# Department of Legislative Services

Maryland General Assembly
2022 Session

## FISCAL AND POLICY NOTE
## First Reader

Senate Bill 596 (Senator Guzzone)
Budget and Taxation

**Corporate Income Tax - Single Sales Factor Apportionment - Deferred Tax Relief**

This bill creates a subtraction modification against the corporate income tax for certain corporations whose deferred taxes were increased by Chapters 341 and 342 of 2018, which generally require corporations to apportion income using a single sales factor formula. The subtraction may be used to reduce the corporation's Maryland modified income for 10 consecutive years beginning with the first taxable year that begins after December 31, 2031. **The bill takes effect July 1, 2022.**

## Fiscal Summary

**State Effect:** The bill is not expected to have a fiscal impact until FY 2032, at which time general fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues and TTF expenditures will decrease and general fund expenditures for the Comptroller's Office will increase.

**Local Effect:** Local highway user revenues will decrease beginning in FY 2032. Local expenditures are not affected.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** The bill creates a subtraction modification against the State corporate income tax for a corporation that was publicly traded or affiliated with a publicly traded corporation on or before April 24, 2018, if the enactment of Chapters 341 and 342 of 2018 resulted in an aggregate (1) increase to the corporation's net deferred tax liability;

(2) decrease to the corporation's net deferred tax asset; or (3) change from a net deferred tax asset to a net deferred tax liability. The subtraction modification is equal to one-tenth of the amount necessary to offset that increase, decrease, or change. The subtraction calculated under the bill may not be reduced as a result of any event that occurs after the calculation, including the disposition or abandonment of any asset. The subtraction must be calculated without regard to the federal tax effect and may not alter the tax basis of any asset.

If the subtraction exceeds Maryland modified income computed without regard to the subtraction, any unused amount can be carried forward to future tax years until the full amount of the excess is used.

By July 1, 2023, a corporation that intends to claim a subtraction under the bill must file with the Comptroller a statement that specifies the total amount of the subtraction that the corporation intends to claim. The Comptroller may review and alter the amount of the subtraction specified in the statement or the subtraction claimed on a tax return for any taxable year.

**Current Law:** A corporate income tax rate of 8.25% is applied to a corporation's Maryland taxable income. In general, the Maryland corporate income tax is computed using federal provisions to determine income and deductions.

Every Maryland corporation and every corporation that conducts business within Maryland, including public service companies and financial institutions, are required to pay the corporate income tax. The tax base is the portion of federal taxable income, as determined for federal income tax purposes and adjusted for certain Maryland addition and subtraction modifications, that is allocable to Maryland. Federal taxable income, for this purpose, is the difference between total federal income and total federal deductions (including any special deductions).

The next step is to calculate a corporation's Maryland taxable income. The Maryland taxable income of a corporation that operates wholly within the State is equal to its Maryland modified income. Corporations engaged in multistate operations are required to determine the portion of their modified income attributable to Maryland, based on the amount of their trade or business carried out in Maryland.

Prior to tax year 2018, corporations were generally required to use either a three-factor apportionment formula of payroll, property, and sales, with sales double weighted, or, in the case of a manufacturing corporation, a one-factor formula based on sales, referred to as a single sales factor formula. The apportionment factor is then multiplied by the corporation's modified income to determine Maryland taxable income. Chapters 341 and 342 of 2018 phase in a requirement that all corporations subject to the corporate income tax, with an exception for specified worldwide headquartered companies, use a single sales factor formula to apportion income to the State.

**State Revenues:** The bill has no immediate fiscal impact, as subtraction modifications may be claimed beginning in tax year 2032. As a result, fiscal 2032 revenues will decrease by approximately 30% of the tax year 2032 decrease stemming from the subtraction modification due to corporations adjusting estimated tax payments. General fund, TTF, and HEIF revenues further decrease beginning in fiscal 2033. The Comptroller's Office advises that fewer than five corporations will claim the subtraction modification; however, the fiscal impact of the bill cannot be determined due to taxpayer confidentiality requirements.

**State Expenditures:** The Comptroller's Office reports that it will incur a one-time expenditure increase of $40,000 in fiscal 2032 to add the subtraction modification to the corporate income tax return. This includes data processing changes to the income tax return processing and imaging systems and system testing.

A portion of TTF revenues is used to provide capital transportation grants to local governments. To the extent that TTF revenues decrease as a result of taxpayers claiming the subtraction modification against the corporate income tax, TTF expenditures decrease by 9.6% of the TTF revenue decrease beginning in fiscal 2032. TTF revenues also fund the State capital program; thus, a decrease in TTF revenues decreases expenditures for the State capital program.

**Local Revenues:** Local governments receive a portion of corporate income tax revenues as local highway user revenues through capital transportation grants. Thus, local highway user revenues decrease beginning in fiscal 2032 to the extent that corporations claim the subtraction modification.

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## Additional Information

**Prior Introductions:** SB 458 of 2019 passed the Senate with amendments but received an unfavorable report from the House Ways and Means Committee.

**Designated Cross File:** HB 321 (Delegate Luedtke) - Ways and Means.

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

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