

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1302

(The President)(By Request - Administration)

Budget and Taxation

Ways and Means

State and Local Revenue and Financing Act of 2012

This Administration bill impacts State and local revenues as follows:

- increases income tax revenues by (1) increasing State income tax rates and establishing new individual income tax brackets beginning in tax year 2012; (2) reducing and eliminating the personal exemption for certain taxpayers; (3) repealing the credit for telecommunications property taxes; and (4) implementing a tax compliance measure for Electing Small Business Trusts;
- increases sales and use tax revenues by repealing the State sales and use tax exemption for cylinder demurrage charges;
- increases State fee revenue by increasing (1) the maximum filing fee from \$125 to \$150 for an appeal of a decision by the Motor Vehicle Administration to suspend or revoke a driver's license; and (2) fees to obtain specified death certificates issued by the Department of Health and Mental Hygiene;
- increases the other tobacco products tax; and
- applies the recordation tax to an "indemnity mortgage."

The bill generally takes effect June 1, 2012, although some provisions have later effective dates.

Fiscal Summary

State Effect: Total State revenues increase by \$263.8 million in FY 2013 and by \$243.7 million in FY 2017. Expenditures are not affected. **Exhibit 1** shows the impact on State revenues by provision.

Local Effect: Local government revenues increase by \$67.3 million in FY 2013, \$67.2 million in FY 2014, \$62.6 million in FY 2015, and by about \$61.0 million annually thereafter. **Exhibit 2** shows the impact on local revenues in FY 2013 by county.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment. The impact of any provision affecting small businesses is discussed in the provision analysis below.

Additional Information

Prior Introductions: None.

Cross File: HB 1802 (The Speaker)(By Request - Administration) - Ways and Means.

Information Source(s): Comptroller's Office, Department of Assessments and Taxation, Department of Health and Mental Hygiene, Motor Vehicle Administration, Office of Administrative Hearings, Maryland Association of Counties, Department of Legislative Services

Fiscal Note History: First Reader - May 12, 2012
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Exhibit 1
Impact on State Revenues by Provision
(\$ in Millions)

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
Income Tax					
Rates	\$195.6	\$143.3	\$156.2	\$170.4	\$183.9
ESBTs	0.0	15.0	7.5	5.0	5.0
Personal Exemptions	51.7	35.6	36.1	36.5	37.0
Telecommunications Tax Credit	9.6	9.9	10.2	10.5	10.8
Subtotal	\$256.9	\$203.8	\$210.0	\$222.4	\$236.7
Sales and Use Tax					
Cylinder Demurrage	\$0.7	\$0.7	\$0.7	\$0.7	\$0.7
Subtotal	\$0.7	\$0.7	\$0.7	\$0.7	\$0.7
Other Tobacco Products Tax	\$5.0	\$4.8	\$4.9	\$5.0	\$5.1
Fees					
OAH	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5
Vital Records	0.7	0.7	0.7	0.7	0.7
Subtotal	\$1.2	\$1.2	\$1.2	\$1.2	\$1.2
Total Revenues	\$263.8	\$210.4	\$216.7	\$229.3	\$243.7
General Funds	261.6	208.2	214.5	227.1	241.5
Special Funds	2.2	2.2	2.3	2.2	2.2
TTF	1.6	1.6	1.7	1.5	1.6
HEIF	0.6	0.6	0.6	0.6	0.6

ESBT: electing small business trust
OAH: Office of Administrative Hearings
TTF: Transportation Trust Fund
HEIF: Higher Education Investment Fund

Exhibit 2
Fiscal 2013 Impact on Local Government Revenues

County	Personal Exemption	Recordation Tax	Total Impact
Allegany	\$70,000	\$107,000	\$177,000
Anne Arundel	3,018,000	2,925,000	5,943,000
Baltimore City	1,011,000	400,000	1,411,000
Baltimore	3,237,000	2,100,000	5,337,000
Calvert	599,000	550,000	1,149,000
Caroline	35,000	100,000	135,000
Carroll	1,057,000	800,000	1,857,000
Cecil	270,000	2,195,000	2,465,000
Charles	842,000	1,000,000	1,842,000
Dorchester	31,000	185,000	216,000
Frederick	1,444,000	5,000,000	6,444,000
Garrett	28,000	220,000	248,000
Harford	1,291,000	1,020,000	2,311,000
Howard	3,514,000	2,903,000	6,417,000
Kent	45,000	70,000	115,000
Montgomery	10,203,000	11,000,000	21,203,000
Prince George's	3,273,000	2,500,000	5,773,000
Queen Anne's	266,000	500,000	766,000
St. Mary's	590,000	500,000	1,090,000
Somerset	11,000	40,000	51,000
Talbot	117,000	565,000	682,000
Washington	279,000	455,000	734,000
Wicomico	167,000	350,000	517,000
Worcester	53,000	250,000	303,000
Total	\$31,451,000	\$35,735,000	\$67,186,000

Note: Local governments will also receive a total of \$159,000 in local highway user revenues due to the repeal of the Telecommunications Tax Credit.

Individual Income Tax – Tax Rate Increase

Provision in the Bill: Increases specified State income tax rates and establishes new State income tax brackets effective tax year 2012.

Type of Action: Revenue enhancement; tax increase

Fiscal	<i>(\$ in millions)</i>					
Impact:	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
GF Rev	\$0	\$195.6	\$143.3	\$156.2	\$170.4	\$183.9

State Effect: General fund revenues increase by \$195.6 million in fiscal 2013 due to the income tax rates specified by the bill, reflecting revenues from one and one-half tax years. Future year estimates reflect annualization and the current income tax revenue forecast.

