Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 2 (Delegate J. Lewis)
Ways and Means Budget and Taxation

Income Tax - Subtraction Modification - Union Dues

This bill authorizes a subtraction modification against Maryland income tax for the amount of union dues paid by an individual during the taxable year that were allowed as a deduction under the Internal Revenue Code (IRC) prior to January 1, 2018, as specified. **The bill takes effect July 1, 2023, and applies to tax year 2023 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by $9.88 million in FY 2024. Future years reflect projected growth in eligible subtractions. General fund expenditures increase by $50,000 in FY 2024 only.

($ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	($9.88)	($10.28)	($10.69)	($11.11)	($11.56)
GF Expenditure	$0.05	$0	$0	$0	$0
Net Effect	($9.93)	($10.28)	($10.69)	($11.11)	($11.56)

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

Local Effect: Local revenues decrease by $6.45 million in FY 2024 and $7.54 million in FY 2028. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law:

Miscellaneous Itemized Deductions and Federal Tax Treatment of Union Dues

To determine federal taxable income, a taxpayer may subtract from federal adjusted gross income either the standard deduction or itemized allowable deductions. In tax years prior to tax year 2018 and after tax year 2025, a taxpayer who elects to itemize deductions may deduct specified "miscellaneous itemized deductions."

Authorized Deductions for Union Dues and Expenses: Authorized miscellaneous itemized deductions include, among other things, unreimbursed employee expenses (§ 162 of the IRC), such as union dues and expenses. Deductible union dues and expenses include membership dues and initiation fees and assessments for benefit payments to unemployed union members. Nondeductible expenses include assessments or contributions that provide funds for the payment of sick, accident, or death benefits; contributions to a pension fund; or amounts related to certain lobbying and political activities.

Two Percent Floor: As specified in § 67 of the IRC, miscellaneous itemized deductions are subject to a 2% floor; thus, a taxpayer may deduct qualifying expenses only to the extent that the *aggregate* of such deductions exceeds 2% of the taxpayer's federal adjusted gross income.

Suspension of Miscellaneous Itemized Deductions for Tax Years 2018 through 2025: The federal Tax Cuts and Jobs Act of 2017 (TCJA), which made significant changes to the personal income tax, disallowed miscellaneous itemized deductions for tax years 2018 through 2025, regardless of the 2% floor. Thus, individuals may not deduct union dues and expenses on their federal income tax returns in these years but may claim the deduction in tax year 2026 and beyond.

Under the bill, a taxpayer may claim a subtraction modification against Maryland income tax for the amount of union dues that were allowed as a federal miscellaneous itemized deduction prior to January 1, 2018, regardless of the 2% floor and suspension of miscellaneous itemized deductions through tax year 2025.

Overall Limitation on Federal Itemized Deductions

In tax years prior to tax year 2018 and after tax year 2025, allowable itemized deductions (with specified exceptions) are reduced for certain high-income taxpayers whose adjusted gross income exceeds specified inflation-adjusted thresholds. For tax year 2017, the limitation applied to taxpayers with adjusted gross income in excess of $261,500 (for single filers), $287,650 (for heads of household), and $313,800 (for joint filers and surviving spouses). The TCJA suspended the limitation on itemized deductions for high-income taxpayers for tax years 2018 through 2025.

Maryland Itemized Deductions

An individual may itemize deductions for purposes of determining Maryland taxable income only if the individual itemizes deductions on the individual's federal income tax return for purposes of determining federal taxable income. An individual who elects to itemize deductions for State income tax purposes is allowed as a deduction the sum of the individual's federal itemized deductions, limited and reduced as required under the Internal Revenue Code and further reduced by:

- any amount deducted under § 170 of the IRC for contributions of a preservation or conservation easement for which a State tax credit is claimed; and
- the amount claimed as taxes on income paid to a state or political subdivision of a state, after subtracting a *pro rata* portion of the reduction to itemized deductions as required under § 68 of the IRC.

State/Local Revenues: As discussed above, the bill allows a taxpayer to subtract specified union dues from federal adjusted gross income for purposes of determining Maryland adjusted gross income. Thus, State general fund revenues and local income tax revenues decrease beginning in fiscal 2024 as a result of additional subtraction modifications claimed against Maryland income tax.

Exhibit 1 displays the bill's estimated effect on State and local revenues in fiscal 2024 through 2028. As shown in the exhibit, in fiscal 2024, State general fund revenues decrease by an estimated $9.88 million, and local revenues decrease by an estimated $6.45 million. Future years reflect projected growth in eligible subtractions. This estimate is based on data published by the U.S. Bureau of Labor Statistics on (1) union affiliation of Maryland employed wage and salary workers and (2) median weekly earnings of full-time union wage and salary workers. This estimate assumes that a taxpayer may claim the State subtraction modification regardless of whether the taxpayer itemizes federal deductions.

Exhibit 1
Effect on State and Local Revenues
Fiscal 2024-2028
($ in Millions)

	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
State Effect	($9.88)	($10.28)	($10.69)	($11.11)	($11.56)
Local Effect	(6.45)	(6.71)	(6.97)	(7.25)	(7.54)
Total Effect	**($16.33)**	**($16.98)**	**($17.66)**	**($18.37)**	**($19.10)**

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

State Expenditures: General fund expenditures increase by $50,000 in fiscal 2024 only for one-time changes to the Comptroller's tax systems.

Additional Comments: The General Assembly passed similar legislation in the 2022 session (House Bill 172); the Governor subsequently vetoed the bill.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 172 of 2022 and HB 179 of 2021.

Designated Cross File: None.

Information Source(s): Comptroller's Office; U.S. Bureau of Labor Statistics; Internal Revenue Service; CCH AnswerConnect; Department of Legislative Services

Fiscal Note History: First Reader - January 23, 2023
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Analysis by: Elizabeth J. Allison

Direct Inquiries to:
(410) 946-5510
(301) 970-5510