

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 449 (Delegate Lafferty)
 Ways and Means

Income Tax - Corporate Returns - Disclosure of Settlement Payments to Governmental Units

This bill requires a corporation that claims an ordinary business deduction for a settlement payment to a federal, state, or local governmental unit to attach to the State income tax return a confidential statement that identifies the governmental unit that received the settlement and the amount paid under the settlement agreement. The Comptroller must collect and compile this information and report as specified in the bill to the Governor and the General Assembly by March 1 each year. **The bill takes effect July 1, 2018, and applies to tax year 2019 and beyond.**

Fiscal Summary

State Effect: General fund expenditures increase by at least \$62,000 in FY 2019 due to one-time implementation costs at the Comptroller’s Office. Revenues are not affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	62,000	0	0	0	0
Net Effect	(\$62,000)	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Under section 162 (a) of the Internal Revenue Code (IRC), businesses may generally deduct business expenses as ordinary and necessary business expenses on their

federal income tax return, which typically results in a lower federal and State income tax liability. Section 162 (f) of IRC generally prohibits the deduction of any amount paid or incurred to a governmental unit for the violation of any law. A fine or similar penalty includes an amount paid in settlement of the taxpayer's actual or potential liability for a fine or penalty, but it does not include legal fees and related expenses paid or incurred in the defense of a prosecution or civil action. Compensatory damages paid to a government do not constitute a fine or penalty.

State Expenditures: The Comptroller's Office reports that it will incur a one-time expenditure increase of \$62,000 in fiscal 2019 to add a captured checkbox to the corporate income tax form so that the Comptroller's Office can easily identify which corporations pay settlements to governments. The Comptroller's Office must then compile a spreadsheet on those corporations that report paying settlement payments to governments and create an annual report. The Comptroller's Office can likely do this with existing resources, but if a significant number of corporations report paying settlement payments to governments, the Comptroller's Office may need an additional employee to manually pull up tax returns and enter the data into a spreadsheet.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; CCH Intelliconnect; Department of Legislative Services

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