It is estimated that 303,700 tax returns will realize more taxes in tax year 2012 under the proposed rate and personal exemption changes, which represents 13.7% of all estimated taxable resident returns filed. The estimated average State tax increase in tax year 2012 is \$509; the average State and local tax increase is \$579.

The State tax incidence is shown by county in **Exhibit 3**. **Appendix 1**, **Appendix 2**, and **Appendix 3** also show by local jurisdiction the percentage of the total increase in State taxes paid, the percentage of returns in each jurisdiction paying increased taxes, and the average increase in State and local taxes paid for each impacted return.

Current Law/Bill Summary: **Exhibit 4** shows the State income tax rates under current law. **Exhibit 5** shows the State income tax rates proposed by the bill beginning in tax year 2012.

Exhibit 3
Total State Tax Incidence for Changes to Income Tax
Tax Year 2012

County	Impacted Returns	Percent Total County Returns	State Income Tax Increase			Percent of Statewide Total Increase	Local Tax Increase	Average Increase Per Impacted Taxpayer	
			Rate	Personal Exemption	Total			State Taxes	State and Local Taxes
Allegany	725	3.1%	\$320,000	\$75,000	\$395,000	0.3%	\$47,000	\$545	\$610
Anne Arundel	35,411	16.7%	12,268,000	3,960,000	16,228,000	10.5%	2,031,000	458	516
Baltimore City	11,897	5.8%	5,450,000	1,032,000	6,482,000	4.2%	680,000	545	602
Baltimore	34,132	10.6%	19,955,000	3,737,000	23,692,000	15.3%	2,178,000	694	758
Calvert	5,672	16.6%	977,000	699,000	1,676,000	1.1%	403,000	295	367
Caroline	364	3.2%	25,000	44,000	69,000	0.1%	24,000	190	256
Carroll	8,573	13.2%	1,755,000	1,132,000	2,887,000	1.9%	711,000	337	420
Cecil	2,700	7.5%	552,000	315,000	867,000	0.6%	182,000	321	388
Charles	8,085	14.4%	922,000	949,000	1,871,000	1.2%	567,000	231	302
Dorchester	403	3.5%	98,000	39,000	137,000	0.1%	21,000	340	392
Frederick	12,981	14.1%	3,389,000	1,594,000	4,983,000	3.2%	972,000	384	459
Garrett	323	3.2%	173,000	35,000	208,000	0.1%	19,000	644	702
Harford	11,261	11.7%	2,672,000	1,379,000	4,051,000	2.6%	869,000	360	437
Howard	28,724	25.2%	10,574,000	3,589,000	14,163,000	9.2%	2,365,000	493	575
Kent	563	8.1%	137,000	52,000	189,000	0.1%	31,000	335	390
Montgomery	93,599	23.3%	52,490,000	10,420,000	62,910,000	40.7%	6,867,000	672	745
Prince George's	32,500	9.5%	3,455,000	3,343,000	6,798,000	4.4%	2,203,000	209	277
Queen Anne's	2,450	13.5%	851,000	271,000	1,122,000	0.7%	179,000	458	531
St. Mary's	5,512	14.1%	796,000	643,000	1,439,000	0.9%	397,000	261	333
Somerset	117	1.8%	12,000	12,000	24,000	0.02%	8,000	205	273
Talbot	1,769	12.2%	1,441,000	170,000	1,611,000	1.0%	79,000	911	955
Washington	2,879	5.4%	905,000	326,000	1,231,000	0.8%	188,000	428	493
Wicomico	1,639	4.9%	668,000	176,000	844,000	0.5%	112,000	515	583
Worcester	1,428	6.9%	716,000	140,000	856,000	0.6%	36,000	599	625
Total	303,708	13.7%	\$120,601,000	\$34,131,000	\$154,733,000		\$21,169,000	\$509	\$579

Exhibit 4
Maryland State Income Tax Rates
Current Law

Single, Dependent Filer, Married Filing Separate		Joint, Head of Household, Widower	
<u>Rate</u>	<u>Maryland Taxable Income</u>	<u>Rate</u>	<u>Maryland Taxable Income</u>
2.00%	\$1-\$1,000	2.00%	\$1-\$1,000
3.00%	\$1,001-\$2,000	3.00%	\$1,001-\$2,000
4.00%	\$2,001-\$3,000	4.00%	\$2,001-\$3,000
4.75%	\$3,001-\$150,000	4.75%	\$3,001-\$200,000
5.00%	\$150,001-\$300,000	5.00%	\$200,001-\$350,000
5.25%	\$300,001-\$500,000	5.25%	\$350,001-\$500,000
5.50%	Excess of \$500,000	5.50%	Excess of \$500,000

Exhibit 5
Maryland State Income Tax Rates
Proposed

Single, Dependent Filer, Married Filing Separate		Joint, Head of Household, Widower	
<u>Rate</u>	<u>Maryland Taxable Income</u>	<u>Rate</u>	<u>Maryland Taxable Income</u>
2.00%	\$1-\$1,000	2.00%	\$1-\$1,000
3.00%	\$1,001-\$2,000	3.00%	\$1,001-\$2,000
4.00%	\$2,001-\$3,000	4.00%	\$2,001-\$3,000
4.75%	\$3,001-\$100,000	4.75%	\$3,001-\$150,000
5.00%	\$100,001-\$125,000	5.00%	\$150,001-\$175,000
5.25%	\$125,001-\$150,000	5.25%	\$175,001-\$225,000
5.50%	\$150,001-\$250,000	5.50%	\$225,001-\$300,000
5.75%	Excess of \$250,000	5.75%	Excess of \$300,000

Small Business Effect: Small businesses that are partnerships, S corporations, limited liability companies, and sole proprietorships would be meaningfully impacted by the bill. Any of these small businesses with higher amounts of taxable income would be negatively impacted through increased income tax liabilities. An unknown number of impacted businesses would be small businesses.

