

Chapter 659

(House Bill 1017)

AN ACT concerning

Income Tax Credit – Wineries and Vineyards

FOR the purpose of allowing a credit against the State income tax for certain qualified expenditures at certain wineries and certain vineyards; requiring the ~~Maryland~~ Department of ~~Agriculture~~ Business and Economic Development to administer a certain tax credit; providing for the maximum amount of tax credits that may be issued by the Department each year; requiring the Department of ~~Agriculture~~ Business and Economic Development and the Comptroller jointly to adopt certain regulations; requiring the Comptroller to adopt certain regulations; providing that the credit allowed under this Act is subject to the Tax Credit Evaluation Act; defining certain terms; providing for the application of this Act; providing for the termination of this Act; and generally relating to an income tax credit for certain expenditures at certain wineries and certain vineyards.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 1–303(e)

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY adding to

Article – Tax – General

Section 10–733

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

1–303.

(e) On or before July 1, 2017, an evaluation shall be made of the tax credits under:

(1) § 9–230 of the Tax – Property Article, § 6–116 of the Insurance Article, and § 10–704.8 of this article (new job creating businesses); [and]

(2) § 10-726 of this article (biotechnology investment incentive); AND

(3) § 10-733 OF THIS ARTICLE (WINERIES AND VINEYARDS).

10-733.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “DEPARTMENT” MEANS THE ~~STATE~~ DEPARTMENT OF ~~AGRICULTURE~~ BUSINESS AND ECONOMIC DEVELOPMENT.

~~(3) “MARYLAND VINEYARD” MEANS AGRICULTURAL LANDS LOCATED IN THE STATE CONSISTING OF AT LEAST 1 CONTIGUOUS ACRE DEDICATED TO THE GROWING OF GRAPES THAT ARE USED OR ARE INTENDED TO BE USED IN THE PRODUCTION OF WINE BY A MARYLAND CLASS 3 OR CLASS 4 WINERY AS WELL AS ANY PLANTS OR OTHER IMPROVEMENTS LOCATED THEREON.~~

~~(4) “MARYLAND WINERY” MEANS AN ESTABLISHMENT LICENSED BY THE COMPTROLLER AS EITHER A CLASS 3 OR CLASS 4 WINERY UNDER ARTICLE 2B, §§ 2-204 AND 2-205 OF THE CODE.~~

(5) (3) “QUALIFIED CAPITAL EXPENSES” MEANS ALL EXPENDITURES MADE BY THE TAXPAYER FOR THE PURCHASE AND INSTALLATION OF EQUIPMENT OR AGRICULTURAL MATERIALS FOR USE IN THE PRODUCTION OF AGRICULTURAL PRODUCTS ~~FOR WINEMAKING~~ AT A VINEYARD, OR IN A WINERY, INCLUDING ~~BUT NOT LIMITED TO:~~

- (I) BARRELS;
- (II) BINS;
- (III) BOTTLING EQUIPMENT;
- (IV) CANOPY MANAGEMENT MACHINES;
- (V) CAPSULING EQUIPMENT;
- (VI) CHEMICALS;
- (VII) CORKERS;

- DEVICES;**
- (VIII) CRUSHERS;**
 - (IX) DESTEMMERS;**
 - (X) FERMENTERS OR OTHER RECOGNIZED FERMENTATION**
 - (XI) FERTILIZER AND SOIL AMENDMENTS;**
 - (XII) FILTERS;**
 - (XIII) FRUIT HARVESTERS;**
 - (XIV) FRUIT PLANTS;**
 - (XV) HOSES;**
 - (XVI) IRRIGATION EQUIPMENT;**
 - (XVII) LABELING EQUIPMENT;**
 - (XVIII) LUGS;**
 - (XIX) MOWERS;**
 - (XX) POLES;**
 - (XXI) POSTS;**
 - (XXII) PRESSES;**
 - (XXIII) PRUNING EQUIPMENT;**
 - (XXIV) PUMPS;**
 - (XXV) REFRACTOMETERS;**
 - (XXVI) REFRIGERATION EQUIPMENT;**
 - (XXVII) SEEDERS;**
 - (XXVIII) SOIL;**
 - (XXIX) SMALL TOOLS;**

- (XXX) TANKS;
- (XXXI) TRACTORS;
- (XXXII) VATS;
- (XXXIII) WEEDING AND SPRAYING EQUIPMENT;
- (XXXIV) WINE TANKS;
- (XXXV) WIRE; AND
- (XXXVI) ANY OTHER ITEMS AS APPROVED BY THE

DEPARTMENT.

