

HOUSE BILL 1128

Q3

2lr3191
CF SB 757

By: **Delegates Myers, Afzali, Beitzel, Boteler, Donoghue, Hough, Ivey, K. Kelly, Parrott, Ready, Schulz, and Serafini**

Introduced and read first time: February 10, 2012

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Tax Credit for Wineries and Vineyards**

3 FOR the purpose of allowing a credit against the State income tax for certain qualified
4 expenditures at certain wineries and certain vineyards; requiring the Maryland
5 Department of Agriculture to administer a certain tax credit; providing for the
6 maximum amount of tax credits that may be issued by the Department each
7 year; requiring the Comptroller to adopt certain regulations; defining certain
8 terms; providing for the application of this Act; and generally relating to an
9 income tax credit for certain expenditures at certain wineries and certain
10 vineyards.

11 BY adding to

12 Article – Tax – General

13 Section 10–731

14 Annotated Code of Maryland

15 (2010 Replacement Volume and 2011 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Tax – General**

19 **10–731.**

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
21 MEANINGS INDICATED.

22 (2) “DEPARTMENT” MEANS THE DEPARTMENT OF AGRICULTURE.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(3) “MARYLAND VINEYARD” MEANS AGRICULTURAL LANDS**
2 **LOCATED IN THE STATE CONSISTING OF AT LEAST 1 CONTIGUOUS ACRE**
3 **DEDICATED TO THE GROWING OF GRAPES THAT ARE USED OR ARE INTENDED TO**
4 **BE USED IN THE PRODUCTION OF WINE BY A MARYLAND CLASS 3 OR CLASS 4**
5 **WINERY AS WELL AS ANY PLANTS OR OTHER IMPROVEMENTS LOCATED**
6 **THEREON.**

7 **(4) “MARYLAND WINERY” MEANS AN ESTABLISHMENT LICENSED**
8 **BY THE COMPTROLLER AS EITHER A CLASS 3 OR CLASS 4 WINERY UNDER**
9 **ARTICLE 2B §§ 2–204 AND 2–205 OF THE CODE.**

10 **(5) “QUALIFIED CAPITAL EXPENSES” MEANS ALL EXPENDITURES**
11 **MADE BY THE TAXPAYER FOR THE PURCHASE AND INSTALLATION OF**
12 **EQUIPMENT OR AGRICULTURAL MATERIALS FOR USE IN THE PRODUCTION OF**
13 **AGRICULTURAL PRODUCTS FOR WINEMAKING, OR IN A WINERY, INCLUDING BUT**
14 **NOT LIMITED TO:**

15 **(I) BARRELS;**

16 **(II) BINS;**

17 **(III) BOTTLING EQUIPMENT;**

18 **(IV) CANOPY MANAGEMENT MACHINES;**

19 **(V) CAPSULING EQUIPMENT;**

20 **(VI) CHEMICALS;**

21 **(VII) CORKERS;**

22 **(VIII) CRUSHERS;**

23 **(IX) DESTEMMERS;**

24 **(X) FERMENTERS OR OTHER RECOGNIZED FERMENTATION**
25 **DEVICES;**

26 **(XI) FERTILIZER AND SOIL AMENDMENTS;**

27 **(XII) FILTERS;**

28 **(XIII) FRUIT HARVESTERS;**

- 1 **(XIV) FRUIT PLANTS;**
- 2 **(XV) HOSES;**
- 3 **(XVI) IRRIGATION EQUIPMENT;**
- 4 **(XVII) LABELING EQUIPMENT;**
- 5 **(XVIII) LUGS;**
- 6 **(XIX) MOWERS;**
- 7 **(XX) POLES;**
- 8 **(XXI) POSTS;**
- 9 **(XXII) PRESSES;**
- 10 **(XXIII) PRUNING EQUIPMENT;**
- 11 **(XXIV) PUMPS;**
- 12 **(XXV) REFRACTOMETERS;**
- 13 **(XXVI) REFRIGERATION EQUIPMENT;**
- 14 **(XXVII) SEEDERS;**
- 15 **(XXVIII) SOIL;**
- 16 **(XXIX) SMALL TOOLS;**
- 17 **(XXX) TANKS;**
- 18 **(XXXI) TRACTORS;**
- 19 **(XXXII) VATS;**
- 20 **(XXXIII) WEEDING AND SPRAYING EQUIPMENT;**
- 21 **(XXXIV) WINE TANKS;**

