

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 323
Ways and Means

(Delegate Stewart)

**Income Tax - Credit for Income Taxes and Penalties Due to Financial
Exploitation**

This bill allows a nonrefundable credit against the State income tax for the amount of specified income tax or penalties attributable to an early withdrawal of retirement funds due to financial exploitation. The credit is equal to the lesser of (1) the State income tax attributable to the early withdrawal or (2) federal tax penalties paid in accordance with Internal Revenue Code (IRC) § 72(t) that are attributable to the early withdrawal. To claim the credit, an eligible taxpayer must provide specified documentation of the financial loss and penalties. **The bill takes effect July 1, 2026, and applies to tax year 2026 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by an indeterminate amount annually beginning in FY 2027. The Comptroller's Office can implement the bill's changes with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Financial exploitation," as it applies to the bill, has the meaning stated in §13-601 of the Estates and Trusts Article. Thus, financial exploitation includes (1) breach of a fiduciary relationship resulting in the unauthorized appropriation, sale, or transfer of property; (2) unauthorized taking of personal assets; (3) misappropriation, misuse, or

transfer of assets belonging to a susceptible or older adult from a personal or joint account; and (4) intentional failure to effectively use a susceptible or older adult's income and assets for the necessities required for the susceptible or older adult's support and maintenance. It does not include an individual's good-faith use of a susceptible or older adult's assets, including for the purposes of establishing and implementing an estate plan intended to reduce taxes or to maximize eligibility for public benefits in order to preserve assets for an identified or identifiable person.

When claiming a credit under the bill, an eligible taxpayer must provide information demonstrating a loss resulting from financial exploitation and an affidavit attesting that federal tax penalties were incurred as a result of early withdrawal of retirement funds due to financial exploitation.

Current Law: IRC § 72(t) imposes a 10% additional tax on early distributions from a qualified retirement plan, subject to specified exceptions. The additional tax does not apply to distributions made on or after the date on which the taxpayer attains age 59 and a half. Maryland does not offer a State income tax credit to offset tax or penalties attributable to early withdrawals of retirement funds due to financial exploitation.

Maryland does conform to the federal personal casualty loss deduction under § 165 of the IRC. However, pursuant to provisions of the federal Tax Cuts and Jobs Act of 2017 and the One Big Beautiful Bill Act of 2025, net personal theft losses not attributable to a federally or State declared disaster are disallowed for tax years after 2017.

State Revenues: General fund revenues decrease by an indeterminate amount annually beginning in fiscal 2027 due to credits claimed against the personal income tax. Due to data limitations, the bill's precise revenue effect cannot be reliably estimated at this time. It is unknown how many taxpayers will potentially be eligible for the tax credit and the amount of their financial losses and penalties. The Department of Legislative Services notes that the bill limits eligibility for the tax credit to individuals who are subject to early withdrawal penalties under IRC §72(t); thus, it is assumed that individuals age 59 and a half or older are ineligible for the credit, as they are not subject to these penalties.

Additional Information

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

Designated Cross File: SB 291 (Senator Bailey) - Budget and Taxation.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of Human Services; Maryland Department of Labor; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2026
sj/jrb

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