

SENATE BILL 848

Q3

8lr1823

By: **Senator Serafini**

Introduced and read first time: February 5, 2018

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit – Wineries and Vineyards – Procedures to Claim Credit and**
3 **Sunset Extension**

4 FOR the purpose of altering the method by which an individual or a corporation may claim
5 a credit against the State income tax for certain expenses related to certain wineries
6 and vineyards in the State; extending for a certain number of years a certain
7 termination provision for the credit; providing for the application of this Act; and
8 generally relating to an income tax credit for certain winery and vineyard expenses.

9 BY repealing and reenacting, with amendments,
10 Article – Tax – General
11 Section 10–735
12 Annotated Code of Maryland
13 (2016 Replacement Volume and 2017 Supplement)

14 BY repealing and reenacting, with amendments,
15 Chapter 659 of the Acts of the General Assembly of 2013
16 Section 2

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

19 **Article – Tax – General**

20 10–735.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) “Department” means the Department of Commerce.

23 (3) “Qualified capital expenses” means all expenditures made by the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 taxpayer for the purchase and installation of equipment or agricultural materials for use
2 in the production of agricultural products at a vineyard, or in a winery, including:

- 3 (i) barrels;
- 4 (ii) bins;
- 5 (iii) bottling equipment;
- 6 (iv) canopy management machines;
- 7 (v) capsuling equipment;
- 8 (vi) chemicals;
- 9 (vii) corks;
- 10 (viii) crushers;
- 11 (ix) destemmers;
- 12 (x) fermenters or other recognized fermentation devices;
- 13 (xi) fertilizer and soil amendments;
- 14 (xii) filters;
- 15 (xiii) fruit harvesters;
- 16 (xiv) fruit plants;
- 17 (xv) hoses;
- 18 (xvi) irrigation equipment;
- 19 (xvii) labeling equipment;
- 20 (xviii) lugs;
- 21 (xix) mowers;
- 22 (xx) poles;
- 23 (xxi) posts;
- 24 (xxii) presses;

- 1 (xxiii) pruning equipment;
- 2 (xxiv) pumps;
- 3 (xxv) refractometers;
- 4 (xxvi) refrigeration equipment;
- 5 (xxvii) seeders;
- 6 (xxviii) soil;
- 7 (xxix) small tools;
- 8 (xxx) tanks;
- 9 (xxxi) tractors;
- 10 (xxxii) vats;
- 11 (xxxiii) weeding and spraying equipment;
- 12 (xxxiv) wine tanks;
- 13 (xxxv) wire; and
- 14 (xxxvi) any other items as approved by the Department.

15 (4) "Vineyard" means agricultural lands located in the State consisting of
16 at least 1 contiguous acre dedicated to the growing of grapes that are used or are intended
17 to be used in the production of wine by a winery as well as any plants or other improvements
18 located thereon.

19 (5) "Winery" means an establishment licensed by the Comptroller as either
20 a Class 3 or Class 4 winery under § 2-205 or § 2-206 of the Alcoholic Beverages Article.

21 (b) Subject to the limitations of this section, an individual or a corporation may
22 claim a credit against the State income tax in an amount equal to 25% of the qualified
23 capital expenses made in connection with:

- 24 (1) the establishment of new wineries or vineyards; or
- 25 (2) the capital improvements made to existing wineries or vineyards.

26 (c) (1) By September 15 of the calendar year following the end of the taxable
27 year in which the qualified capital expenses were paid or incurred, an individual or a
28 corporation shall submit an application to the Department for the credit allowed under this

1 section.

2 (2) (i) The total amount of credits approved by the Department under
3 this section for a taxable year may not exceed \$500,000.

4 (ii) If the total amount of credits applied for by all individuals and
5 corporations under this section exceeds the maximum specified under subparagraph (i) of
6 this paragraph, the Department shall approve a credit under this section for each applicant
7 in an amount equal to the product of multiplying the credit applied for by the applicant
8 times a fraction:

9 1. the numerator of which is the maximum specified under
10 subparagraph (i) of this paragraph; and

11 2. the denominator of which is the total of all credits applied
12 for by all applicants in the calendar year.

13 (iii) By December 15 of the calendar year following the end of the
14 taxable year in which the qualified capital expenses were paid or incurred, the Department
15 shall certify to the individual or corporation the amount of the tax credit approved by the
16 Department for the individual or corporation under this section.

17 (3) To claim the approved credit allowed under this section, an individual
18 or a corporation shall:

19 (i) 1. file an amended income tax return for the taxable year in
20 which the qualified capital expenses were paid or incurred; and

21 [(ii)] 2. attach a copy of the Department's certification of the
22 approved credit amount to the amended income tax return; **OR**

23 **(II) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ATTACH A**
24 **COPY OF THE DEPARTMENT'S CERTIFICATION OF THE APPROVED CREDIT AMOUNT**
25 **TO AN INCOME TAX RETURN FILED FOR ANY TAXABLE YEAR AFTER THE TAXABLE**
26 **YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE INCURRED.**

27 (d) If the credit allowed under this section in any taxable year exceeds the total
28 tax otherwise payable by the individual or corporation for that taxable year, the individual
29 or corporation may apply the excess as a credit for succeeding taxable years until:

30 (1) the full amount of the excess is used; or

31 (2) the expiration of the 15th taxable year after the taxable year in which
32 the qualified capital expenses were paid or incurred.

33 (e) The Department and the Comptroller jointly shall adopt regulations to:

1 (1) implement the provisions of this section; and

2 (2) specify criteria and procedures for application for, approval of, and
3 monitoring continuing eligibility for the tax credit under this section.

4 (f) The Comptroller shall adopt regulations providing for:

5 (1) determination of the amount of the credit under this section in the case
6 of trades or businesses, whether or not incorporated, that are under common control;

7 (2) pass-through and allocation of the credit in the case of estates and
8 trusts, partnerships, unincorporated trades or businesses, and S corporations;

9 (3) adjustments in the case of acquisitions and dispositions described in §
10 41(f)(3) of the Internal Revenue Code; and

11 (4) determination of the credit in the case of short taxable years.

12 **Chapter 659 of the Acts of 2013**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
14 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012. It
15 shall remain effective for a period of [5] 8 years and, at the end of June 30, [2018] 2021,
16 with no further action required by the General Assembly, this Act shall be abrogated and
17 of no further force and effect.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
19 1, 2018, and shall be applicable to all credits certified after December 31, 2017.