Analysis prepared by: Robert J. Rehrmann

Individual Income Tax – Reduction/Elimination of Personal Exemptions

Provisions in the Bill: Reduce and eliminate income tax personal exemptions for certain taxpayers.

Type of Action: Revenue enhancement; tax increase

Fiscal	<i>(\$ in millions)</i>					
Impact:	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
GF Rev	\$0	\$51.7	\$35.6	\$36.1	\$36.5	\$37.0

State Effect: General fund revenues increase by \$51.7 million in fiscal 2013, reflecting the revenue impact of one and one-half tax years. Future year revenue estimates reflect annualization and projected growth in impacted personal exemptions.

Local Effect: Local income tax revenues increase by \$31.5 million in fiscal 2013, \$21.6 million in fiscal 2014, \$21.8 million in fiscal 2015, \$22.1 million in fiscal 2016, and \$22.3 million in fiscal 2017. Exhibit 2 shows the estimated impacts by county.

Program Description: An individual for State income tax purposes is entitled to claim the same number of personal exemptions that the individual claimed on the federal income tax return. Nonresidents and part-time residents are required to prorate exemptions based on the percentage of income subject to Maryland tax. **Exhibit 6** shows the current value of the personal exemption by federal adjusted gross income (FAGI) and filing class, and the proposed values under the bill.

Exhibit 6
Personal Exemption Values by FAGI and Filing Class

<u>FAGI</u>	<u>Current</u>	<u>Proposed</u>	<u>Change</u>
Single Taxpayers			
\$100,000 or less	\$3,200	\$3,200	\$0
\$100,001-\$125,000	2,400	1,600	(800)
\$125,001-\$150,000	1,800	800	(1,000)
\$150,001-\$200,000	1,200	0	(1,200)
Over \$200,000	600	0	(600)
Joint Taxpayers			
\$150,000 or less	\$3,200	\$3,200	\$0
\$150,001-\$175,000	2,400	1,600	(800)
\$175,001-\$200,000	1,800	800	(1,000)
\$200,001-\$250,000	1,200	0	(1,200)
Over \$250,000	600	0	(600)

Recent History: Chapter 3 of the 2007 special session increased the regular personal exemption to \$3,200 for single filers with FAGI of \$100,000 or less (\$150,000 or less for joint filers), but it gradually reduced the value of the exemption to \$600 as shown in Exhibit 6. Prior to Chapter 3, the value of the personal exemption was \$2,400 for all taxpayers.

Analysis prepared by: Robert J. Rehrmann

Individual Income Tax – Electing Small Business Trusts

Provision in the Bill: Requires, for State income tax purposes, that a fiduciary include the amount of income of an electing small business trust (ESBT) derived from stock in an S corporation for the purpose of calculating federal adjusted gross income. This requirement is effective beginning with tax year 2013.

Type of Action: Tax compliance, revenue enhancement

Fiscal	<i>(\$ in millions)</i>					
Impact:	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
GF Rev	\$0	\$0	\$15.0	\$7.5	\$5.0	\$5.0

State Effect: General fund revenues increase by \$15.0 million in fiscal 2014 reflecting the delayed implementation of the requirement. Future year revenue estimates reflect a projected decrease in annual revenue gains. To the extent ESBTs adjust quarterly estimated payments, revenue increases will occur in fiscal 2013.

Local Effect: Local income tax revenues increase by \$9.7 million in fiscal 2014, \$4.8 million in fiscal 2015, and by \$3.2 million annually beginning in fiscal 2016.

Current Law/Background: ESBTs are organizations defined by Section 1361 (e) (1) of the Internal Revenue Code (IRC). Generally, an ESBT is a trust that only has beneficiaries who are individuals, estates, or certain tax-exempt organizations. The interest in such trust cannot have been acquired by purchase, and the trust must elect to be treated as an ESBT. Certain trusts generally cannot qualify as an ESBT, including tax-exempt trusts, charitable remainder annuity trusts, charitable remainder unitrusts, and certain qualified subchapter S trusts.

ESBTs are eligible to hold stock in S corporations. Section 641 (c) of the IRC requires that the portion of any ESBT that consists of any stock in S corporations is treated as a separate trust for federal tax purposes. The taxable income of this portion of the trust includes (1) gains and losses from the sale of S corporation stock; (2) income, losses, or deductions allocated to the trust as an S corporation shareholder; (3) State and local taxes and administrative expenses of the trust properly allocable to the S corporation stock; and (4) any interest expense paid or accrued on debt incurred to acquire S corporation stock. Any portion of income from this separate trust that does not qualify as a capital gain is taxed at the highest rate imposed on estates and trusts, which is currently equal to the highest rate imposed on individuals.

For federal tax purposes, the federal adjusted gross income of the ESBT does not include income derived from stock in an S corporation. The tax on the portion of income derived

from stock in an S corporation is calculated separately and added to the tax liability resulting from the ESBT's other income. As such, the Comptroller's Office advises that income generated from S corporation stock is not taxed for State income tax purposes since federal adjusted gross income is the starting point for the Maryland adjusted gross income of a fiduciary.

Income of an ESBT not resulting from ownership of S corporation stock is generally subject to State income tax.

