SB 293

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 293 (Senators Dyson and Forehand)
Budget and Taxation Ways and Means

Income Tax Credit for Preservation and Conservation Easements - County Tax Credit Authorized

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This bill allows, subject to the approval of a county governing body, the State income tax credit for preservation and conservation easements to be applied against a county income tax.

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: Special fund expenditures could increase by approximately $44,400 in FY 2007 due to one-time tax form changes and computer expenses if the credit is authorized for tax year 2006. No effect on revenues.

Local Effect: Local government revenues would decrease to the extent that a county provides that the tax credit can be applied against the county income tax.

Small Business Effect: Minimal.

Analysis

Bill Summary: The credit may not be claimed against the county income tax unless the governing body has authorized, by local law or ordinance, that the credit can be claimed against the county income tax. The county governing body may determine the amount of county income tax credit and place additional limitations on the credit. If a county provides that the tax credit can be applied against the county income tax, the county must notify the Comptroller on or before July 1 prior to the first tax year the county income tax credit will be available. However, the bill does not require the county to notify the Comptroller if changes are made to the tax credit program.

Current Law: Chapter 676 of 2001 established the preservation and conservation easement tax credit. The amount of the credit allowed is the amount by which the fair market value of the property, before the conveyance of an easement to the Maryland Environmental Trust (MET) or Maryland Agricultural Land Preservation Foundation (MALPF), exceeds the fair market value of the property after the conveyance of the easement. The fair market value of the property before and after the conveyance of the easement is substantiated by an appraisal prepared by a certified real estate appraiser. The amount of the credit is reduced by the amount of any payment received for the easement. The amount of the credit allowed for any taxable year may not exceed the lesser of: (1) the State income tax; or (2) $5,000. Any unused credit may be carried forward for up to 15 years, but may not exceed the lesser of the State tax or $5,000 in any taxable year. The credit may not be claimed for a required dedication of open space for the purpose of fulfilling density requirements to obtain a subdivision or building permit.

Background: The purpose of MALPF, established in 1977, 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 2004, the program has preserved 235,369 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.

MET, which was established by the General Assembly in 1967, is a statewide local land trust governed by a citizen board of trustees. MET works with over 40 private, nonprofit land trusts. These land trusts can hold conservation easements independently or jointly with MET. In addition, some of these land trusts acquire and manage land. As of January 20, 2005, the program has preserved 108,400 acres.

Exhibit 1 lists the amount of tax credits claimed for the existing State income tax credit.

Exhibit 1
Preservation and Conservation Tax Credits Claimed,
Tax Years 2001 – 2003

	Taxpayers	Amount Claimed	Average Credit
2001	151	189,620	1,256
2002	225	384,286	1,708
2003	172	471,161	2,739

Counties and Baltimore City impose an income tax on residents. In tax year 2005 the rates ranged from 1.25% to 3.2% and the average rate was approximately 3.1%.

State Expenditures: The Comptroller's Office reports that it would incur a one-time expenditure increase of $44,400 to add the checkoff to the personal tax form. This includes data processing changes to the SMART income tax return processing and imaging systems and system testing.

Small Business Effect: Many farmers are small businesses. These small farmers that sell easements and claim the credit would benefit to the extent that a county provides that the tax credit can be applied against the county income tax.

Additional Information

Prior Introductions: HB 1086 of 2004, an identical bill, was not reported from the House Ways and Means Committee. The cross file of HB 1086, SB 481, passed the Senate but was not reported from the House Ways and Means Committee.

Cross File: HB 517 (Delegate James) – Ways and Means.

Information Source(s): Comptroller's Office, Maryland Agricultural Land Preservation Foundation, Maryland Environmental Trust, Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2005
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