

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 726
Ways and Means

(Montgomery County Delegation)

Budget and Taxation

Montgomery County - Property Tax Credit - Benefit Corporations and Benefit
Limited Liability Companies
MC 13-12

This bill authorizes Montgomery County to grant a property tax credit against the county property tax for real or personal property that is (1) owned or leased by a specified “benefit corporation” or “benefit limited liability company”; (2) not used for residential purposes; and (3) used in a trade or business by a benefit corporation or benefit limited liability company. Montgomery County is authorized to provide for (1) criteria for eligibility and certification for the tax credit; (2) the amount of the tax credit; (3) the duration of the tax credit, for a period not to exceed 10 years; (4) regulations and procedures for the application, certification, and uniform processing of requests for the tax credit; (5) limited aggregate amounts of tax credits; and (6) any other provision necessary to carry out the tax credit.

The bill takes effect June 1, 2012, and applies to all taxable years beginning after June 30, 2012.

Fiscal Summary

State Effect: None.

Local Effect: Montgomery County property tax revenues may decrease beginning in FY 2013 to the extent the tax credit it granted. The amount of the decrease depends on the number of eligible benefit corporations and benefit limited liability companies, real and personal property assessments, and the amount of the property tax credit.

Small Business Effect: Potential meaningful. Benefit corporations and benefit limited liability companies may realize reduced property tax payments.

Analysis

Current Law: Chapters 97 and 98 of 2010 authorized a Maryland corporation to elect to be a benefit corporation provided that the benefit corporation's purpose is to create a general public benefit. A "general public benefit" is defined to mean a material, positive impact on society and the environment, as measured by a third-party standard, through activities that promote a combination of specific public benefits. Likewise, Chapter 97 and 98 defined a "specific public benefit" to mean providing individuals or communities with beneficial products or services; promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business; preserving the environment; improving human health; promoting the arts, sciences, or advancement of knowledge; increasing the flow of capital to entities with a public benefit purpose; or the accomplishment of any other particular benefit for society or the environment.

Chapters 97 and 98 allow a corporation to elect to be a benefit corporation by amending its charter, or by including a statement in the charter that the corporation is a benefit corporation. An amendment to be formed as a benefit corporation and the subsequent termination of benefit corporation status must be approved by the stockholders. Reference to the fact that a corporation is a benefit corporation must appear prominently at the head of the benefit corporation's charter document, each subsequent charter document, and all outstanding stock certificates. Chapters 97 and 98 further allow a benefit corporation to identify and include one or more specific public benefits in its charter.

Background: Benefit corporations incorporate under a state's current corporate statutes and are subject to private-sector tax laws. Unlike traditional C or S corporations, benefit corporations must include a public benefit or social commitment in their corporate charter and corporate governing documents. B Lab, a nonprofit organization, is an impartial third party that certifies and rates benefit corporations on how well they meet a set of social and environmental performance standards. Maryland was the first state to authorize benefit corporations.

Local Fiscal Effect: Montgomery County property tax revenues may decrease beginning in fiscal 2013 to the extent the property tax credit is authorized. The amount of the revenue decrease depends on the number of eligible businesses, real and personal property assessments, and the amount of the tax credit authorized.

For fiscal 2012, Montgomery County has a real property tax rate of \$0.959 per \$100 of assessment and a personal property tax rate of \$2.3975 per \$100 of assessment. Montgomery County and the State Department of Assessments and Taxation (SDAT) have identified seven benefit companies located in the county. None of these companies own real property in the county. Six of these are new companies and have not yet filed a

personal property tax return, which are due April 15, 2012, for the current tax year. As a result, SDAT does not have personal property assessment data for these companies. The seventh company had a personal property assessment of \$440 for fiscal 2011.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Montgomery County, Department of Legislative Services

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ncs/hlb

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