

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 815
Ways and Means

(Delegate Shoemaker)

Budget and Taxation

**State Agricultural Land Transfer Tax – Application of Nonagricultural Use
Reduction and Exemption**

This bill clarifies that, with regard to the State agricultural land transfer tax, Chapters 566 and 567 of 2019 apply to a transfer under contract of sale dated on or after July 1, 2019. The bill authorizes a person who paid the agricultural land transfer tax under a contract of sale dated prior to July 1, 2019, to seek a refund of any excess tax paid. **The bill takes effect June 1, 2021.**

Fiscal Summary

State Effect: State special fund revenues may decrease beginning in FY 2022 to the extent refunds are issued for transfer taxes paid. Expenditures are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapters 566 and 567 of 2019 repealed an exemption from the State agricultural land transfer tax for certain properties in which the property tax was paid on the basis of an assessment other than the farm or agricultural use assessment for five full consecutive taxable years before a transfer. In lieu of this exemption, the legislation provided a partial transfer tax reduction:

- 25% if property tax on the agricultural land was paid on the basis of an assessment other than the farm or agricultural use assessment for one full taxable year before a transfer;
- 50% if property tax on the agricultural land was paid on the basis of an assessment other than the farm or agricultural use assessment for two full consecutive taxable years before a transfer; and
- 65% if property tax on the agricultural land was paid on the basis of an assessment other than the farm or agricultural use assessment for three or more full consecutive taxable years before a transfer.

In addition, the legislation exempted transfers of agricultural land from the agricultural land transfer tax if the land was previously subject to the tax for a previous transfer.

Agricultural Land Transfer Tax – Payments and Rates

Agricultural land transfer taxes are paid by any person or business conveying title to agricultural land that is subject to the tax. Either the buyer or the seller, as determined by the contract of sale, may pay the tax. The tax base is the amount of consideration paid for the property, including the amount of any mortgage or deed of trust assumed by the grantee, less the value of any improvements or any land not subject to the tax. The amount of consideration paid must be stated in the instrument of writing that transfers title to agricultural land.

The agricultural land transfer tax rates are:

- 5% for transfers of 20 acres or more of agricultural land;
- 4% for transfers of less than 20 acres assessed for agricultural use or as unimproved agricultural land; or
- 3% for transfers of less than 20 acres assessed as improved agricultural land or agricultural land with certain site improvements.

A 25% surcharge is imposed on an instrument of writing transferring title of certain agricultural land as a separate charge independent of the State agricultural land transfer tax. The surcharge does not apply to transfers of two acres or less of agricultural land to a child or grandchild of the owner. When determining the rate of the agricultural land transfer tax to be imposed, the amount of agricultural land that is exempted from the tax may not be included in the amount of agricultural land that is transferred.

State Fiscal Effect: State special fund revenues decrease to the extent refunds are issued for transfers under contract that were dated prior to July 1, 2019, but paid the agricultural

land transfer tax in accordance with Chapters 566 and 567 of 2019. The amount of the revenue decrease depends on the number of refunds provided.

Additional Information

Prior Introductions: HB 1609 of 2020 received a favorable report from the House Ways and Means Committee and passed the House. The bill was referred to the Senate Budget and Taxation Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Frederick, and Montgomery counties; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of Natural Resources; Maryland Department of Planning; Department of Legislative Services

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