

HOUSE BILL 1017

Q3

3lr2721

By: **Delegates Barve, Myers, and Branch**

Introduced and read first time: February 8, 2013

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit – Wineries and Vineyards**

3 FOR the purpose of allowing a credit against the State income tax for certain qualified
4 expenditures at certain wineries and certain vineyards; requiring the Maryland
5 Department of Agriculture to administer a certain tax credit; providing for the
6 maximum amount of tax credits that may be issued by the Department each
7 year; requiring the Department of Agriculture and the Comptroller jointly to
8 adopt certain regulations; requiring the Comptroller to adopt certain
9 regulations; defining certain terms; providing for the application of this Act; and
10 generally relating to an income tax credit for certain expenditures at certain
11 wineries and certain vineyards.

12 BY adding to

13 Article – Tax – General

14 Section 10–733

15 Annotated Code of Maryland

16 (2010 Replacement Volume and 2012 Supplement)

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

19 **Article – Tax – General**

20 **10–733.**

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

23 (2) “DEPARTMENT” MEANS THE STATE DEPARTMENT OF
24 AGRICULTURE.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

10 **(5) “QUALIFIED CAPITAL EXPENSES” MEANS ALL EXPENDITURES**
11 **MADE BY THE TAXPAYER FOR THE PURCHASE AND INSTALLATION OF**
12 **EQUIPMENT OR AGRICULTURAL MATERIALS FOR USE IN THE PRODUCTION OF**
13 **AGRICULTURAL PRODUCTS FOR WINEMAKING, OR IN A WINERY, INCLUDING BUT**
14 **NOT LIMITED TO:**

15 **(I) BARRELS;**

16 **(II) BINS;**

17 **(III) BOTTLING EQUIPMENT;**

18 **(IV) CANOPY MANAGEMENT MACHINES;**

19 **(V) CAPSULING EQUIPMENT;**

20 **(VI) CHEMICALS;**

21 **(VII) CORKERS;**

22 **(VIII) CRUSHERS;**

23 **(IX) DESTEMMERS;**

24 **(X) FERMENTERS OR OTHER RECOGNIZED FERMENTATION**
25 **DEVICES;**

26 **(XI) FERTILIZER AND SOIL AMENDMENTS;**

27 **(XII) FILTERS;**

- 1 **(XIII) FRUIT HARVESTERS;**
- 2 **(XIV) FRUIT PLANTS;**
- 3 **(XV) HOSES;**
- 4 **(XVI) IRRIGATION EQUIPMENT;**
- 5 **(XVII) LABELING EQUIPMENT;**
- 6 **(XVIII) LUGS;**
- 7 **(XIX) MOWERS;**
- 8 **(XX) POLES;**
- 9 **(XXI) POSTS;**
- 10 **(XXII) PRESSES;**
- 11 **(XXIII) PRUNING EQUIPMENT;**
- 12 **(XXIV) PUMPS;**
- 13 **(XXV) REFRACTOMETERS;**
- 14 **(XXVI) REFRIGERATION EQUIPMENT;**
- 15 **(XXVII) SEEDERS;**
- 16 **(XXVIII) SOIL;**
- 17 **(XXIX) SMALL TOOLS;**
- 18 **(XXX) TANKS;**
- 19 **(XXXI) TRACTORS;**
- 20 **(XXXII) VATS;**
- 21 **(XXXIII) WEEDING AND SPRAYING EQUIPMENT;**
- 22 **(XXXIV) WINE TANKS;**

1 (XXXV) WIRE; AND

2 (XXXVI) ANY OTHER ITEMS AS APPROVED BY THE
3 DEPARTMENT.

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

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

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

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

17 (2) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE
18 DEPARTMENT UNDER THIS SECTION FOR A TAXABLE YEAR MAY NOT EXCEED
19 \$2,000,000.

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

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

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

30 (III) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING
31 THE END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES
32 WERE PAID OR INCURRED, THE DEPARTMENT SHALL CERTIFY TO THE

1 INDIVIDUAL OR CORPORATION THE AMOUNT OF THE TAX CREDIT APPROVED BY
2 THE DEPARTMENT FOR THE INDIVIDUAL OR CORPORATION UNDER THIS
3 SECTION.

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

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

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

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

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

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

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

22 (1) IMPLEMENT THE PROVISIONS OF THIS SECTION; AND

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

26 (F) THE COMPTROLLER SHALL ADOPT REGULATIONS PROVIDING FOR:

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

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

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

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 July 1, 2013, and shall be applicable to all taxable years beginning after December 31,
11 2012.