Department of Legislative Services
Maryland General Assembly
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FISCAL NOTE

House Bill 163 (Delegate Leopold, *et al.*)
Ways and Means

Tax Credit for Employer-Established Dependent Care Assistance Programs

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This bill allows a credit against the State income tax for 50% of the costs, up to a maximum of $1,000, incurred by employers to establish a dependent care assistance program as part of an employee benefit package. The unused portion of the credit can be carried forward for up to five years.

The bill takes effect July 1, 2000, and applies to all taxable years beginning after December 31, 1999.

Fiscal Summary

State Effect: The extent of any general fund revenue loss depends on a number of unknown factors which include the number of participating employers, the amount of the credits claimed, and actual administrative costs. For illustrative purposes only, if credits were claimed by 13,000 employers (at the maximum credit of $1,000) on personal income tax returns and corporate income tax returns, general fund revenues would decrease by approximately $11.1 million and Transportation Trust Fund (TTF) revenues would decrease by approximately $1.9 million in FY 2001. No effect on expenditures.

Local Effect: To the extent that credits are taken by corporations, local revenues would decline as a portion of the corporate income tax is distributed to the TTF to which a distribution to local governments is made. Based upon the scenario above, the loss could be approximately $565,000.

Small Business Effect: Potential meaningful. To the extent that the credit is large enough to offset administrative costs, some small businesses that cannot currently afford to offer dependent care assistance benefits may begin offering those benefits. As a result, this could allow these businesses to retain or attract employees who might otherwise seek employment elsewhere, which could increase productivity and profits at these businesses.

Analysis

Current Law: No credit of this type currently exists.

Background: Federal law allows employers to provide dependent care assistance to employees; the benefits provided are excluded from employees' wages and gross income. An employee can exclude up to $5,000 in dependent care assistance benefits each year. To qualify, the services must be necessary to allow the employee to work. For employers, the costs of providing dependent care are ordinary business expenses and are deductible from income. Since Maryland uses federal taxable income as the starting point for corporate income tax, the federal deduction flows through to reduce Maryland taxes. For personal income taxes, net business income (after expenses) is included in federal adjusted gross income (AGI), the staring point for Maryland personal income taxes.

The credit proposed by the bill would be in addition to the deductions from income that are currently allowed.

State Fiscal Effect: According to tax return data for tax year 1997, approximately 130,000 employers paid withholding taxes to the State, of which 75,000 or 58% filed corporate income tax returns. At this time it is not known how many employers currently offer dependent care assistance programs to their employees. Those that are offering assistance programs would not be eligible for the credit proposed by the bill.

Although the tax credit applies to tax year 2000, it is assumed that for most taxpayers withholding and estimated taxes will not be adjusted to reflect the tax credit until tax year 2001 because of the mid-year effective date. Credits taken on personal income tax returns will reduce general fund revenues in the amount of the credits. Because 75% of all corporate income tax revenues are distributed to the general fund and 25% are distributed to the TTF, credits taken on corporate income tax returns will reduce general fund revenues by 75% of the amount of the credits taken, and TTF revenues will be reduced by 25% of the credits taken. In addition, 30% of the 25% of revenue distributed to the TTF is distributed to local governments. At this time, the number of credits expected to be claimed on personal or corporate income tax returns cannot be reliably estimated.

For illustrative purposes only, the following table shows the general fund and special fund revenue loss for fiscal 2001 assuming that 10% of all employers (13,000), of which 58% (7,540) file a corporate tax return, take the maximum $1,000 credit.

	Individual Returns	**Corporate Returns**	
Number of Employers	5,460	7,540	13,000
Maximum Credit	$1,000	$1,000	
General Fund Loss	$5,460,000	$5,655,000	$11,115,000
Transportation Trust Fund Loss	--	$1,885,000	$1,885,000
Total Loss	$5,460,000	7,540,000	$13,000,000

To the extent that not as many employers offer dependent care assistance programs, or if those that do, do not or are not able to claim the maximum credit, the revenue loss will not be as much as estimated. If more employers offer assistance programs and claim the maximum credit, losses will be greater than estimated.

Local Fiscal Effect: Local government revenues would decline as a result of corporate returns claiming the credits proposed in the bill. As mentioned above, 75% of corporate tax revenues are distributed to the general fund, and 25% are distributed to the TTF. Of the 25% distributed to the TTF, approximately 30% is distributed to local jurisdictions. Based on the estimate above, the local government loss would be approximately $565,000 in fiscal 2001.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller of the Treasury (Bureau of Revenue Estimates), Department of Legislative Services

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