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Comptroller

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February 24, 2023

Honorable Wes Moore
Governor of Maryland
State House
Annapolis, Maryland 21404

Honorable William C. Ferguson IV
President of the Senate
State House
Annapolis, Maryland 21404

Honorable Adrienne A. Jones
Speaker of the House
State House
Annapolis, Maryland 21404

Dear Governor, President, and Speaker:

As required by Tax – General Article §10-108 of the Annotated Code of Maryland (TG §10-108), I am submitting this report on the impact of recent changes to the Internal Revenue Code (IRC) on Maryland tax revenues. The President signed into law H.R. 5376, the Inflation Reduction Act (the Act), on August 16, 2022. Three provisions that impact Maryland revenues are addressed in this report.

TG §10-108 requires that when the estimated tax revenue impact resulting from an amendment to the IRC is $5 million or more in the fiscal year that begins during the calendar year in which the amendment is enacted or any fiscal year that precedes the calendar year in which the amendment is enacted, the State is automatically and temporarily decoupled from that amendment for any tax year beginning in the calendar year in which the law is enacted or any tax year that precedes the calendar year in which the amendment is enacted. Two provisions are expected to minimally affect State revenues. One provision will have a significant impact that will not materialize for several years. These provisions, therefore, will not trigger automatic decoupling. Table 1 provides the estimated impact of the Act by fund.

Table 1 Total Impact on State Revenues ($ in Millions)					
Fund	2023	2024	2025	2026	2027
General Fund	(0.09)	(0.29)	(0.26)	(0.24)	41.23
Transportation Trust Fund	(0.01)	(0.04)	(0.04)	(0.04)	(0.04)
Higher Education Investment Fund	*	(0.02)	(0.02)	(0.01)	(0.02)
Total	**(0.10)**	**(0.35)**	**(0.32)**	**(0.29)**	**41.17**

*Less than $10,000

The relevant changes made by the Act are:

1) Expanding the energy efficient commercial buildings deduction claimed by an owner who makes certain energy efficiency investments;
2) Allowing a 5-year recovery period for the depreciation of certain facilities and equipment used for clean electricity generation; and
3) Extending by two years the loss limitations applicable to non-corporate taxpayers originally imposed by the Tax Cuts and Jobs Act (TCJA) of 2017.

Energy Efficient Commercial Buildings Deduction

This provision increases the maximum deduction for investments made to enhance the energy efficiency of a commercial building and applies to property placed in service after 12/31/2022. Table 2 provides the estimated impact by fiscal year.

Table 2 Energy Efficient Commercial Buildings Deduction Provisions ($ in Millions)					
	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Personal Income Tax	(0.03)	(0.05)	(0.04)	(0.04)	(0.04)
Corporate Income Tax	(0.08)	(0.31)	(0.27)	(0.25)	(0.23)
Total	**(0.10)**	**(0.35)**	**(0.32)**	**(0.29)**	**(0.26)**

Reduced Cost Recovery Period for Clean Electricity Production

This provision adds to the definition of 5-year property for the purpose of calculating the allowable depreciation applicable to investments in certain facilities, property, and energy storage technology that improve the production of clean electricity. The provision applies to facilities and property placed in service after 12/31/2024 and is expected to have a minimal impact on revenues.

Loss limitations on Taxpayers Other Than Corporations

For tax years 2018 through 2025, TCJA restricted the business loss deduction available to noncorporate taxpayers (individuals, trusts, and estates). Nonbusiness income losses were limited in tax year 2018 to $250,000 ($500,000 for joint filers). These limitations were adjusted for inflation in future years. To the extent a loss exceeds the limitation it is deemed an excess business loss to be carried forward as a net operating loss (NOL). The Coronavirus Aid, Relief, and Economic Security Act (CARES) retroactively suspended the loss limitation rules for tax years 2018 through 2020 (the State automatically decoupled from the suspension in tax year 2020). The American Rescue Plan Act (ARPA) subsequently extended the loss limitation rules through tax year 2026. The Act further extends by two years the loss limitation rules and applies to tax years beginning after December 31, 2026. Table 3 shows the estimated impact by fiscal year.

Table 3
Impact of Limitations on Business Losses of Non-Corporate Taxpayer Provisions
($ in Millions)

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Personal Income Tax	0.0	0.0	0.0	0.0	41.5

Please do not hesitate to contact me if you have any questions regarding this report.

Sincerely,

Robert J. Rehrmann