

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 540  
Ways and Means

(Delegate Vogel, *et al.*)

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Income Tax - Local Advertisement Tax Credit

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This bill authorizes a nonrefundable credit against the State income tax for costs incurred by small or medium-sized businesses during the taxable year for advertising through a news media entity based within the State. The maximum value of the credit is \$1,000 for the first tax year that a business claims the credit and \$500 for each subsequent tax year that the business claims the credit. A business may not claim the credit for more than five tax years. Any unused amount of credit may not be carried forward to any other tax year. The Comptroller must adopt regulations to carry out the bill's provisions. **The bill takes effect July 1, 2023, and applies to tax year 2023 and beyond.**

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Fiscal Summary

**State Effect:** General fund revenues decrease, potentially significantly, beginning in FY 2024. Transportation Trust Fund (TTF) and Higher Education Investment Fund (HEIF) revenues also decrease to the extent credits are claimed against the corporate income tax. General fund expenditures for the Comptroller's Office increase by at least \$63,000 in FY 2024 for one-time costs and may increase further in FY 2024 and future years, as discussed below. In addition, TTF expenditures for local highway user revenue grants may decrease beginning in FY 2024, as discussed below

**Local Effect:** Local highway user revenues may decrease beginning in FY 2024 to the extent credits are claimed against the corporate income tax. Local expenditures are not affected.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary:** For purposes of the bill, “small or medium-sized business” means a business with fewer than 50 employees. “News media entity” means an entity engaged primarily in the business of newsgathering, reporting, or publishing articles or commentary about news, current events, culture, or other matters of public interest; it does not include an entity that is primarily an aggregator or republisher of third-party content.

**Current Law:** State law does not provide for an income tax credit for local advertisement costs incurred by businesses, as contemplated under the bill.

Section 162 of the Internal Revenue Code authorizes individuals and businesses to deduct ordinary and necessary business expenses paid or incurred during the taxable year in carrying on any trade or business, subject to various requirements and limitations. Such deductions generally flow through to Maryland taxable income for purposes of State income tax.

**State Revenues:** General fund revenues decrease by an indeterminate amount beginning in fiscal 2024 due to additional credits claimed against the income tax. To the extent credits are claimed against the corporate income tax, TTF and HEIF revenues are also affected. A reliable estimate cannot be determined, as it is unknown how many businesses will be eligible for and claim the credit. However, a preliminary estimate by the Comptroller’s Office suggests that State revenues may decrease by as much as \$12 million annually in the first four years of implementation.

**State Expenditures:** General fund expenditures for the Comptroller’s Office increase by at least \$63,000 in FY 2024 for one-time changes to the Comptroller’s tax systems.

The bill does not specify an administering agency for purposes of the proposed tax credit, although it requires the Comptroller’s Office to adopt regulations to carry out the bill’s provisions. To the extent the Comptroller’s Office is responsible for certifying credits claimed, additional personnel are likely needed. The Comptroller’s Office estimates that associated general fund expenditures may total more than \$200,000 annually.

To the extent credits are claimed against the corporate income tax, TTF expenditures for local highway user revenue grants may decrease beginning in fiscal 2024.

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## Additional Information

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

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

**Fiscal Note History:** First Reader - February 15, 2023  
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