

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 584
 Ways and Means

(Delegate Ebersole, *et al.*)

Budget and Taxation

Income Tax Credit - Food Donations by Qualified Farms - Sunset Repeal and Alterations (Farmers Feeding Families Act)

This bill permanently extends the State income tax credit for eligible food donations by qualified farms. Under current law, the tax credit terminates after tax year 2023. In addition, the bill increases the value of the credit from 50% to 100% of the value of eligible food donations and from 75% to 100% of the value of donated certified organic produce (subject to an existing \$5,000 limit). Finally, the bill states that it is the intent of the General Assembly that the Maryland Department of Agriculture (MDA) continue to fund the marketing of the credit program and facilitate the donation of eligible food donations by qualified farms, as specified. **The bill takes effect July 1, 2023, and applies to tax year 2023 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by up to \$100,000 annually beginning in FY 2025 due to credits claimed against the State income tax. As discussed below, general fund revenues may also decrease in FY 2024 due to the bill’s alterations to the value of the tax credit. To the extent credits are claimed against the corporate income tax, Higher Education Investment Fund (HEIF) revenues and Transportation Trust Fund (TTF) revenues and expenditures are also affected (not shown below). Expenditures are not otherwise affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	(-)	(\$100,000)	(\$100,000)	(\$100,000)	(\$100,000)
Expenditure	0	0	0	0	0
Net Effect	(-)	(\$100,000)	(\$100,000)	(\$100,000)	(\$100,000)

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

Local Effect: Local highway user revenues decrease minimally beginning in FY 2025 to the extent credits are claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: Chapters 232 and 233 of 2017 established a nonrefundable State income tax credit for tax years 2017 through 2019 for eligible food donations made by qualified farms located in Anne Arundel, Calvert, Charles, Montgomery, Prince George's, and St. Mary's counties. Chapter 361 of 2019 extended the tax credit through tax year 2021 and expanded eligibility to any farm business located in the State; Chapters 170 and 171 of 2021 subsequently extended the tax credit for an additional two years, through tax year 2023.

The value of the tax credit is equal to 50% of the value of an eligible food donation (75% for donated certified organic produce), not to exceed \$5,000 for a given tax year. However, the Secretary of Agriculture may increase the credit limitation for a qualified farm by up to an additional \$5,000 for any tax year. Any unused credit may be carried forward for up to five tax years.

To qualify for the credit, an eligible donation must be made to a person or organization that is certified by MDA as a tax credit certificate administrator. A certified tax credit certificate administrator must issue a tax credit certificate to a qualified farm upon receipt of an eligible food donation. Within 30 days after issuing a tax credit certificate, the tax credit certificate administrator must provide a copy of the tax credit certificate to MDA and the Comptroller.

The total amount of tax credit certificates issued may not exceed \$100,000 per fiscal year. If the total amount of tax credit certificates issued during any fiscal year totals less than \$100,000, any excess amount may be carried forward and issued in a subsequent fiscal year. A tax credit certificate may not be issued after December 31, 2023.

The Secretary of Agriculture, in consultation with the Comptroller, must annually report to the Governor and the General Assembly on the use and impact of the tax credit.

State/Local Fiscal Effect: As discussed above, the bill increases the value of the State income tax credit for eligible food donations by qualified farms and permanently extends the tax credit beyond tax year 2023. Consistent with existing law, the total amount of

tax credit certificates issued may not exceed \$100,000 annually. Since the program began, tax credit certificates issued have not exceeded \$100,000 in any year.

Thus, general fund revenues may decrease in fiscal 2024 to the extent the bill's alterations to the value of the tax credit result in an increase in the amount of credits issued for tax year 2023. Beginning in fiscal 2025, general fund revenues decrease by a maximum of \$100,000 annually due to the extension of the tax credit program beyond tax year 2023.

To the extent credits are claimed against the corporate income tax, a portion of the foregone tax revenues will reduce HEIF and TTF revenues, as well as local highway user revenue grants to local governments. However, any such impact is minimal.

MDA can continue to administer the program with existing budgeted resources.

Additional Information

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

Designated Cross File: None.

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

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Analysis by: Elizabeth J. Allison

Direct Inquiries to:
(410) 946-5510
(301) 970-5510