

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 4 (Delegate Ramirez)
 Ways and Means

Income Tax Credit for Restaurants in Arts and Entertainment Districts

This bill creates a tax credit against the State income tax for restaurants that locate after June 30, 2007 in an arts and entertainment district and “display for sale artwork created by qualifying residing artists of the arts and entertainment district.” However, any restaurant that currently holds a microbrewery license in an arts and entertainment district is not subject to the requirement that it must locate after June 30, 2007 and can qualify for the credit. The credit can be claimed for five tax years. In the first year the credit is equal to 50% of the State income tax liability of the restaurant and decreases in value by 10% in each of the next four tax years.

The bill takes effect July 1, 2007 and applies to tax year 2007 and beyond.

Fiscal Summary

State Effect: General fund revenues could decrease by \$218,400 in FY 2008 due to credits claimed by eligible restaurants and microbreweries against personal and corporate income taxes. Transportation Trust Fund (TTF) revenues could decrease by \$29,800 in FY 2008 due to credits being claimed against the corporate income tax. Future years reflect estimated number of eligible taxpayers and value of the credit as provided by the bill. General fund expenditures would increase by \$34,000 in FY 2008 due to one-time tax form changes and computer expenses.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	(\$218,400)	(\$759,700)	(\$1,035,700)	(\$1,232,900)	(\$1,337,000)
SF Revenue	(29,800)	(103,600)	(141,200)	(168,100)	(182,300)
GF Expenditure	34,000	0	0	0	0
Net Effect	(\$282,200)	(\$863,300)	(\$1,176,900)	(\$1,401,000)	(\$1,519,300)

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

Local Effect: Local highway user revenues distributed from the corporate income tax would decrease by \$8,900 in FY 2008, \$31,100 in FY 2009, \$42,400 in FY 2010, \$50,400 in FY 2011, and \$54,700 in FY 2012.

Small Business Effect: Meaningful.

Analysis

Current Law: No similar State tax credit exists.

Background: Chapter 608 of 2001 authorized the Department of Business and Economic Development (DBED) to establish arts and entertainment districts within a county or municipal corporation. Counties and municipal corporations must apply to DBED to have an area designated as an arts and entertainment district. The district must be wholly within a priority funding area and a designated neighborhood. Chapter 608 expanded the permissible uses of the Maryland Economic Development Assistance Fund to allow DBED to use the fund to provide financial assistance to arts and entertainment enterprises and arts and entertainment projects.

Chapter 608 also created a subtraction modification under the Maryland income tax for the amount of income derived from the publication, production, or sale of artistic work that is created by a “qualifying residing artist,” who owns or rents residential property in the district and conducts business in the district. The Comptroller’s Office does not collect information on the amount of any subtraction modification claimed as a result of residency in an arts and entertainment district. The income subtraction modification for these districts is consolidated together with other subtractions and is listed as a miscellaneous subtraction on the income tax return.

Chapter 608 provided for a property tax credit against the county or municipal corporation property tax imposed on a manufacturing, commercial, or industrial building that is located in an arts and entertainment district, and is wholly or partially renovated for use as housing for qualifying residing artists. The property tax credit cannot be granted for more than 10 years.

Finally, under Chapter 608, a county or municipal corporation may exempt from the admissions and amusement tax gross receipts any admissions or amusement charge levied by an “arts and entertainment enterprise” or qualified residing artist in an arts and entertainment district.

Chapter 175 of 2005 expanded eligibility of tax benefits provided to certain artists by: (1) extending eligibility of the subtraction modification to artists who own or rent property in the county in which an arts and entertainment district is located; and (2) expanding the type of buildings in an arts and entertainment district for which a local property tax credit may be claimed to buildings that are constructed or renovated to be capable of use by a qualifying residing artist. Chapter 175 also clarified that in order to claim the subtraction modification, a resident must write, compose, or execute the artistic work in the arts and entertainment district.

Exhibit 1 lists the 14 arts and entertainment districts currently established in the State.

Exhibit 1
Current Arts and Entertainment Districts

<u>Arts and Entertainment District</u>	<u>Location</u>
Cumberland	Allegany County
Station North	Baltimore City
Highlandtown	Baltimore City
Denton	Caroline County
Elkton	Cecil County
Cambridge	Dorchester County
Frederick	Frederick County
Bethesda	Montgomery County
Silver Spring	Montgomery County
Wheaton	Montgomery County
Gateway	Prince George's County
Hagerstown	Washington County
Berlin	Worcester County
Snow Hill	Worcester County

State Revenues: Tax credits could be claimed beginning in tax year 2007. As a result, general fund revenues could decrease by approximately \$218,400 in fiscal 2008. TTF revenues could decrease by approximately \$29,800 in fiscal 2008. This estimate is based on the following facts and assumptions:

- According to the Alcohol and Tobacco Tax Division of the Comptroller's Office, there are currently 14 licensed microbreweries in the State. Legislative Services estimates that of these microbreweries, three are located within an arts and entertainment district and could qualify for the tax credit.
- On average, three new restaurants open for every two districts in the next five years.
- Given the bill does not require a minimum number of artistic works be displayed, a minimum amount of time displayed, or that any artwork actually be sold; it is likely that any qualifying restaurant or microbrewery would opt to display artwork and claim the credit equal to up to 50% of its tax liability.
- The average tax liabilities for microbreweries and restaurants claiming the credit is based on average tax liabilities for these businesses located in the State and that the average tax liability increases by 8% annually. It is estimated that in tax year 2008, 24 businesses would be able to claim a credit of approximately \$23,300 each.
- In tax year 2007, the fiscal impact from restaurants claiming the credit is reduced by one-half to reflect a maximum of six months operations.

State Expenditures: The Comptroller's Office reports that it would incur a one-time expenditure increase of approximately \$34,000 in fiscal 2008 to add the credit to the personal income tax form. This includes data processing changes to the SMART income tax return and processing systems, and systems testing.

Small Business Impact: Small business restaurants and microbreweries that qualify for the credit would benefit by having State income tax liability decreased by up to 50% in a tax year. Other small businesses, such as restaurants currently located in an Arts and Entertainment District, bars, or microbreweries not located in a district that compete against businesses able to qualify for the credit would be negatively impacted by the bill as a result of being at a competitive disadvantage resulting from being assessed a higher tax burden.

Additional Information

Prior Introductions: HB 1616 of 2006, an identical bill as amended by the House Ways and Means Committee, received a favorable with amendments report from the House Ways and Means Committee and passed the House of Delegates, but was not reported from the Senate Budget and Taxation Committee.

Cross File: None.

Information Source(s): Department of Business and Economic Development,
Comptroller's Office, Maryland State Arts Council, Department of Legislative Services

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