

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1080 (Delegate Solomon)
 Ways and Means

**Income Tax - Addition Modifications - Excluded Opportunity Fund Gains,
 Foreign-Derived Deduction Eligible Income, and Interest**

This bill prohibits the Governor from nominating a census tract for designation as a federal qualified opportunity zone (QOZ) after July 4, 2025, and requires an income tax addition modification for the amount of gain excluded from federal income tax as a result of amendments to the federal QOZ program made under the federal One Big Beautiful Bill Act (OBBBA) of 2025 (which generally apply to investments made and property acquired after December 31, 2026). The bill also requires addition modifications for (1) any amount of foreign-derived deduction eligible income (FDDEI) deducted under § 250 of the Internal Revenue Code (IRC) and (2) any amount of interest income on loans secured by rural or agricultural real property excluded under IRC § 139L, as authorized under OBBBA. **The bill takes effect July 1, 2026; provisions relating to income tax addition modifications apply to tax year 2026 and beyond.**

Fiscal Summary

State Effect: General fund revenues and Transportation Trust Fund (TTF) revenues increase by an estimated \$12.9 million and \$1.3 million, respectively, in FY 2027. Future years reflect the projected net effect of accelerated qualified opportunity fund (QOF) gain recognition and ongoing addition modifications, as discussed below. General fund expenditures for the Comptroller’s Office increase by an estimated \$0.2 million in FY 2027 only.

(\$ in millions)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
GF Revenue	\$12.9	\$19.5	\$17.3	\$10.2	\$10.9
SF Revenue	\$1.3	\$2.0	\$1.8	\$0.9	\$1.0
GF Expenditure	\$0.2	\$0	\$0	\$0	\$0
Net Effect	\$14.0	\$21.5	\$19.1	\$11.2	\$11.9

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

Local Effect: Local income tax revenues increase by an estimated \$5.7 million in FY 2027; \$8.6 million in FY 2028; \$7.7 million in FY 2029; \$4.7 million in FY 2030; and \$5.1 million in FY 2031.

Small Business Effect: Minimal.

Analysis

Current Law:

Federal Opportunity Zone Program

The federal Tax Cuts and Jobs Act (TCJA) of 2017 authorized states to nominate specified low-income census tracts for designation as QOZs with designations lasting for a period of 10 years. The Act allowed taxpayers to defer tax on eligible gain that is reinvested in a QOF (an investment vehicle organized as a corporation or partnership for the purpose of investing in QOZ property, as specified) within 180 days of the date of the sale or exchange giving rise to the gain. Tax on the reinvested gain is deferred until the earlier of the date on which the investment is sold or exchanged or December 31, 2026. The taxpayer's initial basis in the investment is zero; the taxpayer receives a 10% step-up in basis if the investment is held for at least 5 years and an additional 5% step-up in basis if the investment is held for at least 7 years. For investments held for at least 10 years, taxpayers may elect to increase their basis to the fair market value of the investment on the date it is sold or exchanged.

OBBBA permanently extended the QOZ program, allowing for rolling decennial QOZ designations, with the first set of QOZ designations under the new law taking effect January 1, 2027. For investments made after December 31, 2026, tax on gain reinvested in a QOF may be deferred until the earlier of the date on which the investment is sold or exchanged or 5 years after the date of the investment. Taxpayers receive a 10% step-up in basis for investments held for at least 5 years (30% in the case of investments in a qualified rural opportunity fund). For investments held for at least 10 years, taxpayers may elect to increase their basis to the fair market value of the investment on the date it is sold or exchanged (for investments held for at least 30 years, the fair market value on the date that is 30 years after the date of the investment).

Maryland Net Capital Gain Surtax

The Budget Reconciliation and Financing Act of 2025 (Chapter 604) imposes a 2% surtax for taxpayers with federal adjusted gross income (AGI) in excess of \$350,000 on certain net capital gain included in Maryland AGI. The surtax does not apply to gain from the sale

or exchange of a primary residential dwelling sold for less than \$1.5 million; assets held in specified retirement savings plans; cattle, horses, or breeding livestock held for more than 12 months; certain land subject to a conservation, agricultural, or forest preservation easement; section 179 property; or affordable housing owned by a nonprofit organization. The Comptroller must distribute 37.5% of the proceeds from the surtax to TTF.

Foreign-derived Deduction Eligible Income

TCJA allowed a deduction equal to a specified percentage of a domestic corporation's foreign-derived intangible income (FDII) for the tax year. The deduction percentage is 37.5% for tax years 2017 through 2025 and was scheduled to reduce to 21.875% for tax years after 2025. Prior law generally defined FDII as the portion of a domestic corporation's intangible income derived from serving foreign markets, as determined by applying the corporation's foreign-derived ratio (ratio of foreign-derived deduction eligible income (FDDEI) to total deduction eligible income (DEI)) to the corporation's deemed intangible income (DEI in excess of a 10% fixed return on qualified business asset investment). "DEI" is a net income amount defined as gross income without regard to certain income sources and reduced by deductions properly allocable to such gross income.

