Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 179 (Delegate Luedtke)
Ways and Means

Income Tax - Subtraction Modification - Union Dues

This bill creates a subtraction modification against the State income tax for an individual who pays specified union dues. **The bill takes effect July 1, 2021, and applies to tax year 2021 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by $5.3 million in FY 2022 due to subtraction modifications claimed against the personal income tax. Future year revenue estimates reflect a stable amount of eligible expenses. General fund expenditures increase by $60,000 in FY 2022 due to one-time computer programming expenses at the Comptroller's Office.

($ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Revenue	($5.3)	($5.3)	($5.3)	($5.3)	($5.3)
GF Expenditure	$0.1	$0	$0	$0	$0
Net Effect	($5.4)	($5.3)	($5.3)	($5.3)	($5.3)

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

Local Effect: Local revenues decrease by about $3.5 million annually beginning in FY 2022. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Federal Law

To determine federal taxable income, a taxpayer may reduce their federal adjusted gross income by either claiming the standard deduction or itemizing allowable deductions. The expenses that may be itemized include certain home mortgage interest, charitable contributions, investment interest, medical expenses, casualty and theft losses, and up to $10,000 in state and local taxes.

Tax Year 2017

Prior to tax year 2018, a taxpayer who elected to itemize deductions could deduct certain miscellaneous expenses. Unreimbursed employee expenses, including specified union dues and expenses, qualified for the deduction.

Qualified union dues and expenses included union membership dues and initiation and certain assessments for benefit payments to unemployed union members. Nondeductible expenses include contributions to a pension fund or expenses related to certain lobbying and political activities. These expenses were subject to a 2% floor – a taxpayer could only deduct the expenses that exceeded 2% of the taxpayer's adjusted gross income.

Certain high-income taxpayers were required to reduce certain itemized deductions, including miscellaneous deductions, if certain conditions were met and the taxpayer's income exceeded specified amounts – $287,650 in tax year 2017 ($313,800 for married filing jointly).

The bill will allow a taxpayer for State income tax purposes to claim a subtraction modification for the amount of union dues that would have qualified for the miscellaneous itemized deduction, without regard to the 2% limitation.

Current Federal Law

The federal Tax Cuts and Jobs Act of 2017 (Public Law 115-97) was signed into law on December 22, 2017, and enacted significant changes to federal taxes, including the personal income tax. Although the Act reduced personal income taxes overall, several provisions reduce or eliminate several existing income tax benefits, including the elimination of the miscellaneous expenses deduction in tax years 2018 through 2025. Given the Act eliminated the deduction, an individual may not deduct union dues in these tax years; however, under current federal law, individuals will be able to claim the deduction in tax years 2026 and beyond.

Although most individuals cannot deduct union dues, self-employed individuals may be able to deduct the expenses as an ordinary and necessary business expense.

State Income Tax

An individual is allowed to itemize deductions for State income tax purposes only if the individual itemizes for federal income tax purposes. In addition, a taxpayer can itemize an expense for State income tax purposes only if the expense can be claimed as a federal itemized deduction. Only expenses that qualify for the federal itemized deduction qualify for State income tax purposes. An individual who itemizes for State income tax purposes is required to reduce the sum of the individual's federal itemized deductions by any amount:

- required by the Internal Revenue Code (IRC);
- deducted under Section 170 of IRC for contributions of a preservation or conservation easement for which a State credit is claimed; and
- claimed as taxes on income paid to a State or political subdivision of the State, after subtracting a pro rata portion of the reduction to itemized deductions required under Section 68 of IRC.

State Revenues: The bill creates, beginning in tax year 2021, a subtraction modification against the State income tax for an individual who pays certain union dues. As a result, general fund revenues will decrease by about $5.3 million beginning in fiscal 2022.

This estimate is based on the number of union members in Maryland and estimated fiscal cost of similar proposals in other states and for the federal income tax, adjusted for Maryland.

State Expenditures: The Comptroller's Office reports that it will incur a one-time general fund expenditure increase of $60,000 in fiscal 2022 to add the subtraction modification to the personal income tax forms. This includes data processing changes to the income tax return processing and imaging systems and systems testing.

Local Revenues: Local income tax revenues decrease as a result of deductions claimed against the personal income tax. Local revenues decrease by about $3.5 million annually beginning in fiscal 2022.

Additional Information

Prior Introductions: SB 549 of 2019, a similar bill, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. Its cross file, HB 111, received a hearing in the House Ways and Means Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Comptroller's Office; New York Department of Taxation and Finance**;** U.S. Census Bureau; U.S. Joint Committee on Taxation; Department of Legislative Services

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rh/hlb

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