# HB 111

# Department of Legislative Services
Maryland General Assembly
2019 Session

## FISCAL AND POLICY NOTE
## First Reader

House Bill 111 (Delegate J. Lewis, *et al.*)
Ways and Means

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**Income Tax Credit - Agency Shop Fees and Union Dues**

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This bill creates a tax credit against the State income tax for an individual who pays specified agency shop fees and union dues. The value of the credit is equal to the eligible fees and dues paid multiplied by the sum of the marginal State income tax rate and county income tax rate imposed on the individual. If the amount of the credit exceeds the tax liability imposed in the year, the taxpayer can claim a refund in the amount of the excess. **The bill takes effect July 1, 2019, and applies to tax years 2019 through 2025. The bill terminates June 30, 2026.**

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## Fiscal Summary

**State Effect:** General fund revenues decrease by $14.0 million in FY 2020 due to credits claimed against the personal income tax. Future year revenue estimates reflect a stable amount of eligible expenses. General fund expenditures increase by $55,000 in FY 2020 due to one-time computer programming expenses at the Comptroller's Office.

| ($ in millions) | FY 2020 | FY 2021 | FY 2022 | FY 2023 | FY 2024 |
|---|---|---|---|---|---|
| GF Revenue | ($14.0) | ($14.0) | ($14.0) | ($14.0) | ($14.0) |
| GF Expenditure | $0.1 | $0 | $0 | $0 | $0 |
| Net Effect | ($14.1) | ($14.0) | ($14.0) | ($14.0) | ($14.0) |

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary/Current Law:**

*Federal Law*

To determine federal taxable income, a taxpayer may reduce their federal adjusted gross income (FAGI) by either claiming the standard deduction or itemizing allowable deductions. The expenses that may be itemized include certain home mortgage interest, charitable contributions, certain investment interest, medical expenses (in excess of 10% of FAGI in tax year 2019), certain casualty and theft losses attributable to federally declared disasters, and up to $10,000 in State and local taxes.

*Tax Year 2017*

Prior to tax year 2018, a taxpayer who elected to itemize deductions could deduct certain miscellaneous expenses. Unreimbursed employee expenses, including specified union dues and expenses, qualified for the deduction.

Qualified union dues and expenses included union membership dues and initiation and certain assessments for benefit payments to unemployed union members. Nondeductible expenses include contributions to a pension fund or expenses related to certain lobbying and political activities. These expenses were subject to the 2% floor – a taxpayer could only deduct the expenses that exceeded 2% of the taxpayer's adjusted gross income.

Section 68 of the Internal Revenue Code required certain high-income taxpayers to reduce certain itemized deductions, including miscellaneous deductions, if certain conditions were met and the taxpayer's income exceeded specified amounts – $287,650 in tax year 2017 ($313,800 for married filing jointly).

The bill will allow a taxpayer for State income tax purposes to claim an income tax credit for the amount of agency shop fees and union dues that would have qualified for the miscellaneous itemized deduction, without regard to the 2% limitation.

*Current Federal Law*

The federal Tax Cuts and Jobs Act of 2017 (Public Law 115-97) was signed into law on December 22, 2017, and enacted significant changes to federal taxes, including the personal income tax. Although the Act reduced personal income taxes overall, several provisions reduce or eliminate several existing income tax benefits, including the elimination of the miscellaneous expenses deduction in tax years 2018 through 2025. Given the Act eliminated the deduction, an individual may not deduct union dues and expenses in these tax years; however, under current federal law individuals will be able to claim the deduction in tax years 2026 and beyond.

*State Income Tax*

An individual is allowed to itemize deductions for State income tax purposes only if the individual itemizes for federal income tax purposes. In addition, a taxpayer can itemize an expense for State income tax purposes only if the expense can be claimed as a federal itemized deduction. Only expenses that qualify for the federal itemized deduction qualify for State income tax purposes. An individual who itemizes for State income tax purposes is required to reduce the sum of the individual's federal itemized deductions by any amount:

- required by the Internal Revenue Code (IRC);
- deducted under Section 170 of IRC for contributions of a preservation or conservation easement for which a State credit is claimed; and
- claimed as taxes on income paid to a State or political subdivision of the State, after subtracting a pro rata portion of the reduction to itemized deductions required under Section 68 of IRC.

**Background:** New York State passed legislation in 2017 that allowed taxpayers who itemize to deduct the full amount of union dues paid during the tax year. The New York State Department of Finance estimates that the deduction will reduce income tax revenues by $35 million in tax year 2018. According to the U.S. Bureau of Labor Statistics, about 300,000 workers or a little more than 10% of Maryland's workforce are members of a union.

**State Revenues:** Tax credits may be claimed beginning in tax year 2019. As a result, general fund revenues will decrease by about $14.0 million annually in fiscal 2020 through 2026. This estimate is based on the number of union members in Maryland and estimated fiscal cost of similar proposals in New York and other local governments, adjusted for Maryland.

**State Expenditures:** The Comptroller's Office reports that it will incur a one-time general fund expenditure increase of $55,000 in fiscal 2020 to add the tax credit to personal income tax forms. This includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** U.S. Bureau of Labor Statistics; Comptroller's Office; New York State Department of Taxation and Finance; Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2019
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