

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1071
Ways and Means

(Delegate Alston, *et al.*)

Income Tax - Customer Bag Credit Program

This bill creates a State income tax credit for retailers who establish a customer bag credit program. The amount of the credit is equal to 50% of the costs of (1) establishing the program; and (2) paying customers a credit of at least 5 cents for each bag brought by the customer to package purchases. The maximum value of the credit may not exceed the lesser of \$5,000 or the tax liability imposed in that year.

The bill takes effect July 1, 2012, and applies to tax year 2012 and beyond.

Fiscal Summary

State Effect: General fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues may decrease significantly beginning in FY 2013 due to tax credits claimed against the personal and corporate income tax. General fund expenditures increase by \$84,000 in FY 2013 for one-time tax form changes and computer programming modifications at the Comptroller's Office.

Local Effect: Local highway user revenues distributed from TTF may decrease as the result of credits claimed against the corporate income tax. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill creates a State income tax credit for retailers who establish a customer bag credit program. In order to qualify, a retail store must establish a customer bag credit program that (1) pays a customer a credit of at least 5 cents for each bag

provided by the customer for packaging purchases; (2) requires the total credit provided to be displayed on the customer transaction receipt; and (3) prominently displays the program at each checkout register.

An individual or corporation may claim a credit equal to 50% of (1) the costs to establish a customer bag program; and (2) the payments made to customers who bring their own bags. The amount of the credit may not exceed the lesser of \$5,000 or the tax liability imposed in that year. Any unused amounts of the credit may be carried forward to five successive tax years.

Current Law: No similar State income tax credit exists.

Background: The use of disposable carryout bags has been the center of much media attention. According to American Plastic Manufacturing, the average American uses approximately 500 plastic bags annually. Proponents of disposable bag restrictions emphasize that plastic bags clog waterways, harm wildlife, consume valuable landfill space, and lead to greater fossil fuel consumption. Proponents of paper bag restrictions argue paper bag manufacturing results in a significant loss of trees and generates substantial air and water pollution. Due to concerns associated with both plastic and paper bags, reusable bags are gaining popularity, despite their additional cost.

Dozens of jurisdictions have adopted fees, bans, or other programs to discourage the use of disposable bags or to promote bag recycling. In March 2007, San Francisco became the first city in the United States to ban nonbiodegradable bags from large grocery stores and pharmacies. North Carolina enacted a ban on plastic bags in the Outer Banks region, and Delaware requires stores to establish at-store recycling programs. The National Conference of State Legislatures reported that 61 bills relating to plastic bags were introduced in 20 states in 2011.

On January 1, 2010, a new law took effect in the District of Columbia banning the use of disposable, nonrecyclable plastic carryout bags and requiring specified stores to charge a fee of 5 cents for each disposable bag a shopper is given. During the first 10 months of implementation, approximately \$2.0 million in revenue had been raised and distributed for city efforts to protect the Anacostia River and other impaired waterways. In addition, the program is estimated to have reduced the number of bags consumed in the city by at least 50%.

Local Disposable Bag Requirements in Maryland

In response to a 2010 ordinance (No. 08-0205), Baltimore City is implementing a plastic bag reduction program focused on encouraging consumers to use reusable bags and to recycle disposable plastic bags. Among other requirements, stores with food service

licenses (1) may not distribute a plastic bag to a customer unless the customer specifically requests one; (2) must provide at least one collection bin for recycling single-use plastic bags and make reusable bags available for purchase by customers; and (3) must maintain and submit records and reports concerning bag use.

Montgomery County passed legislation (No. 8-11) on May 3, 2011, that places a 5-cent charge on each paper or plastic carryout bag provided by retail establishments at the point of sale, pickup, or delivery. The law took effect January 1, 2012. Revenues from this charge will be deposited into the county's Water Quality Protection Charge Fund, which is used for structural maintenance of stormwater management facilities and water quality improvements. Montgomery County revenues are estimated to increase by \$1.1 million in fiscal 2013, \$834,000 in fiscal 2014, \$695,000 in fiscal 2015, and \$564,000 in fiscal 2016 from this charge.

Solid Waste Management – Recycling and Source Reduction Study Group

Chapter 719 of 2010 required the Maryland Department of the Environment (MDE) to conduct a study to evaluate solid waste management processes that reduce the solid waste stream through recycling and source reduction. MDE created a study group and consulted with local government officials, waste haulers, recyclers, environmental groups, academia, State elected officials, and other affected parties to study these issues. In December 2011, the study group submitted its final report and recommendations which included, among other things, a discussion of bag recycling legislation and programs. The report makes several conclusions about bag recycling, including that:

- while plastic bags are small contributors to waste, they are larger contributors to litter and they create problems for conventional recycling programs;
- mandatory bag take-back programs are largely ineffective at producing substantial increases in the recycling of bags; and
- bag taxes appear to be successfully reducing the number of bags distributed in the District of Columbia and also providing some revenue for litter clean-up and distribution of reusable bags to low-income individuals.

State Revenues: Tax credits may be claimed beginning in tax year 2012. Accordingly, general fund, TTF, and HEIF revenues will decrease significantly beginning in fiscal 2013. However, the amount of the revenue loss cannot be reliably estimated and depends on the number of retailers who claim credits and the amount of qualifying expenses. **Exhibit 1** shows the annual decrease in State revenues if a certain percentage of retailers claim the maximum tax credit in each tax year.

Exhibit 1
Potential Annual Revenue Decreases
(\$ in Millions)

<u>Percent of Retailers</u>	<u>Revenue Loss</u>
5%	\$3.0
10%	6.0
25%	15.0

This estimate is based on the estimated number of retail trade companies in Maryland that are reported as having employees, of which there was 11,800 in 2009. The estimate does not include about 15,000 retail trade companies that are listed by the U.S. Census Bureau as nonemployers and having a store presence. To the extent these companies claim credits, revenue losses will be significantly greater than estimated.

State Expenditures: The Comptroller's Office reports that it will incur a one-time expenditure increase of \$84,000 in fiscal 2013 to add the tax credit to the corporate and personal income tax returns. This includes data processing changes to the SMART income tax return processing and imaging systems and system testing.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): U.S. Census Bureau, Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2012
mc/jrb

Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510