SB 652

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 652 (Senator Robey, *et al.*)
Budget and Taxation

Property Tax - Valuation of Income Producing Property

This bill prohibits the State Department of Assessments and Taxation from considering income earned by a tenant under a lease less than 99 years that is not perpetually renewable when using an income method to determine the value of income producing real property.

Fiscal Summary

State Effect: Potential decrease in State property tax revenues beginning in FY 2010. This decrease would require either (1) an increase in the State property tax rate; or (2) a general fund appropriation to cover debt service on the State's general obligation bonds. Expenditures would not be affected.

Local Effect: Potential decrease in local property tax revenues beginning in FY 2010. Expenditures would not be affected.

Small Business Effect: Minimal.

Analysis

Current Law: When valuing income producing real property, except for land that is actively devoted to farm or agricultural use, SDAT • may value income producing real property by using the capitalization of income method or any other appropriate method of valuing the real property; and • must consider an income method in valuing income producing commercial real property.

For income producing single-family residential real property, SDAT may value the property by using the same methods that are used for single-family residential real property that is owner occupied.

In determining the value of commercial real property developed under § 42 of the Internal Revenue Code (affordable housing developments financed through the use of federal low-income housing tax credits), SDAT • must consider the impact of applicable rent restrictions, affordability requirements, or any other related restrictions required by § 42 of the Internal Revenue Code (IRC) and any other federal, State, or local programs; • may not consider income tax credits under § 42 of IRC as income attributable to the real property; and • may consider the replacement cost approach only if the value produced by the replacement cost approach is less than the value produced by the income approach for the property and it is reflective of the value of the real property.

State Fiscal Effect: SDAT indicates that the bill currently applies to one property – a 21.5 acre commercial property located in Prince George's County that is subject to a long-term lease between the owners of the property and a developer. The property currently includes a 230,000 square foot shopping center. The current full cash value assessment as of January 1, 2008 is $39.3 million, which is based on the rent paid by the tenants of the shopping center as well as the lease between the property owners and the developers. The January 1, 2005 full cash value assessment was $33.1 million. That assessment was appealed and affirmed by the Maryland Tax Court. The owners of the property have appealed the tax court decision to the Prince George's County Circuit Court.

To the extent that SDAT is prohibited from using the income method in ascribing value to property under a long-term lease, it is likely that the assessment would decrease, which would result in decreased property taxes. However, the number of times this may occur and the amount of any assessment decrease and associated property tax decrease cannot be determined at this time.

Debt service payments on the State's general obligation bonds are paid from the Annuity Bond Fund. Revenue sources for the fund include State property taxes, premium from bond sales, and repayments from certain State agencies, subdivisions, and private organizations. General funds may be appropriated directly to the Annuity Bond Fund to make up any differences between the debt service payments and funds available from property taxes and other sources. The proposed fiscal 2009 State budget includes $744.8 million for general obligation debt service costs, all of which are special funds from the Annuity Bond Fund.

To offset the reduction in State property tax revenues, general fund expenditures could increase in an amount equal to the decrease in the Annuity Bond Fund revenues or the State property tax rate would have to be increased in order to meet debt service payments. This assumes that the Annuity Bond Fund does not have an adequate fund balance to cover the reduction in State property tax revenues.

Local Fiscal Effect: Local property tax revenues could decrease beginning in fiscal 2010, as discussed above.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Property Tax Assessment Appeals Board, Kent County, Montgomery County, Prince George's County, Department of Legislative Services

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Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510