

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE

House Bill 181 (Delegate Summers)
Ways and Means

Income Tax - Subtraction Modification - Overtime Compensation

This bill creates a subtraction modification against the State income tax for the first \$5,000 in overtime compensation received by an individual. In order to qualify, the overtime compensation must be required by the federal Fair Labor Standards Act (FLSA) of 1938.

The bill takes effect July 1, 2012, and applies to tax years 2012 through 2021. The bill terminates June 30, 2022.

Fiscal Summary

State Effect: General fund revenues decrease by about \$79.6 million in FY 2013, which represents the impact of one and one-half tax years. Future year revenues reflect annualization and estimated wage and salary growth. General fund expenditures increase by \$22,000 in FY 2013 for one-time tax form changes and computer programming modifications at the Comptroller’s Office.

(\$ in millions)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Revenue	(\$79.6)	(\$55.8)	(\$58.9)	(\$61.9)	(\$64.3)
GF Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$79.6)	(\$55.8)	(\$58.9)	(\$61.9)	(\$64.3)

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

Local Effect: Local income tax revenues decrease by about \$50.1 million in FY 2013 and by \$40.4 million in FY 2017. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: No similar State subtraction modification exists. Overtime compensation is generally subject to federal and State income taxes.

Background: FLSA requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek. Certain employees are exempt from both provisions while others are specifically exempted from overtime requirements. Employees exempt from overtime requirements include commissioned sales employees; certain computer professionals; drivers, loaders, and mechanics; certain farm workers; and certain executive, administrative, professional, and outside sales employees.

State Revenues: Subtraction modifications may be claimed beginning in tax year 2012. It is assumed that most taxpayers will adjust withholdings and estimated payments. As a result, fiscal 2013 revenues will decrease by the change in tax year 2012 revenues and also by one-half of tax year 2013, resulting in an overall decrease of \$79.6 million in fiscal 2013. This estimate is based on the following assumptions:

- The Board of Revenue Estimates projects that Maryland wages and salaries will total \$151.0 billion in calendar 2012.
- Based on data from the Congressional Budget Office and the National Compensation Survey, overtime compensation comprises about 1% of all wages and salaries paid in Maryland.
- The federal Department of Labor estimates that 155 million workers nationally are covered by FLSA.
- Nontaxable returns and the maximum value of the subtraction modification reduce revenue losses by 15%.
- In future years, overtime compensation increases at the same rate as the projected growth in wage and salaries.

State Expenditures: The Comptroller's Office reports that it will incur a one-time expenditure increase of \$22,000 in fiscal 2013 to add the subtraction modification to the personal income tax return. This includes data processing changes to the SMART income tax return processing and imaging systems and system testing.

Local Revenues: Local income tax revenues decrease by about 3% of the total net State subtraction modification claimed. Accordingly, local government revenues decrease by \$50.1 million in fiscal 2013, \$35.1 million in fiscal 2014, \$37.0 million in fiscal 2015, \$38.9 million in fiscal 2016, and by \$40.4 million in fiscal 2017.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Bureau of Economic Analysis, Bureau of Labor Statistics, Comptroller's Office, Congressional Budget Office, Moodys.com, Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2012
ncs/jrb

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