Analysis prepared by: Robert J. Rehrmann

Other Tobacco Products Tax

Provisions in the Bill: Increase the other tobacco product (OTP) tax rate from 15% to 30% of the wholesale price for all products except cigars effective July 1, 2012. The tax rate for cigars that are classified as premium cigars continues to be 15% of the wholesale price; all other cigars are taxed at 70% of the wholesale price. The bill also imposes a floor tax on any person possessing OTPs for sale at the start of business on July 1, 2012. Individuals are required to compile and file an inventory held at the close of business on June 30, 2012, and remit by October 15, 2012, any additional tax that is due.

Type of Action: Revenue enhancement; tax increase

Fiscal	<i>(\$ in millions)</i>					
Impact:	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
GF Rev	\$0	\$5.0	\$4.8	\$4.9	\$5.0	\$5.1

State Effect: General fund revenues increase by \$5.0 million in fiscal 2013, which reflects increased OTP tax revenues and the floor tax revenues, net of decreased sales tax revenues due to an expected decrease in consumption. Future revenue estimates reflect both OTP and sales tax impacts. The estimates are based on an examination of the additional OTP revenues generated through tax increases in 11 other states in fiscal 2006 through 2010, adjusted for Maryland.

Current Law/Background: Chapter 121 of 1999 established an OTP tax equal to 15% of the wholesale price. OTP tax revenues are projected to total \$14.2 million in fiscal 2013. About two-thirds of OTP tax revenues come from sales of cigars; 10% from moist snuff tobacco; and the remaining amount from chewing tobacco, roll-your-own, and pipe tobacco. In addition, the State sales tax of 6% is imposed on the final retail price of OTPs. **Exhibit 7** shows the OTP tax rates imposed in Maryland and surrounding states as of January 1, 2012, and the tax rate for moist snuff tobacco in those states that provide for a separate tax.

Small Business Effect: Meaningful. Small businesses that sell other tobacco products will be negatively impacted due to the decrease in the sales of these products resulting from the tax increases.

Exhibit 7
OTP and Moist Snuff Tobacco Tax Rates in Surrounding States

<u>State</u>	<u>OTP Tax Rate</u>	<u>Moist Snuff Tobacco (per Ounce)</u>
Delaware	15%	\$0.54
District of Columbia	12%*	0.75
Pennsylvania	None	
Virginia	10%**	0.18
West Virginia	7%	
Maryland	15%	

*Applied to retail price.

**Applied to manufacturing price, chewing tobacco taxed per unit.

Source: Federation of Tax Administrators

Analysis prepared by: Robert J. Rehrmann

Recordation Tax – Indemnity Mortgages

Provision in the Bill: Applies the recordation tax to an “indemnity mortgage” in the same manner as if the guarantor were primarily liable for the guaranteed loan, unless the recordation tax is paid on another instrument of writing that secures the payment of the guaranteed loan or the indemnity mortgage secures a guarantee of repayment of a loan for less than \$1.0 million. An indemnity mortgage includes any mortgage, deed of trust, or other security interest in real property that secures a guarantee of repayment of a loan for which the guarantor is not primarily liable.

Type of Action: Local revenue enhancement

State Effect: None; the counties and Baltimore City collect recordation taxes.

Local Effect: Local government revenues increase significantly beginning in fiscal 2013, depending on the number of transactions occurring each year and the value of each transaction. Based on estimates for recent transactions in some counties, total recordation tax revenues may increase by \$35.7 million in fiscal 2013. However, any increases may vary from year to year depending on local economic development activity. Local expenditures are not affected.

Exhibit 8 shows the county recordation tax rates and revenue collections for each jurisdiction for fiscal 2010 through 2012. Applying local recordation taxes to indemnity mortgages is expected to increase local revenues by approximately \$35.7 million in fiscal 2013, as shown in **Exhibit 9**, based on estimates provided by the counties and Baltimore City at the request of the Department of Legislative Services and the Maryland Association of Counties. Many counties have tracked the use of indemnity mortgages in recent years and have projected the lost revenue from such transactions. However, several counties either do not track the recording of indemnity mortgages or did not provide an estimate. In these instances, a 10% increase over fiscal 2012 recordation tax revenue is assumed. To the extent that the number of transactions varies going forward, the effect on county revenues will vary accordingly.

Current Law/Background: The counties and Baltimore City are authorized to impose locally established recordation tax rates on any business or person (1) conveying title to real property; or (2) creating or giving notice of a security interest (*i.e.*, a lien or encumbrance) in real or personal property by means of an instrument of writing. Local recordation tax rates range from \$2.50 per \$500 in Baltimore, Howard, and Prince George’s counties to \$6.00 per \$500 in Frederick and Talbot counties.

An indemnity mortgage works as follows. A lender agrees to loan money to a borrower on two conditions: (1) that a third party guarantees repayment of the loan; and (2) that the guarantor executes a mortgage on real property to secure the guarantee. An indemnity mortgage is the instrument that manifests the pledge of the property. An indemnity mortgage is recorded so as to establish a lien on the property.

This provision is intended to eliminate a purported tax avoidance transaction in which an entity, in order to avoid recordation tax on a deed of trust, creates a limited liability company (LLC) and has the LLC borrow money with a third party as the guarantor of the debt. In that case, no recordation tax is paid on the LLC borrowing or the third-party guarantee.

Recent History: HB 420 of 2011 received a hearing in the House Ways and Means Committee, but no further action was taken. SB 559/HB 260 of 2008 received hearings in the Senate Budget and Taxation Committee and House Ways and Means Committee, respectively, but no further action was taken on either bill. HB 409 of 2007 and HB 454 of 2006 received hearings in the House Ways and Means Committee, but no further action was taken on either bill.

