

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 Third Reader

House Bill 96
 Ways and Means

(Delegate Busch, *et al.*)

Budget and Taxation

Income Tax – Subtraction Modification – Living Organ Donors

This bill creates a subtraction modification against the State income tax for up to \$7,500 of the qualified expenses incurred by a living organ donor. An individual who donates all or part of the individual’s liver, kidney, intestine, pancreas, lung, or bone marrow for transplant in another individual is eligible to claim the subtraction modification. Eligible expenses include the unreimbursed travel and lodging expenses and lost wages that are attributable to the organ donation. **The bill takes effect July 1, 2018, and applies to tax year 2018 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by \$20,000 in FY 2019 due to subtraction modifications claimed against the personal income tax. Future year revenue decreases reflect the projected increase in eligible expenses. General fund expenditures increase by \$54,000 in FY 2019 due to one-time implementation costs at the Comptroller’s Office.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	(\$20,000)	(\$21,000)	(\$22,000)	(\$23,000)	(\$24,000)
GF Expenditure	\$54,000	\$0	\$0	\$0	\$0
Net Effect	(\$74,000)	(\$21,000)	(\$22,000)	(\$23,000)	(\$24,000)

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

Local Effect: Local revenues decrease by \$13,000 in FY 2019 and by \$16,000 in FY 2023. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: No similar State income tax subtraction modification exists.

For federal income tax purposes, taxpayers who itemize may deduct qualified medical expenses that exceed 7.5% of the taxpayer's federal adjusted gross income (10% beginning in tax year 2019). Eligible medical expenses are limited to the medical expenses and transportation costs incurred by an individual who donates an organ. The federal deduction will also generally reduce State and local income taxes by flowing through to Maryland adjusted gross income for those taxpayers who also itemize for State income tax purposes.

Background:

Organ Donations

In 2017, 360 organs were donated in Maryland, of which 144 were from living donors and 216 were from deceased individuals. Despite the advances in organ transplant medicine and increased awareness, the organ donor waiting list has grown over time both in the United States and Maryland. About 6 in 10 Maryland candidates have been on the waiting list for more than two years. As shown in **Exhibit 1**, a total of 3,663 candidates are currently waiting for an organ donation, about 1,300 more than in 2005.

Exhibit 1 Current Maryland Candidate Organ Donor Waiting List

Kidney	2,721
Liver	854
Pancreas	16
Kidney/Pancreas	45
Heart	68
Lung	21
Total	3,663

Note: Total is less than sum due to candidates who are included in multiple categories.
Waiting list as of February 1, 2018.

Source: U.S. Department of Health and Human Services Organ Procurement and Transplantation Network

Nationwide, there were an estimated 21,444 bone marrow transplants in the United States in 2017; 57% of which were autologous transplants (from within the same individual) and
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43% or 9,284 were allogenic (from another individual). Since its first successful use in 1968, bone marrow transplants have been used to treat patients diagnosed with leukemia, aplastic anemia, lymphomas such as Hodgkin's disease, multiple myeloma, immune deficiency disorders, and some solid tumors such as breast and ovarian cancer.

State Tax Benefits

According to the National Kidney Foundation, 19 states have established organ donation tax benefits, including the neighboring states of Pennsylvania and Virginia. A total of 16 of these states provide an organ donor deduction (\$10,000 is typically the maximum limit) and two states provide an organ donor income tax credit of between \$5,000 and \$10,000. In three states employers can claim a tax credit for a portion of the wages paid to an employee who is on leave for organ donation (Arkansas and Louisiana provide both donor and employer tax benefits).

Organ Donor Leave Benefits and Requirements

Most states and the federal government grant employees who donate an organ up to 30 days of leave time. Maryland State employees, including temporary employees, may request up to 30 days of paid organ donation leave in any 12-month period to serve as an organ donor (7 days if a bone marrow donor). Twelve states and the District of Columbia require private-sector employers to provide either unpaid or paid organ donation leave. Maryland law does not specifically require private-sector employers to provide employees with organ donation leave.

State Revenues: Subtraction modifications may be claimed beginning in tax year 2018. As a result, general fund revenues will decrease by an estimated \$20,000 in fiscal 2019. This estimate is based on the amount of organ donor deductions claimed in Wisconsin, Iowa, and Ohio, adjusted for the number of living donors in each of these states and Maryland.

State Expenditures: The Comptroller's Office reports that it will incur a one-time general fund expenditure increase of \$54,000 in fiscal 2019 to add the subtraction modification to personal income tax forms. This includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Local Revenues: Local income tax revenues will decrease as a result of subtraction modifications claimed against the personal income tax. Local revenues will decrease by \$13,000 in fiscal 2019, \$14,000 in fiscal 2020, \$14,000 in fiscal 2021, \$15,000 in fiscal 2022, and \$16,000 in fiscal 2023.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Milliman; National Kidney Foundation; U.S. Department of Health and Human Services Organ Procurement and Transplantation Network; Department of Legislative Services

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