

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 764 (Delegate Costa, *et al.*)
 Ways and Means and Environmental Matters

Income Tax Credit - Organic Fertilizer

This bill creates a tax credit against the State income tax for individuals who purchase organic fertilizer. The amount of the credit is equal to 50% of the purchase price of the fertilizer, not to exceed the lesser of \$1,000 or the tax liability in that year. The bill requires the Maryland Department of Agriculture to establish an organic fertilizer certification process.

The bill takes effect July 1, 2008 and applies to tax year 2008 and beyond.

Fiscal Summary

State Effect: General fund revenues would decrease minimally beginning in FY 2009 due to credits being claimed by eligible individuals. Special fund revenues would increase by \$25,000 annually beginning in FY 2009 from certification fees from organic farms. General and special fund expenditures would increase by \$71,000 in FY 2009 which reflects one-time tax form changes and computer programming expenditures at the Comptroller’s Office and certification expenses at MDA.

| (in dollars) | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|----------------|------------|------------|------------|------------|------------|
| GF Revenue | (-) | (-) | (-) | (-) | (-) |
| SF Revenue | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 |
| GF Expenditure | 46,000 | 12,700 | 14,400 | 16,100 | 17,900 |
| SF Expenditure | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 |
| Net Effect | (\$46,000) | (\$12,700) | (\$14,400) | (\$16,100) | (\$17,900) |

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Except for operations whose gross agricultural income from organic sales totals \$5,000 or less, farm and processing operations that grow and process organic foods must be certified by USDA-accredited certifying agents. MDA is a USDA accredited certifying agent for producers and handlers located in Maryland. Regulations adopted by MDA to certify products that may be labeled as organically produced commodities must meet the requirements of the federal Organic Food Production Act, 7 U.S.C. §6501 *et seq.*

The federal Organic Food Production Act contains no provisions allowing a fertilizer to be certified as organic. The Act requires that soil used to grow organic foods must use organic materials and may not use commercially blended fertilizers containing materials prohibited by the Act or the applicable State organic certification program. The Act prohibits fertilizer used to grow organic food from using phosphorous, lime, or potash as a source of nitrogen.

As advised by MDA, the only way that fertilizer could be certified as organic would be to apply current regulations for plants and animals. Essentially, fertilizer from an animal source must be from an animal that has been certified organic and fertilizer made from a plant must be from a certified organic plant.

Background: The Maryland Organic Certification Program (OCP) was established in 1991 to encourage the development of the State's organic food industry. OCP provides certification services and marketing support to organic producers and handlers, and assurances to customers that State certified organic producers and handlers are adhering to a uniform set of standards. OCP services include providing information about organic standards to new and renewing farmers, receiving and reviewing certification applications, and conducting on-farm inspections and audits of records. MDA has adopted regulations governing production and distribution of organic products and organic certification standards.

MDA charges \$400 annually to certify that a producer is organic and the fee is scheduled to increase to \$500 in fiscal 2009. There are approximately 90 food producers in the State that have applied to be certified organic. MDE estimates that no more than 25 of these producers are certified for animals. Organic farms typically utilize waste created on a farm as a source of fertilizer, not as a source of revenue.

State Revenues: The bill provides an income tax credit for up to 50% of the purchase price of certified organic fertilizer. Each individual that purchases certified organic fertilizer would be able to claim a maximum \$1,000 tax credit annually. State general fund revenues would decrease from the amount of tax credits claimed by individuals that purchase organically certified fertilizer. The amount of income tax credits claimed would depend on the availability of certified organic fertilizer and the price differential between conventional fertilizer and organic fertilizer. MDA estimates that 50 certified organic farms may apply to have organically certified fertilizer. Organic farms normally use waste created on the farm as fertilizer and do not typically sell fertilizer commercially. Under this assumption, the impact on State income tax revenues should be minimal and special fund revenues would increase by \$25,000 annually for the issuance of 50 certifications (at a cost of \$500 per certificate).

Legislative Services advises that if a major producer of fertilizer, such as a large farm with poultry or cattle, obtain organic certification for fertilizer it may have a significant negative impact on State income tax revenues. If organically certified fertilizer became readily available, each farm, landscaping company, or other individuals in the State that use fertilizer on agricultural or residential land would be eligible for an income tax credit.

State Expenditures: MDA advises that total expenditures would increase by \$37,020 (\$25,000 special fund and \$12,020 general fund) in fiscal 2009 due to increased certification expenses. The Comptroller's Office reports that it would incur a one-time expenditure increase of \$34,000 in fiscal 2009 to add the tax credit to the personal income tax form. This includes data processing changes to the SMART income tax return and processing systems, and systems testing.

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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mcp/hlb

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