Analysis prepared by: Michael D. Sanelli

Exhibit 8
Local Recordation Taxes – Rates and Collections

County	Tax Rate	FY 2010	FY 2011	FY 2012
Allegany	\$3.25	\$1,235,868	\$1,250,000	\$1,070,079
Anne Arundel	3.50	28,975,957	30,000,000	33,000,000
Baltimore City	5.00	20,942,367	19,425,608	20,545,000
Baltimore	2.50	20,027,562	18,423,084	21,000,000
Calvert	5.00	5,690,348	5,700,000	5,500,000
Caroline	5.00	1,236,554	1,200,000	1,200,000
Carroll	5.00	9,154,578	8,000,000	8,000,000
Cecil	4.10	4,418,309	4,200,000	4,000,000
Charles	5.00	9,500,396	10,000,000	10,000,000
Dorchester	5.00	1,921,225	1,781,386	1,849,386
Frederick	6.00	10,686,142	10,442,200	10,442,200
Garrett	3.50	2,037,153	1,950,000	2,200,000
Harford	3.30	10,236,128	8,935,000	10,200,000
Howard	2.50	15,267,362	15,500,000	17,000,000
Kent	3.30	968,716	995,000	700,000
Montgomery	3.45	44,934,687	60,015,000	60,198,000
Prince George's	2.50	27,028,937	26,065,800	24,587,100
Queen Anne's	4.95	2,489,560	2,650,000	2,650,000
St. Mary's	4.00	4,974,956	4,900,000	5,000,000
Somerset	3.30	556,498	318,000	400,000
Talbot	6.00	2,934,335	3,200,000	5,650,000
Washington	3.80	3,933,626	4,550,000	4,550,000
Wicomico	3.50	2,590,719	2,770,000	2,134,000
Worcester	3.30	6,195,293	5,250,000	5,750,000
Total		\$237,937,276	\$247,521,078	\$257,625,765

Source: Department of Legislative Services

Exhibit 9
Estimated Recordation Tax Revenue Increase
Indemnity Mortgages

County	Fiscal 2013
Allegany*	\$107,000
Anne Arundel	2,925,000
Baltimore City	400,000
Baltimore	2,100,000
Calvert*	550,000
Caroline	100,000
Carroll*	800,000
Cecil	2,195,000
Charles*	1,000,000
Dorchester*	185,000
Frederick	5,000,000
Garrett*	220,000
Harford*	1,020,000
Howard	2,903,000
Kent*	70,000
Montgomery	11,000,000
Prince George's	2,500,000
Queen Anne's*	500,000
St. Mary's	500,000
Somerset*	40,000
Talbot*	565,000
Washington*	455,000
Wicomico	350,000
Worcester	250,000
Total	\$35,735,000

*Based on 10% increase over estimated fiscal 2012 recordation tax revenues.
Source: Maryland Association of Counties; Department of Legislative Services

Department of Health and Mental Hygiene – Vital Records Fees

Provision in the Bill: Increases, from \$12 to \$24, the current fee for each of the following: (1) the first copy of a death certificate issued in a single transaction; (2) a search for a death certificate; and (3) a change to a death certificate made later than one year after the certificate has been registered.

Type of Action: Revenue enhancement; fee increase

Fiscal	<i>(in dollars)</i>					
Impact:	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
GF Rev	\$0	\$666,600	\$666,600	\$666,600	\$666,600	\$666,600

State Effect: General fund revenues increase by \$666,600 in fiscal 2013 due to the fee increase. Most of this increase is derived from a doubling of the fee for the first copy of a death certificate that is issued.

Program Description: The Division of Vital Records in the Department of Health and Mental Hygiene maintains a statewide system for registering, indexing, filing, and protecting all records of birth, death, fetal death, marriage and divorce, adoption, and legitimation and adjudication of paternity for events occurring in Maryland. Fees for vital records are set in statute and deposited to the general fund. Local health departments may also process and issue a certificate of birth or death or a report that a search of the files was made and the requested record is not on file.

Recent History: The Budget Reconciliation and Financing Act of 2011 (Chapter 397) increased, from \$12 to \$24, the fee for a copy of, search for, or change to a birth certificate. Previously, fees associated with vital records had not changed since 2003.

Analysis prepared by: Jennifer A. Ellick

Office of Administrative Hearings – Fees for Driver’s License Suspensions/Revocations

Provision in the Bill: Increases the maximum filing fee from \$125 to \$150 for an appeal of a decision by the Motor Vehicle Administration (MVA) to suspend or revoke a driver’s license.

Type of Action: Revenue enhancement; fee increase

Fiscal	<i>(in dollars)</i>					
Impact:	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
GF Rev	\$41,000	\$497,500	\$502,500	\$507,500	\$512,600	\$517,700

State Effect: General fund revenues increase by \$41,000 in the last month of fiscal 2012 due to the increase in the maximum filing fee that is effective on June 1, 2012. General fund revenues increase by \$497,500 in fiscal 2013 and by over \$500,000 in subsequent years. The estimate assumes that about 7% of fees are refunded back to applicants in accordance with the agency policy of refunding the filing fee to appellants if the administrative law judge took “no action” after the administrative hearing. The estimate also assumes that caseloads and refunds increase by 1% annually.

While the provision of current law amended by the bill authorizes the Chief Administrative Law Judge to charge a fee *not exceeding* a specified amount, it is expected that the Office of Administrative Hearings (OAH) will charge the maximum filing fee authorized by the bill.

Current Law: OAH provides an impartial hearing process for those who want to contest State agency actions. A citizen who disagrees with an action taken by a State agency (for example, a decision by MVA to suspend or revoke a driver’s license) may file an appeal with OAH to overturn or modify the action. OAH is an independent agency and its administrative law judges are experienced attorneys licensed by the State of Maryland. Cases are heard at locations throughout the State.

