

**Department of Legislative Services**  
 Maryland General Assembly  
 2023 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

Senate Bill 243

(Senator Guzzone, *et al.*) (By Request - Office of the  
 Comptroller)

Budget and Taxation

Ways and Means

**Income Tax - Child and Dependent Care Tax Credit - Alterations**

This departmental bill limits eligibility for the State child and dependent care tax credit to resident taxpayers. **The bill takes effect July 1, 2023, and applies to tax year 2023 and beyond.**

**Fiscal Summary**

**State Effect:** General fund revenues may increase by an estimated \$332,000 annually beginning in FY 2024, as discussed below. Expenditures are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	\$332,000	\$332,000	\$332,000	\$332,000	\$332,000
Expenditure	0	0	0	0	0
Net Effect	\$332,000	\$332,000	\$332,000	\$332,000	\$332,000

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

**Local Effect:** None.

**Small Business Effect:** The Office of the Comptroller has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

## Analysis

### **Current Law/Background:**

#### *State Child and Dependent Care Credit*

A taxpayer who claims the federal child and dependent care credit may claim the State child and dependent care credit if the taxpayer's federal adjusted gross income (FAGI) does not exceed a specified maximum income threshold. Unlike the State's earned income credit, eligibility for the child and dependent care credit is not limited to resident taxpayers.

The maximum value of the State credit is 32% of the federal credit and begins to phase out for taxpayers with FAGI over \$30,000 (\$50,000 if married filing jointly). For individual filers, the credit rate decreases by one percentage point for each \$2,000 (or fraction thereof) of FAGI over \$30,000; for joint filers, the credit rate decreases by one percentage point for each \$3,000 (or fraction thereof) of FAGI over \$50,000.

The credit is refundable for taxpayers whose FAGI does not exceed a specified maximum income threshold; for all other taxpayers, the value of the credit is capped at the taxpayer's State income tax liability. For tax year 2022, the refundable credit is available to taxpayers with FAGI of up to \$55,750 (\$83,650 if married filing jointly).

#### *Federal Child and Dependent Care Credit*

A taxpayer may be eligible to claim the federal child and dependent care credit if the taxpayer paid expenses for the care of one or more qualifying individuals during the taxable year and the expenses were incurred to enable the taxpayer to work or look for employment. A qualifying individual is (1) a dependent child younger than age 13 or (2) a spouse, dependent, or other specified individual who is physically or mentally incapable of self-care and lived with the taxpayer for more than half of the year.

*Tax Years Other Than Tax Year 2021:* For tax years other than tax year 2021, the credit may be applied to eligible expenses of up to \$3,000 for one qualifying individual or \$6,000 for two or more qualifying individuals, minus the amount of any employer-provided dependent care benefits excluded from gross income. Further, the amount of expenses used to calculate the credit may not exceed the taxpayer's earned income. The maximum value of the credit is 35% of eligible expenses, subject to a maximum dollar value of \$1,050 for one qualifying individual and \$2,100 for two or more qualifying individuals. The credit rate decreases by one percentage point for each \$2,000 (or fraction thereof) of FAGI over \$15,000 until the credit rate is reduced to a minimum of 20% for taxpayers with FAGI over \$43,000.

*Temporary Enhancements for Tax Year 2021:* The American Rescue Plan Act of 2021 (ARPA) substantially enhanced the federal child and dependent care credit for tax year 2021 only. Specifically, the Act:

- increased the maximum amount creditable to \$8,000 for one qualifying individual and \$16,000 for two or more qualifying individuals;
- increased the maximum credit rate to 50% for taxpayers with FAGI of up to \$125,000. The credit rate begins to phase out for taxpayers with FAGI over \$125,000 and completely phases out for taxpayers with FAGI over \$438,000; and
- made the credit refundable for taxpayers who meet certain residency requirements.

**State Revenues:** The bill disallows the State child and dependent care credit for nonresident taxpayers beginning in tax year 2023. Thus, general fund revenues may increase by an estimated \$332,000 annually beginning in fiscal 2024 due to an anticipated decrease in credits claimed against the State income tax. This estimate is based on the average amount of child and dependent care credits claimed on nonresident income tax returns in tax years 2019 and 2020.

The Comptroller reports that approximately \$1.5 million in child and dependent care credits were claimed on nonresident income tax returns in tax year 2021. However, tax year 2021 claims for the tax credit are not reflective of a typical year due to the significant enhancements to the federal child and dependent care credit for tax year 2021 as enacted under ARPA.

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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; Internal Revenue Service; Department of Legislative Services

**Fiscal Note History:** First Reader - January 30, 2023  
rh/jrb Third Reader - March 17, 2023

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Income Tax - Child and Dependent Care Tax Credit - Alterations

BILL NUMBER: SB 243

PREPARED BY: Justin Hayes, Director of State Affairs, COM

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

**OR**

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

Because this bill – and the underlying credit – applies to individuals only, there is no small business impact whatsoever.