(4) “VINEYARD” MEANS AGRICULTURAL LANDS LOCATED IN THE STATE CONSISTING OF AT LEAST 1 CONTIGUOUS ACRE DEDICATED TO THE GROWING OF GRAPES THAT ARE USED OR ARE INTENDED TO BE USED IN THE PRODUCTION OF WINE BY A WINERY AS WELL AS ANY PLANTS OR OTHER IMPROVEMENTS LOCATED THEREON.

(5) “WINERY” MEANS AN ESTABLISHMENT LICENSED BY THE COMPTROLLER AS EITHER A CLASS 3 OR CLASS 4 WINERY UNDER ARTICLE 2B, §§ 2-204 AND 2-205 OF THE CODE.

(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO 25% OF THE QUALIFIED CAPITAL EXPENSES MADE IN CONNECTION WITH:

(1) THE ESTABLISHMENT OF NEW ~~MARYLAND~~ WINERIES OR ~~MARYLAND~~ VINEYARDS; OR

(2) THE CAPITAL IMPROVEMENTS MADE TO EXISTING ~~MARYLAND~~ WINERIES OR ~~MARYLAND~~ VINEYARDS.

(C) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR INCURRED, AN INDIVIDUAL OR A CORPORATION SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT FOR THE CREDIT ALLOWED UNDER THIS SECTION.

(2) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DEPARTMENT UNDER THIS SECTION FOR A TAXABLE YEAR MAY NOT EXCEED ~~\$2,000,000~~ \$500,000.

(II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL INDIVIDUALS AND CORPORATIONS UNDER THIS SECTION EXCEEDS THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL APPROVE A CREDIT UNDER THIS SECTION FOR EACH APPLICANT IN AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE CREDIT APPLIED FOR BY THE APPLICANT TIMES A FRACTION:

1. THE NUMERATOR OF WHICH IS THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND

2. THE DENOMINATOR OF WHICH IS THE TOTAL OF ALL CREDITS APPLIED FOR BY ALL APPLICANTS IN THE CALENDAR YEAR.

(III) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR INCURRED, THE DEPARTMENT SHALL CERTIFY TO THE INDIVIDUAL OR CORPORATION THE AMOUNT OF THE TAX CREDIT APPROVED BY THE DEPARTMENT FOR THE INDIVIDUAL OR CORPORATION UNDER THIS SECTION.

(3) TO CLAIM THE APPROVED CREDIT ALLOWED UNDER THIS SECTION, AN INDIVIDUAL OR A CORPORATION SHALL:

(I) FILE AN AMENDED INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR INCURRED; AND

(II) ATTACH A COPY OF THE DEPARTMENT'S CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME TAX RETURN.

(D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE INDIVIDUAL OR CORPORATION FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR CORPORATION MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL:

(1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

(2) THE EXPIRATION OF THE 15TH TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR INCURRED.

(E) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO:

(1) IMPLEMENT THE PROVISIONS OF THIS SECTION; AND

(2) SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF, AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS SECTION.

(F) THE COMPTROLLER SHALL ADOPT REGULATIONS PROVIDING FOR:

(1) DETERMINATION OF THE AMOUNT OF THE CREDIT UNDER THIS SECTION IN THE CASE OF TRADES OR BUSINESSES, WHETHER OR NOT INCORPORATED, THAT ARE UNDER COMMON CONTROL;

(2) PASS-THROUGH AND ALLOCATION OF THE CREDIT IN THE CASE OF ESTATES AND TRUSTS, PARTNERSHIPS, UNINCORPORATED TRADES OR BUSINESSES, AND S CORPORATIONS;

(3) ADJUSTMENTS IN THE CASE OF ACQUISITIONS AND DISPOSITIONS DESCRIBED IN § 41(F)(3) OF THE INTERNAL REVENUE CODE; AND

(4) DETERMINATION OF THE CREDIT IN THE CASE OF SHORT TAXABLE YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012. It shall remain effective for a period of 5 years and, at the end of June 30, 2018, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 16, 2013.