Recent History: Until enactment of the Budget Reconciliation and Financing Act of 2004 (Chapter 430), the filing fee for all administrative hearings provided by OAH was \$15. Chapter 430 established different maximum fees for administrative hearings based on the type of appeal that was filed. Accordingly, the MVA cases appealing driver’s license suspensions or revocations were subject to a maximum filing fee of \$125 beginning in fiscal 2005. All other cases were subject to a maximum filing fee of \$50.

Analysis prepared by: Karen D. Morgan

Corporate Income Tax – Credit for Telecommunications Property Taxes

Provision in the Bill: Repeals the corporate income tax credit for 60% of State and local property taxes paid on certain telecommunications property.

Type of Action: Revenue enhancement; tax credit elimination

Fiscal	<i>(\$ in millions)</i>					
Impact:	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
GF Rev	\$0	\$7.4	\$7.7	\$7.9	\$8.3	\$8.6
SF Rev	0	2.2	2.2	2.3	2.2	2.2

State Effect: General fund revenues increase by a total of \$7.4 million in fiscal 2013 due to the repeal of the credit. Transportation Trust Fund (TTF) revenues increase by \$1.6 million, and Higher Education Investment Fund (HEIF) revenues increase by \$575,400 in fiscal 2013. Future years reflect 3% annual revenue growth.

Local Effect: As a result of the repeal of the credit, highway user revenues increase by \$158,700 in fiscal 2013, \$156,900 in fiscal 2014, \$161,600 in fiscal 2015, \$146,800 in fiscal 2016, and \$151,200 in fiscal 2017.

Current Law: The Telecommunications Tax Reform Act of 1997 (Chapter 629) subjected income derived from a public utility's telecommunications business to the corporate income tax and created a credit against the corporate income tax for certain State and local property taxes paid by a public utility. Cables, lines, poles, and towers of telecommunications companies were also reclassified as operating personal property.

A telecommunications company that is a public utility is allowed a credit for a portion of the total property taxes paid by the company on its operating real property in Maryland, other than operating land, used in its telecommunications business. The credit may only be claimed against the corporate income tax. The credit is 60% of the total State and local property taxes paid by the public utility on the specified property. The credit cannot exceed the State income tax imposed in the year, and any unused amount may not be carried forward to any future tax years.

Analysis prepared by: Robert J. Rehrmann

Sales and Use Tax – Exemption for Cylinder Demurrage Charges

Provision in the Bill: Repeals the State sales and use tax exemption for demurrage charges in the nature of a penalty for failure to return a gas cylinder within a designated time period.

Type of Action: Revenue enhancement; tax exemption elimination

Fiscal	<i>(in dollars)</i>					
Impact:	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
GF Rev	\$0	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000

State Effect: General fund revenues increase by approximately \$700,000 annually beginning in fiscal 2013 due to the elimination of the tax exemption.

There is very little data available upon which to base a reliable estimate of the revenue impact of repealing this exemption. As the exemption was first enacted in 1965, it is possible that the market structure regarding fees and charges for compressed gas cylinders has changed over time. For example, some companies that sell propane tanks have partnerships with retailers to host propane tank exchanges whereby customers buy a full propane tank and exchange the empty tank for a new tank when needed.

The Department of Budget and Management's *Maryland Tax Expenditures Report* for fiscal 2012 estimates that the exemption reduces general fund revenues by approximately \$700,000 per year. Repealing the exemption, therefore, can be expected to increase annual general fund revenues by this amount. However, to the extent that the market structure related to the sale and use of compressed gas cylinders has changed over time, this amount will vary accordingly. Industry representatives estimate that as much as 80% of the industry now uses a rental method for selling compressed gas in cylinders as opposed to a demurrage method.

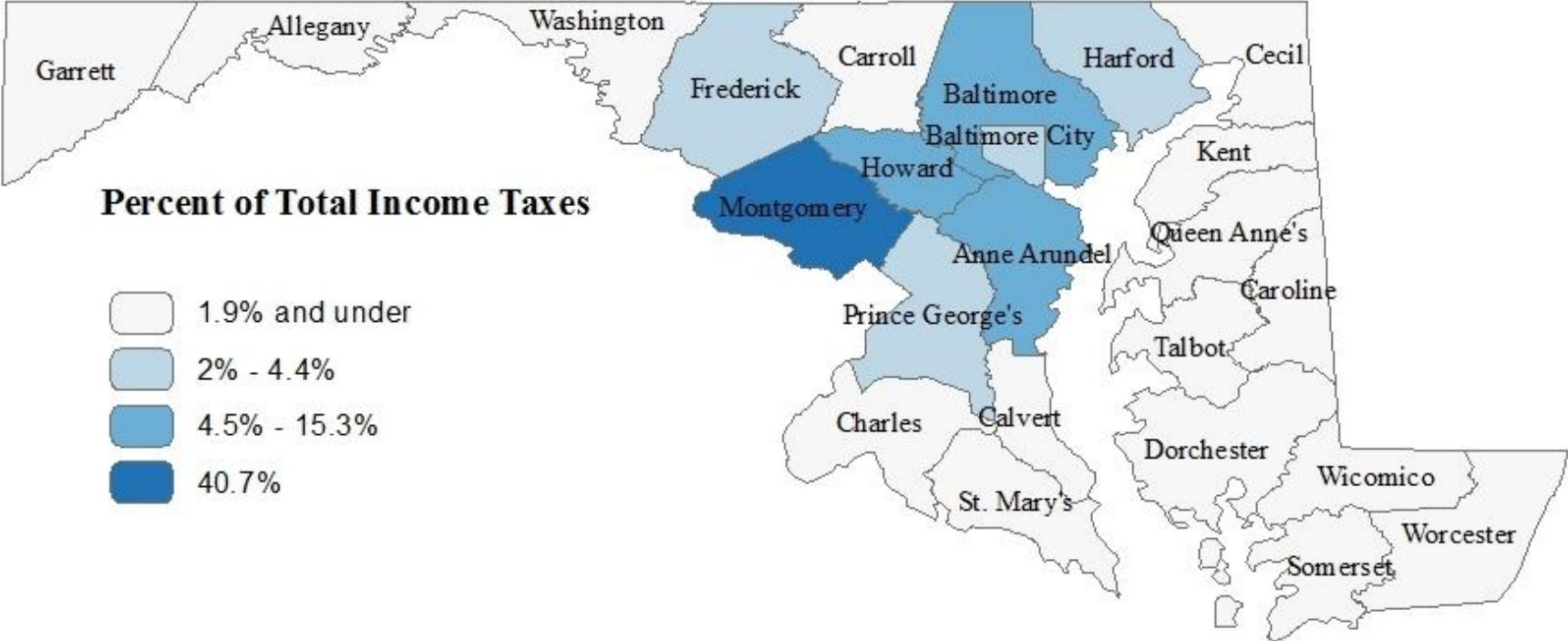
Current Law: The State sales and use tax does not apply to any demurrage charges in the nature of a penalty for failure to return a gas cylinder within a designated time period. A person failing to return a gas cylinder (tank) on time can be subject to a late fee, and that late fee is not subject to the sales tax.

