HB 46

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 46 (Delegate Ross)
Ways and Means

Income Tax - Itemized Deductions - Treatment of Gambling Losses

This bill decouples the State from the deduction allowed for gambling losses under Section 165(D) of the Internal Revenue Code (IRC). Individuals who claim the deduction for federal purposes are required to reduce the amount of itemized deductions claimed for State purposes by the amount of gambling losses deducted.

The bill takes effect July 1, 2008 and applies to tax year 2008 and beyond.

Fiscal Summary

State Effect: General fund revenues could increase $8.5 million in FY 2009 due to the reduction in gambling deductions. Future year revenues increase about 6% annually thereafter. Expenditures would not be affected.

($ in millions)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	$8.5	$9.1	$9.6	$10.2	$10.7
Expenditure	$0	$0	$0	$0	$0
Net Effect	$8.5	$9.1	$9.6	$10.2	$10.7

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

Local Effect: Local income tax revenues would increase $5.2 million in FY 2009 and increase about 6% annually thereafter, totaling $6.5 million by FY 2013. Expenditures would not be affected.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Section 165 of the IRC provides for a miscellaneous itemized deduction that includes the amount of gambling losses up to the amount of gambling winnings. Gambling winnings must be reported separately as income and losses as an itemized deduction. An individual who does not report any gambling winnings cannot deduct any gambling losses. Individuals claiming the deduction are required to keep an accurate record of losses and winnings that includes • the date and type of specific wagers; • name and address of gambling establishments in which the wagers were made; • the names of other persons present with the individual at the gambling establishment; and • amounts won and loss.

Individuals who meet specific requirements can file gambling losses under schedule C as business losses. These deductions are not subject to the limitations of the miscellaneous itemized deduction.

These deductions claimed for federal purposes flow through to State income tax purposes and typically result in a lower State income tax liability.

Under current federal and State tax laws, gambling winnings are essentially taxed net of gambling losses. For example, an individual who has gambling winnings of $1,000 and documented losses of $800 would effectively pay income taxes on $200. The bill would impose State income taxes without regard to an individual's gambling losses; therefore, the individual in the example above would pay State income taxes on $1,000, even though the individual incurred $800 in gambling losses.

Background: In tax year 2005, a little more than 1 million federal tax returns deducted a total of $16.2 billion in gambling losses. Although most of the total dollar amount deducted was from higher-income returns, many returns claiming the deduction were not higher-income returns. A little more than one-quarter of these returns had a federal adjusted gross income (FAGI) of less than $50,000, while a little less than one-half had FAGI of less than $75,000. Several states limit or disallow the deduction, either specifically or because the state does not allow itemized deductions.

State Revenues: Pursuant to this legislation, individuals who claim the deduction for federal purposes would be required to reduce the amount of itemized deductions claimed for State purposes by the amount of wagering losses deducted beginning in tax year 2008. As a result, general fund revenues could increase by approximately $8.5 million in fiscal 2009. This estimate is based on the following facts and assumptions:

- in tax year 2005, 920,700 taxable federal returns deducted a total of $14.2 billion in gambling losses;
- Maryland residents comprised about 1% of all casino trips generated in 2003; and
- affected taxpayers would have an effective tax rate of 4.96%.

The estimates above are based on the current estimated prevalence of gambling in the State. In the November 2008 general election, voters will decide whether or not to allow VLT gambling in the State. To the extent that voters approve VLT gambling, revenue gains could be greater than estimated in fiscal 2011 and beyond.

Local Revenues: Local income tax revenues would increase about 3% of the decrease in State deductions allowed. Local income tax revenues would increase $5.2 million in fiscal 2009, $5.5 million in fiscal 2010, $5.8 million in fiscal 2011, $6.1 million in fiscal 2012, and $6.5 million in fiscal 2013.

Additional Information

Prior Introductions: HB 643 of 2006, an identical bill, received an unfavorable report from the House Ways and Means Committee.

Cross File: None.

Information Source(s): Harrah's *2003 Profile of the American Gambler*, Internal Revenue Code, Department of Legislative Services

Fiscal Note History: First Reader - January 28, 2008
ncs/hlb

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