HB 607

Department of Legislative Services

Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 607 (Delegate Smigiel, *et al.*)
Ways and Means

Income Tax - Gain Recognized on Sale of Agricultural Land Preservation Easement

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This bill creates a subtraction modification under the Maryland income tax for income resulting from the gain realized on the sale of an easement in agricultural land to the Maryland Agricultural Land Preservation Foundation (MALPF).

The bill takes effect July 1, 2004 and applies to all taxable years after December 31, 2003.

Fiscal Summary

State Effect: The extent of the general fund revenue loss depends on the amount of easement purchases made by MALPF in a fiscal year and cannot be reliably estimated. Based on the proposed budget for MALPF in FY 2005, general fund revenues could decrease by approximately $605,000.

Local Effect: Based on the assumptions above, local government revenues could decline by approximately $369,750 in FY 2005.

Small Business Effect: Potential meaningful.

Analysis

Current Law: No subtraction modification exists for any gain realized of the sale of easements to MALPF. Landowners who donate easements to either MALPF or the

Maryland Environmental Trust (MET) qualify for a nonrefundable tax credit of up to $5,000.

Background: The purpose of the Maryland Agricultural Land Preservation Program, established in 1977 and administered by MALPF, is to preserve wood and agricultural land in order to provide sources of agricultural products within the State; control the urban expansion which is encroaching upon the wood and agricultural land of the State; curb the spread of urban blight and deterioration; and protect agricultural land and woodland as open space land. Through July 2003, the program has preserved 228,854 acres. Funding for the program has typically come from the agricultural transfer tax imposed on all transfers of title in agricultural land taken out of production, a portion of the State transfer tax, Greenprint funds, and federal funds.

MALPF states that many individuals are reluctant to sell easements to MALPF due to concerns about paying income taxes on the gain realized in selling easements. This bill would eliminate State income tax on easements sales, but the more substantial federal taxation would continue.

State Revenues: The actual cost of the bill, which cannot be reliably estimated at this time, depends on the amount of easements purchased in a fiscal year by MALPF and the income gain on each easement sale. As mentioned previously, MALPF receives funding from a variety of sources. These include the transfer tax, the agricultural land transfer tax, federal funds, and general obligation bonds. These sources vary substantially as they are subject to federal, State, and local budget processes.

For illustrative purposes, the table below presents the estimated loss in fiscal 2005 from the subtraction modification. It is assumed that 75% of an easement sale is treated as an income gain and all easement purchase sales are concluded in the fiscal year. The amount of land purchases is based on the fiscal 2005 allowance of $17 million for MALPF.

Land Purchases	$17,000,000
Gain Realized @ 75% of Sale Price	12,750,000
General Fund Revenue Loss @ 4.75%	605,625
Local Revenue Loss @ 2.9%	369,750

In prior years, MALPF has received substantially more funding. To the extent that MALPF receives more funding, general fund revenue losses will be greater. For example, MALPF purchased approximately $37.6 million in easements in fiscal 2002.

Using the same assumptions above, general fund revenues would decline by approximately $1.3 million if MALPF is funded at this level.

State Expenditures: To the extent that landowners lower prices in response to the subtraction modification, State expenditures for a given number of acres preserved will decrease. Legislative Services estimates that this decrease in expenditures will be minimal and any decrease in easement price would be only partly realized by the State since approximately one-half of easement purchases involve federal and local funds.

Small Business Impact: Many farmers are small businesses. These small businesses that sell easements would benefit. Based on the average price paid by MALPF per acre in 2002, a farmer who sells easements from a 250-acre farm would benefit by $17,440.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/mdr

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