

Department of Legislative Services
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 661 (Delegate Chisholm)
Ways and Means

Income Tax - Expensing of Business Property and Bonus Depreciation -
Recoupling With Federal Law

This bill allows certain businesses increased expensing by conforming the State income tax to the maximum aggregate costs of expensing allowed under Section 179 of the Internal Revenue Code (IRC) and to claim any “bonus depreciation” amounts provided under Section 168(k) of IRC. **The bill takes effect July 1, 2021, and applies to tax year 2021 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by \$58.7 million in FY 2022 due to a decrease in individual and corporate income tax revenues. Transportation Trust Fund (TTF) revenues decrease by \$6.2 million and Higher Education Investment Fund revenues decrease by \$2.5 million in FY 2022. TTF expenditures decrease by \$0.8 million in FY 2022 and increase by \$0.1 million in FY 2026.

| (\$ in millions) | FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 |
|------------------|----------|-----------|-----------|----------|----------|
| GF Revenue | (\$58.7) | (\$215.5) | (\$174.1) | (\$64.8) | (\$17.1) |
| SF Revenue | (\$8.7) | (\$43.1) | (\$32.3) | (\$6.6) | \$1.1 |
| SF Expenditure | (\$0.8) | (\$4.1) | (\$3.1) | (\$0.5) | \$0.1 |
| Net Effect | (\$66.6) | (\$254.5) | (\$203.3) | (\$70.9) | (\$16.1) |

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

Local Effect: Local revenues decrease by \$17.5 million in FY 2022 and by \$14.2 million in FY 2026. Local expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Current Law: Except as discussed below, the State is currently “decoupled” from any increased expensing under Section 179 and additional depreciation amounts under Section 168(k) of IRC. Taxpayers are required to make an adjustment for Maryland income tax purposes to reflect the changes made to the maximum aggregate costs of expensing under Section 179 and additional depreciation under Section 168(k).

The State decoupled from increased Section 179 expensing in tax year 2003. The Budget Reconciliation and Financing Act of 2004 (BRFA) (Chapter 430) provided for decoupling for tax years 2003 and beyond. Subsequent legislation clarified that the State is permanently “decoupled” from any increased expensing allowed under Section 179 as a result of any federal legislation enacted after December 31, 2002. The 2002 BRFA (Chapter 440) permanently decoupled the State from the federal bonus depreciation provisions.

The More Jobs for Marylanders Program allows a manufacturer located in the State to claim increased expensing amounts under the State income tax by conforming State law to the maximum aggregate costs of expensing allowed under Section 179 and to claim any bonus depreciation amounts provided under HB Section 168(k) of IRC. These benefits apply if the property was placed in service on or after January 1, 2019.

State Revenues: Exhibit 1 shows the fiscal impact of conforming State law to the higher federal allowances for expensing under the Section 179 and bonus depreciation provisions.

Exhibit 1 Projected State Fiscal Impact (\$ in Millions)

| | <u>FY 2022</u> | <u>FY 2023</u> | <u>FY 2024</u> | <u>FY 2025</u> | <u>FY 2026</u> |
|-------------------------|-----------------|------------------|------------------|-----------------|-----------------|
| General Fund | (\$58.7) | (\$215.5) | (\$174.1) | (\$64.8) | (\$17.1) |
| HEIF | (2.5) | (12.6) | (9.4) | (1.9) | 0.3 |
| TTF | (6.2) | (30.5) | (22.9) | (4.7) | 0.8 |
| Total Revenues | (\$67.4) | (\$258.6) | (\$206.4) | (\$71.4) | (\$16.0) |
| TTF Expenditures | (\$0.8) | (\$4.1) | (\$3.1) | (\$0.5) | \$0.1 |

HEIF: Higher Education Investment Fund

TTF: Transportation Trust Fund

This estimate is based on the Comptroller’s estimate of conforming State law for businesses that under current law may not claim these enhanced federal provisions.

State Expenditures: A portion of TTF revenues are used to provide capital transportation grants to local governments. Thus, any increase in TTF revenues from corporate income tax revenues results in a 13.5% increase in TTF expenditures to local governments (9.6% beginning in fiscal 2025). Accordingly, TTF expenditures decrease by \$0.8 million in fiscal 2022 and increase by \$0.1 million in fiscal 2026 as shown in Exhibit 1.

Local Revenues: Local revenues decrease by \$17.5 million in fiscal 2022 and by \$14.2 million in fiscal 2026, as shown by **Exhibit 2**.

Exhibit 2
Local Revenue Impacts
(\$ in Millions)

| | <u>FY 2022</u> | <u>FY 2023</u> | <u>FY 2024</u> | <u>FY 2025</u> | <u>FY 2026</u> |
|-----------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Local Income Tax | (\$16.7) | (\$32.8) | (\$32.7) | (\$25.9) | (\$14.3) |
| Local Highway User Revenues | (0.8) | (4.1) | (3.1) | (0.5) | 0.1 |
| Total Revenues | (\$17.5) | (\$36.9) | (\$35.8) | (\$26.4) | (\$14.2) |

Small Business Impact: Small businesses may benefit by allowing federal provisions to flow through to the calculation of Maryland income taxes, which will decrease tax burdens on these businesses in the near term.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller’s Office; Department of Legislative Services

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