

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 759 (Senator Jennings)
Budget and Taxation

Property Tax - Benefits for Agricultural Land - Exclusion of Solar Farms

This bill establishes that land used for the generation of electricity from solar energy does not qualify for a special use value assessment for agricultural land. The bill also prohibits a specified local property tax credit for agricultural land from being granted for tax imposed on land used for the generation of electricity from solar energy. **The bill takes effect June 1, 2018, and applies to taxable years beginning after June 30, 2018.**

Fiscal Summary

State Effect: None. The bill codifies current practice with regards to a special use assessment for agricultural land for solar farms.

Local Effect: County property tax revenues may increase beginning in FY 2019 to the extent property tax credits are granted to land with specified solar property. Expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law/Background: Maryland law provides (1) for the special status of farming and (2) a special land use assessment for farmland (under specified conditions) in order to promote the preservation of farmland (Tax Property Article, Section 8-209).

- The General Assembly declares that it is in the general public interest of the State to foster and encourage farming activities to (1) maintain a readily available source of food and dairy products close to the metropolitan areas of the State; (2) encourage

the preservation of open space as an amenity necessary for human welfare and happiness; and (3) prevent the forced conversion of open space land to more intensive uses because of the economic pressures caused by the assessment of the land at rates or levels incompatible with its practical use for farming.

- It is the intention of the General Assembly that the assessment of farmland (1) be maintained at levels compatible with the continued use of the land for farming and (2) not be affected adversely by neighboring land uses of a more intensive nature.

In order to qualify for an agricultural land use assessment, land must be actually and primarily used for a continuing farm or agricultural use. There are two tests used to make this determination – a use test and an income test.

- *Use Test* – a parcel of land is eligible for agricultural use valuation if it is determined to have five acres or more actually devoted to farming. Different agricultural activities may be combined to meet the use test such as the growing of various crops, raising of livestock, etc. For livestock to be considered in the use test, there must be at least one animal per acre for animals such as horses or cattle. There must be at least five animals per acre for animals such as sheep, goats, or swine. If less than five acres are actually devoted, a parcel or parcels can qualify only by an income test, unless the parcels are part of an agricultural land unit or a family farm unit.
- *Income Test* – parcels of land are eligible for agricultural use valuation if the agricultural use of the land produces a specified gross income. For parcels between three and five acres, the average gross income must be no less than \$2,500 per year. For parcels less than three acres in size, the average gross income must be no less than 51% of the owner's total gross income.

Approved agricultural activities include (1) raising grains, fruit, herbs, melons, mushrooms, nuts, seeds, tobacco, or vegetables; (2) raising poultry (chickens, turkeys, or eggs); (3) dairy (milking cows); (4) horse boarding, breeding, or training; (5) turf farming; (6) raising ornamental shrubs, plants, and flowers, including aquatic plants; (7) aquaculture; and (8) silvaculture.

Land subject to an agricultural special use assessment is typically valued at between \$125 and \$500 per acre depending on the parcel size and type of agricultural use.

Property Tax Credits for Agricultural Land Use

County governments are authorized to grant, by law, a property tax credit that does not exceed 75% of any county property tax imposed on agricultural land. Agricultural land means real property subject to an easement or other interest that is permanently conveyed

or assigned to the Maryland Agricultural Land Preservation Foundation (MALPF). Currently, this property tax credit is only granted in Cecil, Charles, Garrett, and Queen Anne's counties.

The State Department of Assessments and Taxation advises that agricultural land with solar property that is used for the generation of electricity is not provided the special agricultural land use assessment.

Local Fiscal Effect: Local property tax revenues may increase beginning in fiscal 2019 to the extent that counties are granting the property tax credit to land or portions of land that is being used to generate electricity from solar energy. However, any revenue increase is assumed to be minimal. As noted, only Cecil, Charles, Garrett, and Queen Anne's counties currently grant the property tax credit for agricultural land that is subject to an easement or other interest that is permanently conveyed or assigned to MALPF. In fiscal 2016, these counties granted 498 property tax credits totaling \$237,500.

Additional Information

Prior Introductions: None.

Cross File: HB 1013 (Delegate West) - Ways and Means.

Information Source(s): Maryland Department of Agriculture; Department of Natural Resources; State Department of Assessments and Taxation; Montgomery County; Department of Legislative Services

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md/hlb

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