Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 807 (Senator Madaleno, *et al.*)

Budget and Taxation Ways and Means

Income Tax - Subtraction Modification - Land Acquisition for Department of Transportation

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This bill exempts from the State income tax payments received from the Maryland Department of Transportation (MDOT) by an individual for the acquisition of a portion of the individual's property if the individual's principal residence is located on the property.

The bill takes effect July 1, 2012, and applies to tax year 2012 and beyond.

Fiscal Summary

State Effect: General fund revenues decrease by about $373,700 in FY 2013. Future year revenue losses reflect a stable amount of annual payments. 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 dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Revenue	($373,700)	($373,700)	($373,700)	($373,700)	($373,700)
GF Expenditure	$22,000	$0	$0	$0	$0
Net Effect	($395,700)	($373,700)	($373,700)	($373,700)	($373,700)

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

Local Effect: Local income tax revenues decrease by $236,000 annually beginning in FY 2013. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: State law generally conforms to the federal tax treatment of the gains and losses realized from the sale or exchange of assets.

Background:

Federal Income Tax Law

Under the federal income tax, a gain or loss is usually recognized when property is sold or exchanged. A gain occurs when the amount realized from a sale or exchange of property is greater than its adjusted basis. A loss occurs if the adjusted basis of the property is greater than the proceeds received from the sale. The adjusted basis of a property is usually its cost.

Special rules apply when the sale of an asset is the result of an involuntary conversion – property is destroyed, stolen, condemned, or disposed of under the threat of condemnation. Under the federal income tax, a condemnation occurs when property may be taken by the federal government, a state or local government, or a private organization that has the power to legally take the property. A threat of condemnation exists when a person has reasonable grounds to believe that the property will be condemned if it is not sold voluntarily. If property is condemned or disposed of under the threat of condemnation, the gain or loss is calculated by comparing the net compensation award (the amount paid for the property less expenses incurred, such as legal costs) to the adjusted basis of the property. Gains may not be reported or can be delayed under certain circumstances, including if the individual elects to purchase replacement property.

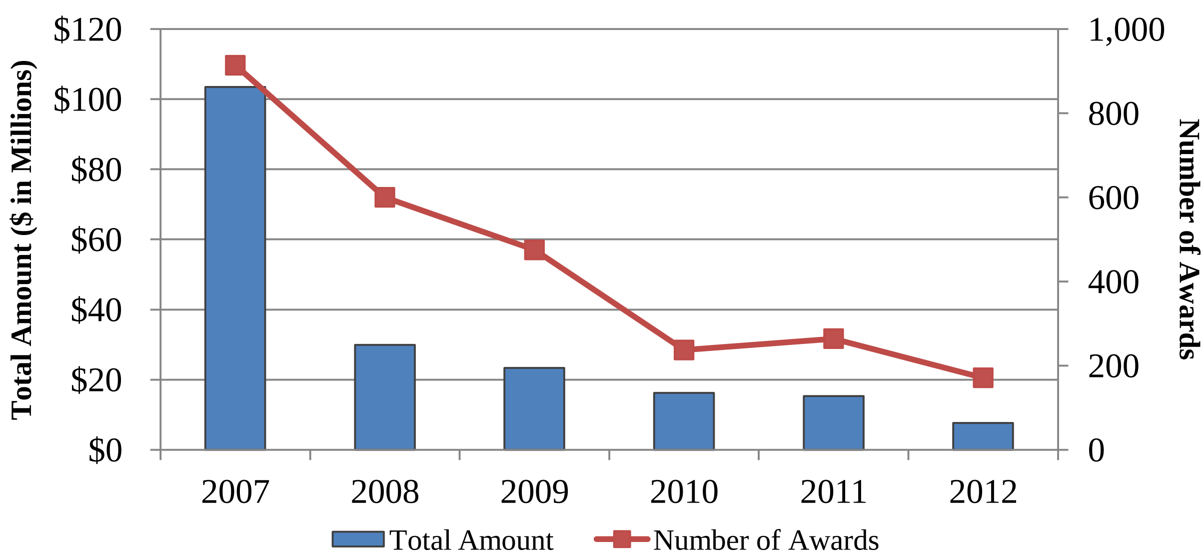
Separate rules apply if the individual receives severance damages – these payments are not part of the award for the condemned property but are paid if part of the property is condemned and the value of the remaining property decreases due to the condemnation. Severance damages may also be awarded in order to restore the remaining property to the same usefulness it had before the condemnation.

According to Publication 944 of the Internal Revenue Service, gains and losses from an involuntary conversion of property are usually taxable unless the property is a principal residence. However, the IRS also advises that if a sale involves the land on which a residence is located, but not the residence itself, any gain received from the sale of the land may not be excluded.

Partial Acquisitions by the State Highway Administration (SHA)

Exhibit 1 shows the number of partial property acquisitions that SHA has entered into since fiscal 2007. SHA advises that fiscal 2007 reflects the impact of InterCounty Connector awards and that in recent years most awards are for transportation enhancements such as the widening of a road. In addition to SHA, other agencies acquire land for transportation projects, including the Maryland Transit Authority (MTA). The MTA will acquire land for major projects under consideration, including the Purple Line light-rail extension in Montgomery and Prince George's counties, the Baltimore Red Line, and the I-270/Corridor Cities Transit Way.

Exhibit 1
SHA Partial Acquisitions
Fiscal 2007-2012



Note: Fiscal 2012 numbers are through February 27, 2012.
Source: Maryland Department of Transportation

State Revenues: Subtraction modifications may be claimed beginning in tax year 2012. As a result, revenues will decrease by $373,700 in fiscal 2013. This estimate is based on the following assumptions:

- SHA has paid an average of $15.7 million for partial land acquisitions in fiscal 2010 and 2011;

- one-half of the payments received by individuals qualify for the subtraction modification and are reported as income for federal income tax purposes; and
- future SHA payments remain constant.

Approximately $87 million in partial land acquisitions may result from the construction of the Purple Line in the Washington Metropolitan Area and the Baltimore Red Line. To the extent that either or both of these projects move forward to construction, the estimated revenue losses resulting from the bill would increase by a potentially significant amount.

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 $236,000 annually beginning in fiscal 2013.

Additional Information

Prior Introductions: None.

Cross File: HB 1155 (Delegate Frick, *et al.*) - Ways and Means.

Information Source(s): Comptroller's Office, Internal Revenue Service, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History:	First Reader - February 28, 2012
ncs/jrb	Revised - Senate Third Reader - April 3, 2012
	Revised - Enrolled Bill - May 22, 2012

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