OBBBA recharacterizes the FDII deduction as the FDDEI deduction and permanently allows a deduction equal to 33.34% of FDDEI for tax year 2026 and beyond. OBBBA also modifies the definition of DEI for tax year 2026 and beyond by (1) excluding an additional category of income (specified income and gain from the sale or disposition of intangible property or other property subject to depreciation, amortization, or depletion by the seller) and (2) disregarding deductions for interest expenses and research or experimental expenditures properly allocable to such gross income.

Interest on Loans Secured by Rural or Agricultural Real Property

OBBBA allows an exclusion for 25% of the interest received by a qualified lender on a qualified loan secured by rural or agricultural real estate. The exclusion is available for tax years ending after July 4, 2025. "Qualified lender" includes any federally-insured bank or savings association, any state- or federally-regulated insurance company, domestic subsidiaries of bank and insurance holding companies, and the Federal Agricultural Mortgage Corporation ("Farmer Mac"). "Rural or agricultural real estate" means any real property which is substantially used for the production of one or more agricultural products; any real property which is substantially used in the trade or business of fishing or seafood processing; and any aquaculture facility. It does not include any property which is not located in a state or a possession of the United States.

State Revenues: Exhibit 1 details the bill’s estimated State revenue effects by provision and by fund. As shown in the exhibit, State revenues increase by an estimated \$14.2 million in fiscal 2027, including \$12.9 million in general funds, due to the addition of excluded QOF gain and § 139L interest back to income. The TTF revenue effects shown reflect the TTF share of net capital gain surtax revenue generated from the addition modification for excluded QOF gain. Future years reflect the projected net effect of accelerated QOF gain recognition and ongoing addition modifications. This estimate does not reflect any State revenues that may be generated by the bill’s addition modification for deducted FDDEI, which cannot be reliably estimated.

Exhibit 1
Quantified State Revenue Effects
Fiscal 2027-2031
(\$ in Millions)

	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	<u>FY 2030</u>	<u>FY 2031</u>
<i>By Decoupling Provision</i>					
QOF Gain Exclusion	\$13.5	\$20.5	\$17.8	\$9.6	\$10.0
§ 139L Exclusion	0.7	1.0	1.2	1.6	1.9
<i>By Fund</i>					
General Fund	\$12.9	\$19.5	\$17.3	\$10.2	\$10.9
TTF	1.3	2.0	1.8	0.9	1.0
Total State Revenue Effect	\$14.2	\$21.5	\$19.1	\$11.2	\$11.9

QOF: qualified opportunity fund
TTF: Transportation Trust Fund

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

Source: Comptroller’s Office; Department of Legislative Services

This estimate is based on an analysis by the Comptroller’s Office of State and federal income tax return data and estimated federal revenue effects of relevant OBBBA provisions published by the U.S. Joint Committee on Taxation.

State Expenditures: General fund expenditures for the Comptroller’s Office increase by an estimated \$150,000 in fiscal 2027 for one-time programming costs. This estimate does not reflect any increase in TTF expenditures for local highway user revenue grants resulting from the bill’s addition modification for deducted FDDEI, which cannot be reliably estimated.

Local Revenues: Local income tax revenues increase by an estimated \$5.7 million in fiscal 2027; \$8.6 million in fiscal 2028; \$7.7 million in fiscal 2029; \$4.7 million in fiscal 2030; and \$5.1 million in fiscal 2031 due to addition modifications claimed on personal income tax returns. This estimate does not reflect any local income tax revenues or local highway user revenues that may be generated by the bill's addition modification for deducted FDDEI, which cannot be reliably estimated.

Additional Comments: The bill requires an addition modification for the amount of any QOF gain excluded from federal income tax as a result of OBBBA's amendments to QOZ program provisions. However, the bill does not require a corresponding subtraction modification for the amount of any such gain recognized on the federal income tax return in a subsequent year – gain which, under the bill's provisions, will already have been recognized and subject to Maryland tax on the Maryland income tax return. Nonetheless, this fiscal and policy note assumes that the bill accelerates the recognition of otherwise-deferred QOF gain rather than subjecting any amounts to tax in multiple years.

Additional Information

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

Designated Cross File: None.

Information Source(s): Department of Commerce; Comptroller's Office; Maryland Department of Agriculture; Maryland Department of Planning; Department of Legislative Services

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js/jrb

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