Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 124 (Delegate Vogel)
Ways and Means

Income Tax - Subtraction Modification - Losses From Theft or Fraud

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This bill allows a subtraction modification against the personal income tax for (1) the amount of personal theft loss sustained during the tax year that consists of qualified retirement plan assets and that was allowed as a deduction under § 165 of the Internal Revenue Code (IRC) before January 1, 2018, and (2) the amount of any related expenses or penalties incurred during the tax year. The amount of the subtraction is reduced by the amount of any related deduction allowed under § 165 for the tax year. To qualify for the subtraction, a taxpayer must attach to the taxpayer's income tax return a police report establishing that the theft or fraud scheme occurred and additional evidence of the impacted qualified retirement plan assets. **The bill takes effect July 1, 2026, and applies to tax year 2026 and beyond.**

Fiscal Summary

State Effect: General fund revenues may decrease by more than $1 million annually beginning in FY 2027, as discussed below. The Comptroller's Office can implement the bill's changes with existing budgeted resources.

Local Effect: Local income tax revenues may decrease by more than $700,000 annually beginning in FY 2027, as discussed below. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: Section 165 of the IRC provides for the deduction of losses sustained during the tax year that are not compensated for by insurance or otherwise. In the case of an individual, the deduction is limited to (1) losses incurred in a trade or business; (2) losses incurred in a transaction entered into for profit; and (3) losses of property not connected with a trade, business, or transaction entered into for profit if such losses arise from fire, storm, shipwreck, or other casualty or from theft ("personal casualty loss").

The first $100 of a personal casualty loss is nondeductible. The deduction is further limited to the amount of personal casualty gains for the tax year, plus the amount of net personal casualty loss that exceeds 10% of the individual's adjusted gross income. For tax years 2018 through 2025 only, the federal Tax Cuts and Jobs Act of 2017 (TCJA) limited the deductibility of net personal casualty losses to losses attributable to a federally declared disaster. The One Big Beautiful Bill Act (OBBBA) of 2025 permanently extends the TCJA limitations on the federal personal casualty loss deduction but expands allowability to personal casualty losses attributable to state declared disasters for tax years after 2025.

State/Local Revenues: As discussed above, the OBBBA generally limits the scope of the personal casualty loss deduction to losses attributable to a federally or state declared disaster. (Other personal casualty losses may still be deducted up to the amount of any personal casualty gain.) The bill effectively restores the State income tax benefit for personal casualty losses that consist of qualified retirement plan assets and arise from a theft or fraud scheme. In addition, this fiscal and policy note assumes that the bill also extends this income tax benefit to individuals who, regardless of the OBBBA's changes to the federal personal income tax, do not itemize federal deductions but who otherwise incur losses that meet the bill's criteria.

Due to data limitations, a precise estimate of the bill's effect on State and local revenues is not feasible at this time. However, a preliminary analysis based on national elder financial abuse statistics suggests that general fund revenue losses may exceed $1 million annually, and local income tax revenue losses may exceed $700,000 annually. As noted in the U.S. Treasury Department's 2024 *National Money Laundering Risk Assessment*, elder financial exploitation is associated with over $3 billion in financial losses annually. According to the Federal Bureau of Investigation's 2023 *Elder Fraud Report*, in 2023, a total of $72.4 million in losses were reported by 1,985 Marylanders older than age 60, with reported losses averaging about $36,500 per complainant. The report does not specify how much of these losses consisted of qualified retirement plan assets.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1390 of 2025 and SB 717 of 2024.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Comptroller's Office; Department of State Police; U.S. Department of the Treasury; Federal Bureau of Investigation; Department of Legislative Services

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jg/hlb

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