

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 670

(Senator Middleton)

Budget and Taxation

Ways and Means

Income Tax Credit - Qualified Farms - Gleaning

This bill creates a tax credit against the State income tax for eligible food donations made by a qualified farm located in Anne Arundel, Calvert, Charles, Prince George’s, or St. Mary’s counties. The value of the credit is equal to 50% of the value of the eligible food donation (75% for certified organic produce), not to exceed \$5,000. A maximum of \$250,000 in credits may be awarded annually in tax years 2014, 2015, and 2016.

The bill also extends the termination date to June 30, 2017, for the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region and expands the task force to include Anne Arundel and Prince George’s counties.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: General fund revenues decrease by \$250,000 annually in FY 2015 through 2017. General fund expenditures increase by \$62,600 in FY 2015 due to implementation costs at the Maryland Department of Agriculture (MDA) and the Comptroller’s Office. Future year estimates reflect ongoing MDA administrative costs and termination of the program.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
GF Revenue	(\$250,000)	(\$250,000)	(\$250,000)	\$0	\$0
GF Expenditure	\$62,600	\$18,600	\$19,400	\$0	\$0
Net Effect	(\$312,600)	(\$268,600)	(\$269,400)	\$0	\$0

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

Local Effect: Local highway user revenues will decrease in FY 2015 through 2017 as a result of credits claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A qualified farm can claim an income tax credit for eligible food donations. The farm business must be located in Anne Arundel, Calvert, Charles, Prince George's, or St. Mary's counties. The value of the credit is equal to 50% of the value of the eligible food donation (75% for certified organic produce), not to exceed \$5,000. Any unused amount of the credit may be carried forward for five taxable years. Certified organic produce must meet the requirements under Title 10, Subtitle 14 of the Agriculture Article.

In order to qualify, eligible donations must be made to an organization that is authorized by MDA to act as a tax credit administrator. Tax credit administrators are required to issue tax credit certificates to eligible farms upon receipt of an eligible food donation and provide within 30 days a copy of the certificate to the Comptroller and MDA.

A maximum of \$250,000 in credits may be awarded annually in tax years 2014, 2015, and 2016. Credits may not be issued after December 31, 2016.

The Secretary of Agriculture is required to:

- publish weekly the categories and value of certified organic produce and eligible food donations;
- establish a process, in consultation with the Comptroller, to certify tax credit administrators;
- notify tax credit administrators to stop issuing tax credit certificates if a total of \$200,000 in certificates have been issued in a calendar year;
- adopt regulations, in consultation with the Comptroller, that establish the procedures for issuing remaining certificates once the total certificates have reached the limit above;
- adopt regulations, in consultation with the Comptroller, implementing the tax credit program; and
- in consultation with the Comptroller and the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region, report annually to the Governor and General Assembly on the use and impact of the tax credit.

The bill also extends the termination date to June 30, 2017, of the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region and expands the task force to include Anne Arundel and Prince George's counties.

Current Law: No similar State tax credit exists.

Taxpayers may claim a subtraction modification for the value of farm products donated to a gleaning cooperative. The farm products must be suitable for human consumption when donated and must either be donated to or harvested or collected, free of charge, by the cooperative. A gleaning cooperative is a tax-exempt nonprofit organization that is organized and operated to provide and distribute food free of charge to needy individuals, including unemployed and low-income individuals. The subtraction modification equals the amount by which the wholesale market value of the donated farm products exceeds the amount attributable to the donated farm products that the individual claims as a deduction for a charitable contribution under Section 170 of the Internal Revenue Code.

Background: Chapters 292 and 293 of 2013 established the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region, including Charles, Calvert, and St. Mary's counties, to provide the low-income, working poor, and unemployed populations of that region with fresh farm products. The task force is staffed by the Southern Maryland Agricultural Development Commission.

The final report of the task force, issued in December 2013, recommended creating a pilot distribution system in Southern Maryland whereby fresh produce is donated to a "hub" and then repackaged and distributed to "spokes" for dispersal into the community. The task force recommended creating a tax credit, which it determined would increase the amount of local food donations.

State Revenues: The bill authorizes an annual maximum of \$250,000 in credits in tax years 2014 through 2016. As a result, general fund revenues will decrease by \$250,000 in fiscal 2015 through 2017, assuming the maximum amount of credits are claimed against the personal income tax.

To the extent MDA does not award the maximum amount of credits in each year, revenue losses will be less than estimated. Credits claimed against the corporate income tax will decrease Transportation Trust Fund (TTF) and Higher Education Investment Fund revenues.

State Expenditures: General fund expenditures increase by \$62,600 in fiscal 2015 due to implementation costs at MDA and the Comptroller's Office, as described below.

MDA advises that it would incur additional costs beginning in fiscal 2015 as a result of hiring one seasonal marketing trainee. As a result, general fund expenditures increase by \$14,600 in fiscal 2015, which accounts for the bill's July 1, 2014 effective date. General fund expenditures increase by \$18,600 in fiscal 2016 and by \$19,400 in fiscal 2017.

The Comptroller's Office reports that it will incur a one-time expenditure increase of \$48,000 in fiscal 2015 to add the tax credit to the personal income tax form. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Seasonal Contractual Position	1
Salary and Fringe Benefits	\$14,400
Operating Expenses	200
MDA Expenditures	\$14,600
Comptroller Expenditures	<u>\$48,000</u>
Total FY 2015 Expenditures	\$62,600

Local Revenues: Local governments receive a portion of TTF revenues in the form of local highway user revenues for the purpose of constructing and maintaining local roads. Accordingly, local highway user revenues will decrease as a result of any credits claimed against the corporate income tax in fiscal 2015 through 2017.

Small Business Impact: A limited number of farms that are small businesses will benefit from the tax credit program. MDA estimates that there are 283 produce farms located in the eligible counties, of which 7 are certified organic producers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Comptroller's Office, Department of Legislative Services

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