HB 989

Department of Legislative Services

2012 Session

FISCAL AND POLICY NOTE

House Bill 989 (Delegate Luedtke)
Ways and Means

Income Tax - Subtraction Modification - Commuter Expenses

This bill creates a subtraction modification against the State income tax for certain qualified transportation fringe benefits. In order to qualify, the expenses must be incurred for vanpooling and transit passes, as defined under the Internal Revenue Code (IRC). The maximum amount of the subtraction modification is limited to the amount not already excluded for federal income tax purposes.

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 $450,000 annually beginning in FY 2013 due to subtraction modifications claimed against the personal income tax. 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	($450,000)	($454,000)	($459,000)	($443,000)	($448,000)
GF Expenditure	$22,000	$0	$0	$0	$0
Net Effect	($472,000)	($454,000)	($459,000)	($443,000)	($448,000)

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

Local Effect: Local revenues decrease by about $284,000 in FY 2013 and by $273,000 in FY 2017. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: Maryland conforms to federal tax law regarding qualified transportation fringe benefits. As discussed below, certain expenses that can be excluded for federal income tax purposes typically result in a lower federal, State, and local income tax liability.

Background: In general, commuting costs are generally not deductible. However, certain qualified transportation fringe benefits provided by an employer are excluded from an employee's income for federal income tax purposes and from the employee's wages for payroll tax purposes. Benefits provided on a cash reimbursement basis also qualified for the preferential tax treatment.

Qualified transportation fringe benefits include:

- *Vanpooling:* The expense of commuting in a six-passenger (or greater) vehicle qualifies for the tax benefit, whether the service is public or private.
- *Transit Passes:* A transit pass includes mass transit fares and certain vehicles for hire.
- *Qualified Parking:* Qualified parking includes parking provided to an employee on or near the business premises or a location from which the employee commutes by means of mass transit, van pool, or car pooling.
- *Qualified Bicycle Commuting:* Reasonable expenses incurred in order to commute via a bicycle on a regular basis.

Prior to February 17, 2009, the amount that could be excluded as qualified transportation fringe benefits was limited to $100 per month in combined vanpooling and transit pass benefits and $175 per month in qualified parking benefits. These limits are adjusted annually for inflation.

The federal American Recovery and Reinvestment Act of 2009 temporarily increased the monthly exclusion for employer-provided vanpool and transit pass benefits to the same level as the exclusion for employer-provided parking. Subsequent federal legislation extended this benefit through the end of 2011.

Due to expiration of these federal laws, transit passes and vanpooling no longer qualify for the increased exclusion amounts. For 2012, the amount that may be excluded is equal to $240 per month for qualified parking benefits and $125 per month in combined vanpooling and transit pass benefits.

The federal Highway Reauthorization bill as approved by the Senate Finance Committee of the U.S. Congress proposes to extend the increased exclusion amounts for vanpooling and transit passes.

State Revenues: The bill provides that an individual can exclude from the Maryland income tax up to $240 a month in vanpooling and transit expenses, minus the amount that can be excluded under the federal income tax. In tax year 2012, the net effect of the subtraction modification will be the amount that would have been excluded under the federal income tax, had the federal provision not expired. In future years, the net amount excluded from the State income tax will be decreased by any inflation adjustment to the federal exclusion amount for vanpooling and transit expenses. As a result, general fund revenues decrease by $450,000 in fiscal 2013. The estimated State fiscal impact is based on the federal Joint Committee on Taxation estimates for the federal tax effect of the applicable increased exclusion amounts for transit passes and van pooling, adjusted for estimated federal effective tax rates, Maryland's estimated share of the national economy, and State tax rates. Future year estimates reflect a 1% increase in the number of claimants and the estimated inflation adjustment to the exclusion amount under federal law. In addition, it is assumed that employers do not reduce the amount of transportation fringe benefits provided to employees given the expiration of the increased exclusion amount provided under federal law.

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 will decrease by about 3% of the total net State subtraction modification claimed. As a result, local revenues decrease by $284,000 in fiscal 2013, $287,000 in fiscal 2014, $290,000 in fiscal 2015, $283,000 in fiscal 2016, and $273,000 in fiscal 2017.

Additional Information

Prior Introductions: None.

Cross File: SB 810 (Senator Madaleno) - Budget and Taxation.

Information Source(s): Internal Revenue Service, Joint Committee on Taxation, Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2012
mlm/jrb

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