The bill takes effect July 1, 2006 and applies to tax year 2006 and beyond.

Fiscal Summary

State Effect: General fund revenues would decrease by approximately \$29,200 in FY 2007 due to subtraction modifications being taken against the personal income tax. Future years reflect a stable number of donors and estimated increase in eligible deductions. No effect on expenditures.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	(\$29,200)	(\$30,400)	(\$31,600)	(\$32,800)	(\$34,100)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$29,200)	(\$30,400)	(\$31,600)	(\$32,800)	(\$34,100)

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

Local Effect: Local government revenues would decrease by approximately \$18,400 in FY 2007, increasing to \$21,600 by FY 2011. No effect on expenditures.

Small Business Effect: None.

Analysis

Bill Summary: Individuals who donate all or part of the individual's liver, pancreas, kidney, intestine, lung, or bone marrow for transplant in another individual can qualify for the subtraction modification. The value of the deduction is based on the amount of decreased earned income, as defined under Section 32 of the Internal Revenue Code, of an organ donor over the 90-day recovery period after the donation of an organ. The amount of decreased earned income is: (1) the amount of salary or wages that would have been earned for any days the individual was not working within the recovery period; (2) the net difference in earned income earned by the donor in the recovery period compared to the amount of earned income earned by the individual in the same time period in the previous year; or (3) as calculated by regulations established by the Comptroller.

Earned income, as defined under Section 32 of the Internal Revenue Code, includes:

- Wages, salaries, tips, and other taxable employee pay.
- Net earnings from self-employment.
- Gross income received as a statutory employee (including corporate officer, salesperson, and commissioned agent).

Current Law: No such State subtraction modification exists.

However, individuals can qualify to deduct certain lodging and transportation expenses related to donating an organ under the federal medical and dental expenses deduction. In order to qualify under the federal deduction, the individual's total qualifying unreimbursed medical expenses paid during the year must exceed 7.5% of the taxpayer's federal adjusted gross income (FAGI). The value of the deduction is equal to the amount by which the eligible medical expenses exceed 7.5% of the taxpayer's FAGI. If a taxpayer who takes the federal medical and dental expenses deduction also itemizes for State income tax purposes (which is usually the case), the deductions taken for federal income tax purposes will flow through to State income tax purposes in that it will reduce the taxpayer's Maryland taxable income.

Background: Exhibit 1 shows the number of individuals on the organ donor waiting list in Maryland as of January 6, 2005.

Exhibit 1
Current Organ Donor Waiting List

<u>All Organs</u>	<u>Kidney</u>	<u>Liver</u>	<u>Pancreas</u>	<u>Kidney/ Pancreas</u>	<u>Heart</u>	<u>Lung</u>	<u>Heart/ Lung</u>
2,354	1,551	478	58	72	66	124	5

Source: Organ Procurement and Transplantation Network

In 2005, 235 organs were donated in Maryland: 79 from deceased individuals and 156 from living donors. Of the 156 organs transplanted from living donors, 153 were kidneys and 3 were livers. Nationwide, approximately 92% of all living liver and kidney donors as of 1999 were either relatives or the spouse of the organ recipient. There are a total of 2,229 Maryland living organ donors since 1988. The organs donated were: kidney (2,134), liver (93), pancreas (1), and lung (1). Kidney donors typically resume normal activities after two to eight weeks while liver donors usually take longer to recover.

Milliman USA estimates that there were 16,890 bone marrow transplants in 2005; 57% of these transplants were autologous transplants (from within the same individuals), 29% or 7,260 were allogeneic (from another individual). Since its first successful use in 1968, bone marrow transplants have been used to treat patients diagnosed with leukemia, aplastic anemia, lymphomas such as Hodgkin's disease, multiple myeloma, immune deficiency disorders, and some solid tumors such as breast and ovarian cancer. Donors who are not also the recipient are usually discharged after an overnight stay and can fully resume normal activities in a few days.

Wisconsin enacted legislation in 2003 that authorized a \$10,000 deduction for individuals who donate organs. Subsequently, similar legislation has been enacted in Arkansas, Georgia, Iowa, Minnesota, Missouri, New Mexico, North Dakota, and Utah. These enactments are very similar to each other (and to HB 860), although some states prevent taxpayers from claiming a double-benefit by allowing deductions only to the extent they are not deducted under the federal medical and dental expenses deduction.

Although not a tax benefit program for living organ donors, since 1987 Rhode Island's Organ Transplant Fund has supplemented certain costs of organ transplants not covered by insurers. Subject to an income phase-out, a transplant recipient can receive funds for insurance deductibles, medication expenses, and out-of-state living expenses for up to 60 days for eligible family members.

The federal Organ Donation and Recovery Improvement Act of 2004 established programs to increase organ donation through public awareness campaigns and education projects, and provided grants programs for individual states supporting use of hospital-based organ procurement coordinators, research and demonstration projects, and reimbursement to living donors for travel-related expenses.

Chapter 221 of 2000 provides that a State employee may request up to 7 days of organ donation leave in any 12-month period to serve as a bone marrow donor and up to 30 days of organ donation leave in any 12-month period to serve as an organ donor.

State Revenues: General fund revenues would decrease by approximately \$29,200 in tax year 2006, resulting in a general fund revenue decrease of approximately \$29,200 in fiscal 2007. The revenue loss in future years would increase by approximately 4%, totaling approximately \$34,100 in fiscal 2011.

This estimate is based on a total of 222 living organ donors annually, 183 organ donors and 39 bone marrow donors, and on the following facts and assumptions:

- The number of individuals claiming the deduction is based on the estimated number of State residents who are donors, the number of donors in Wisconsin, and the number of individuals who have claimed the deduction in Wisconsin. According to the Wisconsin Department of Revenue, 100 taxpayers claimed the deduction in tax year 2004, the first year the deduction was available. Data on amounts deducted were not yet available and the department expects more people to claim the future tax years as more donors become aware of the deduction. State officials originally estimated that the Wisconsin deduction would reduce tax revenues by approximately \$115,000 annually based on an estimated 213 donors.
- The average organ donor loses 20 days of wages and the average bone marrow donor loses 1 day of wages.
- The average State hourly wage earned in November 2004 was \$19.89. This wage is increased based on the Board of Revenue Estimates wage and salaries forecast.

To the extent that organ donors are granted paid leave while donating organs, revenue losses could be less than estimated.

Local Revenues: Local government revenues would decrease by approximately 3% of the total State subtraction modification taken in each tax year. In fiscal 2007 the decrease would total approximately \$18,400. Future year revenues would decrease by approximately \$19,200 in fiscal 2008, \$20,000 in fiscal 2009, \$20,700 in fiscal 2010, and \$21,600 in fiscal 2011.

Additional Information

Prior Introductions: SB 443 of 2005, a similar bill, was not reported from the Senate Budget and Taxation Committee.

Cross File: None.

Information Source(s): Bureau of Labor Services, Milliman USA, Organ Procurement and Transplantation Network, Rhode Island Department of Human Services, Wisconsin Department of Revenue, Department of Legislative Services

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