1 **(XXXV) WIRE; AND**

2 **(XXXVI) ANY OTHER ITEMS AS APPROVED BY THE**
3 **DEPARTMENT.**

4 **(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL**
5 **OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN**
6 **AN AMOUNT EQUAL TO 25% OF THE QUALIFIED CAPITAL EXPENSES MADE IN**
7 **CONNECTION WITH:**

8 **(1) THE ESTABLISHMENT OF NEW MARYLAND WINERIES OR**
9 **MARYLAND VINEYARDS; OR**

10 **(2) THE CAPITAL IMPROVEMENTS MADE TO EXISTING MARYLAND**
11 **WINERIES OR MARYLAND VINEYARDS.**

12 **(C) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE**
13 **END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE**
14 **PAID OR INCURRED, AN INDIVIDUAL OR A CORPORATION SHALL SUBMIT AN**
15 **APPLICATION TO THE DEPARTMENT FOR THE CREDIT ALLOWED UNDER THIS**
16 **SECTION.**

17 **(2) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE**
18 **DEPARTMENT UNDER THIS SECTION MAY NOT EXCEED:**

19 **1. \$250,000 FOR CALENDAR YEAR 2012;**

20 **2. \$375,000 FOR CALENDAR YEAR 2013; AND**

21 **3. \$500,000 FOR CALENDAR YEAR 2014 AND EACH**
22 **CALENDAR YEAR THEREAFTER.**

23 **(II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY**
24 **ALL INDIVIDUALS AND CORPORATIONS UNDER THIS SECTION EXCEEDS THE**
25 **MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE**
26 **DEPARTMENT SHALL APPROVE A CREDIT UNDER THIS SECTION FOR EACH**
27 **APPLICANT IN AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE**
28 **CREDIT APPLIED FOR BY THE APPLICANT TIMES A FRACTION:**

29 **1. THE NUMERATOR OF WHICH IS THE MAXIMUM**
30 **SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND**

1 **2. THE DENOMINATOR OF WHICH IS THE TOTAL OF**
2 **ALL CREDITS APPLIED FOR BY ALL APPLICANTS IN THE CALENDAR YEAR.**

3 **(III) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING**
4 **THE END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES**
5 **WERE PAID OR INCURRED, THE DEPARTMENT SHALL CERTIFY TO THE**
6 **INDIVIDUAL OR CORPORATION THE AMOUNT OF THE TAX CREDIT APPROVED BY**
7 **THE DEPARTMENT FOR THE INDIVIDUAL OR CORPORATION UNDER THIS**
8 **SECTION.**

9 **(3) TO CLAIM THE APPROVED CREDIT ALLOWED UNDER THIS**
10 **SECTION, AN INDIVIDUAL OR CORPORATION SHALL:**

11 **(I) FILE AN AMENDED INCOME TAX RETURN FOR THE**
12 **TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR**
13 **INCURRED; AND**

14 **(II) ATTACH A COPY OF THE DEPARTMENT'S**
15 **CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME**
16 **TAX RETURN.**

17 **(D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE**
18 **YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE INDIVIDUAL OR**
19 **CORPORATION FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR CORPORATION**
20 **MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL:**

21 **(1) THE FULL AMOUNT OF THE EXCESS IS USED; OR**

22 **(2) THE EXPIRATION OF THE 15TH TAXABLE YEAR AFTER THE**
23 **TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR**
24 **INCURRED.**

25 **(E) THE COMPTROLLER SHALL ADOPT REGULATIONS PROVIDING FOR:**

26 **(1) DETERMINATION OF THE AMOUNT OF THE CREDIT UNDER**
27 **THIS SECTION IN THE CASE OF TRADES OR BUSINESSES, WHETHER OR NOT**
28 **INCORPORATED, THAT ARE UNDER COMMON CONTROL;**

29 **(2) PASS-THROUGH AND ALLOCATION OF THE CREDIT IN THE**
30 **CASE OF ESTATES AND TRUSTS, PARTNERSHIPS, UNINCORPORATED TRADES OR**
31 **BUSINESSES, AND S CORPORATIONS;**

1 **(3) ADJUSTMENTS IN THE CASE OF ACQUISITIONS AND**
2 **DISPOSITIONS DESCRIBED IN § 41(F)(3) OF THE INTERNAL REVENUE CODE;**
3 **AND**

4 **(4) DETERMINATION OF THE CREDIT IN THE CASE OF SHORT**
5 **TAXABLE YEARS.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2012, and shall be applicable to all taxable years beginning after December 31,
8 2011.