

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 987 (Senator Lewis Young)
Budget and Taxation

Corporate Income Tax - Addition Modification - Direct-to-Consumer
Pharmaceutical Advertising

This bill requires an addition modification under the corporate income tax for the amount of any expenses paid or incurred during the tax year that are deducted under Internal Revenue Code (IRC) § 162 for direct-to-consumer advertising of covered drugs. “Covered drug,” as it applies to the addition modification, is a prescription drug product as defined in § 735 of the Federal Food, Drug, and Cosmetic Act (FDCA) or a drug compounded in accordance with § 503A or § 503B of FDCA. Of the revenue attributable to the addition modification, the Comptroller must distribute the first \$5.0 million to the Maryland Department of Health (MDH) to be used for Medicaid eligibility operations and the remaining revenue to the Maryland Health Benefit Exchange (MHBE) Fund. **The bill takes effect July 1, 2026, and applies to tax year 2026 and beyond.**

Fiscal Summary

State Effect: General fund revenues increase by up to \$5.0 million annually beginning in FY 2027. MHBE Fund revenues and expenditures increase by an indeterminate but potentially significant amount annually beginning in FY 2027. General fund expenditures for the Comptroller’s Office increase by \$50,000 in FY 2027 only.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Direct-to-consumer advertising” means any dissemination, by or on behalf of a covered entity, of an advertisement that is in regard to a covered drug and primarily targeted to the general public, as specified. It does not include an advertisement

made through publication in journals and other periodicals. “Covered entity” means (1) a sponsor of a prescription drug product as defined in § 735 of FDCA or (2) a person that, either directly or indirectly through a subsidiary, owns an outsourcing facility as defined in § 503B of FDCA.

Income tax revenues distributed to the MHBE Fund in accordance with the bill may be used only for the purpose of funding health insurance subsidy programs, including the State-Based Health Insurance Subsidies Program (to the extent the program remains in effect) and the State-Based Young Adult Health Insurance Subsidies Program, and must be allocated between health insurance subsidy programs by the Board of Trustees of MHBE.

Current Law:

Income Tax Treatment of Advertising Expenses

Advertising expenses related to an active trade or business are generally deductible as ordinary and necessary business expenses under IRC § 162.

Medicaid

MDH administers Medicaid, which provides comprehensive health care coverage to eligible low-income individuals. In general, recipients of Temporary Cash Assistance or federal Supplemental Security Income benefits automatically qualify for Medicaid. Other individuals qualify for Medicaid based on their income or due to an inability to pay extraordinary medical bills resulting from a catastrophic illness or extended nursing home or hospital stay. Certain elderly individuals may also be eligible for assistance under Medicare.

Maryland Health Benefit Exchange

MHBE was created during the 2011 session to provide a marketplace for individuals and small businesses to purchase affordable health coverage. Through the Maryland Health Connection, Maryland residents can shop for health insurance plans, compare rates, and determine their eligibility for federal advanced premium tax credits and Medicaid.

State-Based Health Insurance Subsidies Program

Chapter 468 of 2025 required MHBE to establish and implement a State-Based Health Insurance Subsidies Program to mitigate the impact of the loss of enhanced federal advanced premium tax credits (eAPTCs). As State funds were insufficient to fully replace eAPTCs (projected to cost \$209 million per year), MHBE’s actuarial consultants modeled

replacement options, settling on partial replacement. In calendar 2026, the Maryland Premium Assistance program will replace 100% of eAPTCs for those with incomes less than 200% of the federal poverty level (FPL), phase subsidies from 100% down to 50% for those with incomes between 200% and 250% FPL and replace 50% of eAPTCs for those with incomes between 250% to 400% FPL. Those with incomes greater than 400% FPL will not be eligible for subsidies. The impact of State subsidies varies by age, income, family size, and plan enrollment. For example, a 40-year-old single person earning \$31,300 per year (200% FPL) can anticipate paying \$53 per month in 2026 with the subsidy, rather than \$173 in the absence of the subsidy. A family of four (with adults ages 45 and 43) earning \$80,375 per year (250% FPL) can anticipate paying \$419 per month in 2026 rather than \$568 without the subsidy. The Maryland Premium Assistance program is funded through the 1% State assessment on health insurance premiums.

State-Based Young Adult Health Insurance Subsidies Program

Chapters 777 and 778 of 2021 required MHBE to establish and implement the State-Based Young Adult Health Insurance Subsidies Pilot Program for calendar 2022 and 2023 to help make health insurance more affordable for uninsured young adults. Subject to available funds, in fiscal 2022 through 2024, MHBE was authorized to designate monies from the MHBE Fund to be used for the pilot program so that no more than \$20.0 million in annual subsidies could be provided in calendar 2022 and 2023.

Chapters 256 and 257 of 2023 extended the termination date of the pilot program to June 30, 2026, and authorized MHBE, in fiscal 2024 through 2026, to designate funds from the MHBE Fund to provide up to \$20.0 million in annual subsidies under the pilot program. Chapters 721 and 722 of 2025 made the program permanent. MHBE is authorized rather than required to establish and implement the program and may not implement the program for calendar years in which funds from the distribution of a specified assessment are not available. For calendar 2026 and thereafter, MHBE, in consultation with the Insurance Commissioner, may designate funds from the MHBE Fund to provide annual subsidies to young adults who meet the program's subsidy eligibility and payment parameters.

Under the program, young adults ages 18 to 37 with incomes between 138% and 400% of FPL are eligible for State premium assistance subsidies. Subsidies are allocated to reduce the maximum expected premium contribution of individuals ages 18 to 33 by 2.5%. For individuals ages 34 to 37, the subsidy is progressively lower for each age, reducing the maximum expected contribution by 0.5% each year.

State Revenues: Overall corporate income tax revenues increase by an indeterminate but potentially significant amount annually beginning in fiscal 2027 due to increased corporate income tax liability. Due to data limitations, a precise estimate is not feasible at this time.

While the addition modification applies to corporate taxpayers, the required distributions to MDH and to the MHBE Fund apply only to individual income tax revenues attributable to the addition modification. This analysis nonetheless assumes that the required distributions apply to corporate income tax revenues generated by the bill. Thus, general fund revenues for MDH increase by up to \$5.0 million annually beginning in fiscal 2027 due to the initial distribution of income tax revenues generated by the bill. MHBE Fund revenues increase by the amount of any newly generated revenues in excess of \$5.0 million.

For context, according to a May 2021 report published by the U.S. Government Accountability Office, drug manufacturers spent about \$6.0 billion annually on direct-to-consumer advertising in 2016 through 2018.

State Expenditures: General fund expenditures for the Comptroller’s Office increase by an estimated \$50,000 in fiscal 2027 for one-time programming costs. MHBE Fund expenditures for health insurance subsidy programs increase beginning in fiscal 2027 due to increased funding generated by the bill. It is otherwise assumed that the bill’s distribution of income tax revenues to MDH replaces, rather than increases, existing spending on Medicaid eligibility operations.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Comptroller’s Office; Maryland Health Benefit Exchange; Maryland Insurance Administration; U.S. Government Accountability Office; CCH AnswerConnect; Internal Revenue Service; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2026
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