

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 1616
 Ways and Means

(Delegate Ramirez, *et al.*)

Budget and Taxation

Income Tax Credit for Restaurants in Arts and Entertainment Districts

This bill creates a tax credit against the State income tax for restaurants that locate after July 1, 2006 in an arts and entertainment district and “display for sale artwork created by qualifying residing artists of the arts and entertainment district.” However, any restaurant that currently holds a microbrewery license in an arts and entertainment district is not subject to the requirement that it must locate after July 1, 2006 and can qualify for the credit. The credit can be claimed for five tax years. The credit in the first year is equal to 50% of the State income tax liability of the restaurant and decreases in value by 10% in each of the next four tax years.

The bill takes effect July 1, 2006 and applies to tax year 2006 and beyond.

Fiscal Summary

State Effect: General fund revenues could decrease by approximately \$163,400 in FY 2007 due to credits claimed by eligible restaurants and microbreweries. Transportation Trust Fund (TTF) revenues could decrease by approximately \$21,600 in FY 2007 due to credits being claimed against the corporate income tax. Future years reflect estimated number of eligible taxpayers and value of the credit as provided by the bill. General fund expenditures would increase by approximately \$32,900 in FY 2007 due to one-time tax form changes and computer expenses.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	(\$163,400)	(\$289,100)	(\$383,200)	(\$445,500)	(\$476,200)
SF Revenue	(21,600)	(38,900)	(51,800)	(60,500)	(64,800)
GF Expenditure	32,900	0	0	0	0
Net Effect	(\$217,900)	(\$328,000)	(\$435,000)	(\$506,000)	(\$541,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local highway user revenues distributed from the corporate income tax would decrease by approximately \$6,500 in FY 2007, \$11,700 in FY 2008, \$15,600 in FY 2009, \$18,100 in FY 2010, and \$19,400 in FY 2011.

Small Business Effect: Meaningful.

Analysis

Current Law: No similar State tax credit exists.

Background: Chapter 608 of 2001 authorized the Department of Business and Economic Development (DBED) to establish arts and entertainment districts within a county or municipal corporation. Counties and municipal corporations must apply to DBED to have an area designated as an arts and entertainment district. The district must be wholly within a priority funding area and a designated neighborhood. Chapter 608 expanded the permissible uses of the Maryland Economic Development Assistance Fund to allow DBED to use the fund to provide financial assistance to arts and entertainment enterprises and arts and entertainment projects.

Chapter 608 also created a subtraction modification under the Maryland income tax for the amount of income derived from the publication, production, or sale of artistic work that is created by a “qualifying residing artist,” who owns or rents residential property in the district and conducts business in the district. The Comptroller’s Office does not collect information on the amount of any subtraction modification claimed as a result of residency in an arts and entertainment district. The income subtraction modification for these districts is consolidated together with other subtractions and is listed as a miscellaneous subtraction on the income tax return.

Chapter 608 provided for a property tax credit against the county or municipal corporation property tax imposed on a manufacturing, commercial, or industrial building that is located in an arts and entertainment district, and is wholly or partially renovated for use as housing for qualifying residing artists. The property tax credit cannot be granted for more than 10 years. The State Department of Assessments and Taxation advises that no local property tax credits have been claimed to date.

Finally, under Chapter 608, a county or municipal corporation may exempt from the admissions and amusement tax gross receipts any admissions or amusement charge levied by an “arts and entertainment enterprise” or qualified residing artist in an arts and entertainment district.

Chapter 175 of 2005 expanded eligibility of tax benefits provided to certain artists by: (1) extending eligibility of the subtraction modification to artists that own or rent property in the county in which an arts and entertainment district is located; and (2) expanding the type of buildings in an arts and entertainment district for which a local property tax credit may be claimed to buildings that are constructed or renovated to be capable of use by a qualifying residing artist. Chapter 175 also clarified that in order to claim the subtraction modification a resident must write, compose, or execute the artistic work in the arts and entertainment district.

Exhibit 1 lists the 12 arts and entertainment districts currently established in the State.

Exhibit 1
Current Arts and Entertainment Districts

<u>Arts and Entertainment District</u>	<u>Location</u>
Cumberland	Allegany County
Station North	Baltimore City
Highlandtown	Baltimore City
Denton	Caroline County
Cambridge	Dorchester County
Frederick City	Frederick County
Bethesda	Montgomery County
Silver Spring	Montgomery County
Wheaton	Montgomery County
Gateway	Prince George's County
Hagerstown	Washington County
Berlin	Worcester County

State Revenues: Tax credits could be claimed beginning in tax year 2006. As a result, general fund revenues could decrease by approximately \$163,400 in fiscal 2007. TTF revenues could decrease by approximately \$21,600 in fiscal 2007. This estimate is based on the following facts and assumptions:

- According to the Alcohol and Tobacco Tax Division of the Comptroller's Office, there are currently 14 licensed microbreweries in the State. Legislative Services estimates that of these microbreweries, three are located within an arts and entertainment district and could qualify for the tax credit.
- On average, one new restaurant opens in each district in the next five years.

- Given the bill does not require a minimum number of artistic works be displayed, a minimum amount of time displayed, or that any artwork actually be sold; it is likely that any qualifying restaurant or microbrewery would opt to display artwork and claim the credit equal to up to 50% of its tax liability provided an agreement can be reached with a qualifying artist.
- The average tax liabilities for microbreweries and restaurants claiming the credit is based on average tax liabilities for these businesses located in the State.

State Expenditures: The Comptroller's Office reports that it would incur a one-time expenditure increase of approximately \$32,900 in fiscal 2007 to add the credit to the personal income tax form. This includes data processing changes to the SMART income tax return and processing systems, and systems testing.

Small Business Impact: Small business restaurants that display qualifying artwork would benefit by having its State income tax liability decreased by up to 50% in a tax year.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Comptroller's Office, Maryland State Arts Council, Department of Legislative Services

Fiscal Note History: First Reader - March 20, 2006
ncs/hlb Revised - House Third Reader - April 5, 2006

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