SB 773

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 773 (Senators Mooney and Colburn)
Budget and Taxation

Corporate Income Tax - Repeal

This bill repeals the corporate income tax for tax years 2010 through 2013.

The bill takes effect July 1, 2010 and terminates December 31, 2013.

Fiscal Summary

State Effect: General fund revenues decrease by $711.2 million in FY 2011 as a result of repealing the corporate income tax. Transportation Trust Fund revenues decrease by $181.9 million. Special fund and general fund expenditures may decrease in FY 2011 through FY 2014 due to reduced administrative costs at the Comptroller's Office.

($ in millions)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	($711.2)	($601.5)	($648.0)	($473.2)	($2.0)
SF Revenue	($181.9)	($153.8)	($165.7)	($121.0)	($.5)
GF Expenditure	(-)	(-)	(-)	(-)	$0
SF Expenditure	(-)	(-)	(-)	(-)	(-)
Net Effect	($893.1)	($755.3)	($813.7)	($594.2)	($2.6)

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

Local Effect: Local highway user revenues decrease as a result of the corporate income tax repeal. Local revenues decrease by $54.6 million in FY 2011 and by $0.1 million in FY 2015. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: A corporate income tax rate of 8.25% is applied to a corporation's Maryland taxable income. In addition to increasing the tax rate, Chapter 3 of the 2007 special session temporarily distributed the estimated revenue increase to the newly established Higher Education Investment Fund (HEIF). The Budget Reconciliation and Financing Act of 2009 (Chapter 487) extended this provision through fiscal 2010 and stated that it is the intent of the General Assembly that, when it is fiscally prudent to do so, HEIF be made permanent. As a result, corporate income tax revenues in fiscal 2010 are distributed to the general fund (73.6%), TTF (20.4%), and HEIF (6.0%). Beginning in fiscal 2011, corporate income tax revenues will be distributed to the general fund (79.6%) and to the TTF (20.4%).

In general, the Maryland corporate income tax is computed using federal provisions to determine income and deductions. Maryland is a "unitary business" State, in that a corporation is required to allocate all of its Maryland income (that portion that is "derived from or reasonably attributable to its trade or business in the State") attributable to the corporation's "unitary business."

Background: Every Maryland corporation and every corporation that conducts business within Maryland, including public service companies and financial institutions, are required to pay the corporate income tax. The tax base is the portion of federal taxable income, as determined for federal income tax purposes and adjusted for certain Maryland addition and subtraction modifications, that is allocable to Maryland. Federal taxable income for this purpose is the difference between total federal income and total federal deductions (including any special deductions). The next step is to calculate a corporation's Maryland taxable income. The Maryland taxable income of a corporation that operates wholly within the State is equal to its Maryland modified income. Corporations engaged in multistate operations are required to determine the portion of their modified income attributable to Maryland, based on the amount of their trade or business carried out in Maryland. Corporations are generally required to use either a double weighted sales factor (payroll and property being the other factors) or, in the case of a manufacturing corporation, a single sales factor. The apportionment factor is multiplied by a corporation's modified income to determine Maryland taxable income. The Maryland tax liability of a corporation equals the Maryland taxable income multiplied by the tax rate less any tax credits.

Net corporate income tax revenues are projected to total $702.3 million in fiscal 2011, $559.2 million of which will be distributed to the general fund and the balance to the TTF.

State Revenues: The bill repeals the corporate income tax for tax years 2010 through 2013. Fiscal 2011 revenues will decrease by most of the decrease in tax year 2010 and a little less than 30% of tax year 2011. As a result, general fund revenues decrease by $711.2 million in fiscal 2011 and TTF revenues decrease by $181.9 million. **Exhibit 1** shows the impact of the bill in fiscal 2011 through 2015.

Exhibit 1
SB 773 Fiscal Impact
($ in Millions)

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenues	($711.2)	($601.5)	($648.0)	($473.2)	($2.0)
TTF Revenues	(181.9)	(153.8)	(165.7)	(121.0)	(0.5)
MDOT	(127.3)	(110.0)	(118.5)	(86.5)	(0.4)
Locals	(54.6)	(43.8)	(47.2)	(34.5)	(0.1)
Total Revenues	**($893.1)**	**($755.3)**	**($813.7)**	**($594.2)**	**($2.6)**

This estimate is based on the current Board of Revenue Estimates corporate forecast, adjusted for the estimated correlation between tax year and fiscal year revenues. To the extent that corporations adjust estimated payments before July 1, 2010, revenue losses will occur in fiscal 2010.

State Expenditures: The Comptroller's Office advises that there are currently 20 positions – 16 full-time and 4 contractual – dedicated to corporate income tax auditing and administration. Generally, corporate audits are conducted three years after the tax year for which a return is filed. Accordingly, these positions will be maintained through fiscal 2013. In fiscal 2014, the Comptroller's Office advises that it will transfer the full-time employees to other tax audits and may eliminate the four contractual positions in fiscal 2014, with a potential savings of about $150,000. In fiscal 2015, the full-time positions will be transferred back to corporate tax administration and four contractual employees will be hired. Expenditures may also decrease minimally beginning in fiscal 2011 due to the elimination of expenses required to update corporate income tax forms.

Local Revenues: Local highway user revenues decrease as a result of tax credits being claimed against the corporate income tax. Exhibit 1 shows the decrease in fiscal 2011 through 2015.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2010
mam/hlb

Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510