

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 1047
Ways and Means

(Delegate Smith, *et al.*)

**Enterprise Zone Income Tax Credit - Economically Disadvantaged Individuals -
Qualified Ex-Felons**

This bill expands the definition of “economically disadvantaged individual” to include a qualified ex-felon for purposes of the enterprise zone income tax credit. A qualified ex-felon is an individual who has been convicted of a felony under any federal or state law and is hired within one year of being convicted or released from prison. A qualified ex-felon does not include an individual (1) who is the spouse of, or has a specified relationship to, a person who controls, directly or indirectly, more than 50% of the ownership of the business entity that employs the ex-felon; (2) who is required to register under Title 11, Subtitle 8 of the Criminal Procedure Article; or (3) that is convicted of multiple felonies.

The bill takes effect July 1, 2015, and applies to tax years 2015 and beyond.

Fiscal Summary

State Effect: General fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues decrease by a minimal amount for each qualified ex-felon claimed under the enterprise zone income tax credit beginning in FY 2016. The Comptroller’s Office can implement the bill with existing resources.

Local Effect: Potential minimal decrease in local highway user revenues beginning in FY 2016. Expenditures are not affected.

Small Business Effect: Minimal. Small businesses that hire qualified ex-felons within enterprise zones benefit by claiming up to \$7,500 in additional enterprise zone income tax credits over three years for each qualified ex-felon hired.

Analysis

Current Law: There are two types of income tax credits for firms located within an enterprise zone: a general income tax credit and a larger income tax credit for hiring economically disadvantaged employees. As shown in **Exhibit 1**, the general income tax credit is a one-time \$1,000 credit per new employee filling a newly created position, or \$1,500 for each qualified new employee in a focus area. For economically disadvantaged employees, the credit increases to a total of \$6,000 per new employee, or \$9,000 per new employee in a focus area. The tax credit for economically disadvantaged employees is claimed over a three-year period. A qualified business entity within a Regional Institution Strategic Enterprise zone may also claim enterprise zone income tax credits.

Exhibit 1 Enterprise Zone and Focus Area Income Tax Credit

Enterprise Zone

| | |
|-------------------------------------|---|
| Regular employee | \$1,000 per employee (one-time) |
| Economically disadvantaged employee | \$6,000 per employee (over three years) |

Focus Area

| | |
|-------------------------------------|---|
| Regular employee | \$1,500 per employee (one-time) |
| Economically disadvantaged employee | \$9,000 per employee (over three years) |

Source: Department of Business and Economic Development

Businesses located in an enterprise zone must be certified by the local enterprise zone administrator in order to be eligible to receive the income tax credit (including the focus area credit). To qualify for the credit, businesses must hire at least one employee who (1) is hired after the business was located in the enterprise zone or after the enterprise zone was designated; (2) is employed by the business for at least 35 hours per week for 6 months (or 12 months in a focus area) before or during the taxable year in which the credit is taken; (3) spends at least 50% of the workday either in the enterprise zone or on an activity related to the enterprise zone; (4) is hired to fill a new position (*i.e.*, the firm's number of new full-time positions must increase by the number of credits taken); and (5) earns at least 150% of the federal minimum wage. Businesses claiming the credit for hiring an economically disadvantaged employee must obtain certification from the Department of Labor, Licensing, and Regulation (DLLR). Once certified, a business may claim the income tax credit.

Background:

Enterprise Zone Tax Credit Program

The enterprise zone tax credit program, established in 1982, is intended to encourage economic growth within economically distressed areas of the State and to increase employment of the chronically unemployed. There are 28 enterprise zones in 12 counties and Baltimore City. The Secretary of Business and Economic Development may only designate an area as an enterprise zone if it is in a priority funding area and satisfies at least one criterion related to economic distress.

Pursuant to the Tax Credit Evaluation Act of 2012, the Department of Legislative Services (DLS) [evaluated](#) the enterprise zone tax credit and made several recommendations in a report issued in August 2014. These findings included that enterprise zone tax credits are not effective in creating employment opportunities for enterprise zone residents. While enterprise zone tax credits may incentivize some businesses to create additional jobs within enterprise zones, the tax credit is not particularly effective in providing employment to zone residents that are chronically unemployed and/or live in poverty. Additionally, annual claims for the enterprise zone income tax credit have been modest, and administrative burdens associated with the enhanced credit for members of a disadvantaged family may be contributing to low utilization rates.

Pilot Program for the Long-Term Employment of Qualified Ex-Felons

Under the Pilot Program for the Long-Term Employment of Qualified Ex-Felons, which terminated on June 30, 2012, the State provided a tax credit to a business entity for wages paid to a qualified ex-felon employee. For each taxable year, a credit was allowed in an amount equal to (1) 30% of up to the first \$6,000 of the wages paid to the qualified ex-felon employee during the first year of employment and (2) 20% of up to the first \$6,000 of the wages paid to the qualified ex-felon employee during the second year of employment. Between tax years 2007 and 2011, taxpayers claimed a total of \$76,881 in credits.

In fiscal 2014, 6,434 individuals who had been convicted of a felony were discharged from Department of Public Safety and Correctional Services facilities.

State Revenues: Under current law, businesses may claim a one-time enterprise zone income tax credit for hiring qualified employees, including ex-felons, of up to \$1,000 per employee, or up to \$1,500 per employee if the business is in a focus area. By including qualified ex-felons as economically disadvantaged individuals, businesses can claim additional credits of \$5,000 per qualified ex-felon over three years. Businesses within focus areas can claim additional credits of \$7,500 per qualified ex-felon over three years.

The Comptroller's Office reports businesses that claimed credits under the pilot program hired fewer than 15 ex-felons and received less than \$20,000 of credits annually. Additionally, between tax years 2010 and 2015, DLLR has only certified 14 employees as being qualified economically disadvantaged workers for the enterprise zone income tax credit.

General fund, TTF, and HEIF revenues decrease by a minimal amount beginning in fiscal 2016. However, the amount of revenue loss depends on the number of qualified ex-felons hired within enterprise zones and focus areas. Based on the low frequency of claiming credits for hiring qualified ex-felons under the pilot program and economically disadvantaged workers under the enterprise zone income tax credit, the Department of Legislative Services assumes businesses would claim the enterprise zone income tax credit for hiring 10 or fewer qualified ex-felons annually. If 10 new qualifying ex-felons are hired annually within a focus area, income tax revenues decrease by \$30,000 in fiscal 2016, \$60,000 in fiscal 2017, and \$75,000 in fiscal 2018 and thereafter. The revenue loss is less if businesses within enterprise zones are not located within focus areas.

Local Revenues: Local governments receive a portion of corporate income tax revenues to support the construction and maintenance of local roads and other transportation facilities. To the extent that corporations within enterprise zones hire qualified ex-felons and claim the enterprise zone income tax credit, local highway user revenues decrease by a minimal amount beginning in fiscal 2016.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Comptroller's Office, Department of Public Safety and Correctional Services, Department of Legislative Services

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