A company selling compressed gas in cylinders typically sells the gas via two methods: (1) a rental method in which the company rents the cylinders owned by the company to the customer; or (2) a demurrage method by which the company provides the cylinders to the customer for free and then imposes a demurrage charge. For gas that is sold in rented cylinders, the customer pays for the compressed gas and a cylinder rental charge upon which the sales tax is imposed. For gas that is sold in cylinders via the demurrage

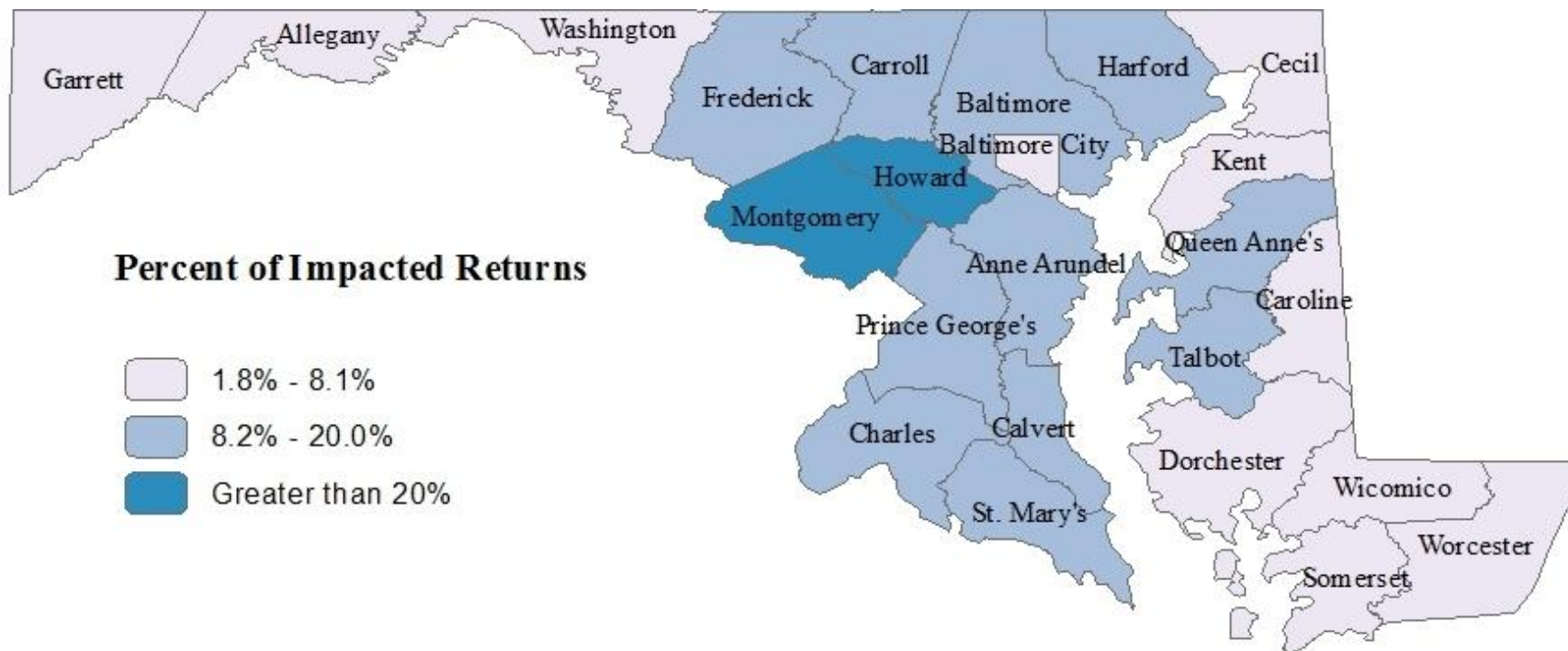
method, however, the customer typically receives an invoice for the price of the compressed gas as well as a demurrage invoice for the cylinders. If the customer retains the company's cylinders at the end of a specified invoice period (typically a month), the customer is charged a specified demurrage fee per cylinder. As noted above, as much as 80% of the industry is using the rental method.

