Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 360 (Senator Dyson, *et al.*)
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. Counties may provide that easements donated under the Rural Legacy Program or Program Open Space (POS) can qualify for the county income tax credit.

The bill takes effect June 1, 2006.

Fiscal Summary

State Effect: General fund expenditures could increase by approximately $32,900 in FY 2008 due to one-time tax form changes and computer expenses if the credit is authorized for tax year 2007. 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: Potential meaningful.

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 2005, the program has preserved 241,475 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 50 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. Through the end of calendar 2005, the program has preserved 111,349 acres.

The purpose of the Rural Legacy Program, established in 1997 and administered by DNR, is to supplement State land preservation programs in order to preserve key areas before escalating land values render protection impossible or before the land is lost to development. The program provides funding to local governments and conservation organizations to purchase property and conservation easements within designated Rural Legacy Areas. There are 29 Rural Legacy Areas in 21 counties. As of February 1, 2006, the program had preserved 51,772 acres.

POS, established in 1969, provides funds for State and local acquisition and development of public outdoor recreational sites, facilities, and open space. Generally, funding for POS is equally divided between the State and local governments. The State share focuses on the acquisition of land for natural resource conservation with the inclusion of low-impact recreational activities where appropriate. The local share is used primarily for the acquisition and development of high-impact recreational sites and facilities. As of March 1, 2006, the program (both State and local) had preserved nearly 322,875 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 – 2004

	Taxpayers	Amount Claimed	Average Credit
2001	151	189,620	1,256
2002	172	384,286	1,708
2003	225	471,161	2,094
2004	304	625,644	2,058

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%.

State Expenditures: The Comptroller's Office reports that it would incur a one-time expenditure increase of $32,850 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.

Local Revenues: Local government revenues would decrease to the extent that a county provides that the tax credit can be applied against the county income tax. The impact on any county depends on the number of returns claiming the credit in a county that authorized the expansion of the credit. If the credit had been authorized by all counties and at its maximum value in tax year 2004, local government revenues would have decreased by approximately $395,000 in fiscal 2005.

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. The amount of the benefit would depend on the local county income tax rate and the percent of the credit allowed by the county. If the credit could have been applied against the county income tax in tax year 2004, the maximum additional benefit to a taxpayer would have ranged from $542 to $1,386. To the extent that counties authorized a credit, but at a reduced rate, benefits would decrease correspondingly.

Additional Information

Prior Introductions: A similar bill was introduced in the 2005 session as SB 293/HB 517 and in the 2004 session as SB 481/HB 1086. SB 293 and SB 481 passed the Senate but were not reported from the Ways and Means Committee. HB 517 received an unfavorable report from the Ways and Means Committee. HB 1086 was not reported from the Ways and Means Committee.

Cross File: None.

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

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