Analysis prepared by: Michael D. Sanelli

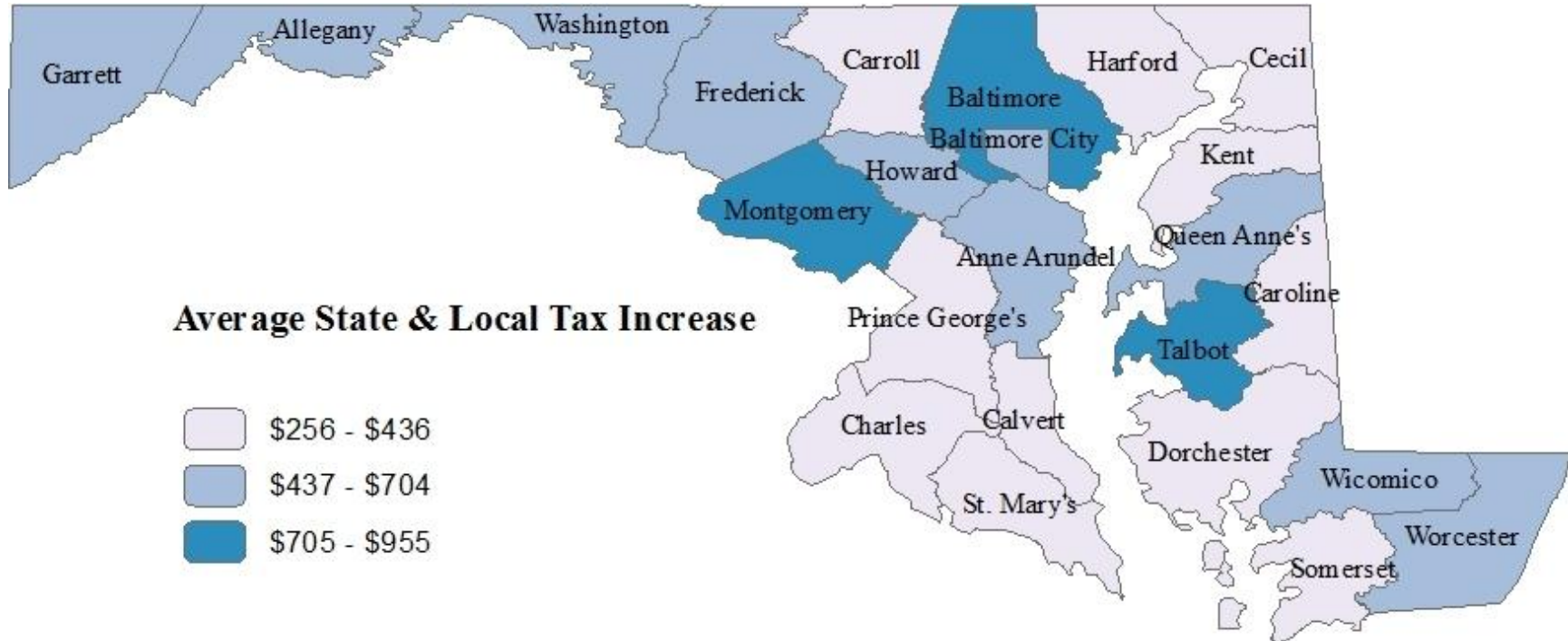
**Appendix 1
Percent of Total State Income Taxes Paid
Tax Year 2012**



Appendix 2
Percent of Returns with an Income Tax Increase
Tax Year 2012



Appendix 3
Average State and Local Income Tax Increase Per Impacted Return
Tax Year 2012



SENATE BILL 1302/ HOUSE BILL 1802

STATE AND LOCAL REVENUE AND FINANCING ACT OF 2012

SMALL BUSINESS ECONOMIC IMPACT RATING

This agency estimates that the following provisions of the proposed legislation will have minimal or no economic impact on Maryland small business:

- ◆ Increases the fee for the first copy of a death certificate, from \$12 to \$24 – \$667,000 in FY 2013.
- ◆ Increases from \$125 to \$150 the Office of Administrative Hearings fee for appeals of a driver's license suspension or revocation - \$497,500 in FY 2013.
- ◆ Repeals the corporate tax credit for property taxes claimed by telecommunications utilities - \$7.5 million in FY 2013.
- ◆ Includes certain income of an Electing Small Business Trust in the calculation of Maryland taxable income, conforming to federal tax law - effective Tax Year 2013.

This agency estimates that the following provisions of the proposed legislation will have meaningful economic impact on Maryland Small Business:

- ◆ Income Tax Rate Changes
 - Economic Impact Analysis – Indeterminate, but potentially significant
- ◆ Income Personal Exemptions
 - Economic Impact Analysis – Indeterminate
- ◆ Increases the other tobacco tax rate on moist snuff and smokeless tobacco from 15% to 30% of the wholesale price, and increases the rate on non-premium cigars to 70% of the wholesale price - \$5 million in FY 2013.
 - Economic Impact Analysis – Indeterminate, but potentially significant
- ◆ Closes the indemnity mortgage tax loophole which allows entities to avoid paying taxes on real estate transactions; applies only to loans greater than \$1 million - \$35.7 million local revenue in FY 2013; requires a study of the impact of the indemnity mortgage change on businesses
 - Economic Impact Analysis – Indeterminate, but potentially significant

- Repeals the sales tax exemption on penalty charges assessed on the late return of gas cylinders - \$700,000 in FY 2013.
 - Economic Impact Analysis – Indeterminate