HB 1017

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1017 (Delegate Barve, *et al.*)
Ways and Means Budget and Taxation

Income Tax Credit - Wineries and Vineyards

This bill creates a tax credit against the State income tax for 25% of the capital expenses made to either establish or make capital improvements to a winery or vineyard. The Department of Business and Economic Development (DBED) is required to administer the tax credit and is authorized to award a maximum of $500,000 in credits annually. The credit is subject to the Tax Credit Evaluation Act of 2012 and must be evaluated by July 1, 2017.

The bill takes effect July 1, 2013, and applies to tax year 2013 through 2017. The bill terminates on June 30, 2018.

Fiscal Summary

State Effect: General fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues will decrease by a total of $500,000 annually in FY 2015 through 2019. General fund expenditures increase by $31,000 due to one-time implementation costs at the Comptroller's Office. DBED can administer the credit with existing resources.

($ in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
GF/SF Rev.	$0	($.5)	($.5)	($.5)	($.5)
GF Expenditure	$.0	$0	$0	$0	$0
Net Effect	$.0	($.5)	($.5)	($.5)	($.5)

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

Local Effect: Local highway user revenues will decrease in FY 2015 through 2019 as a result of credits claimed against the corporate income tax. No effect on expenditures.

Small Business Effect: Minimal. Small businesses that are wineries with qualified capital expenses will benefit. There are 1 Class 3 and 62 Class 4 wineries in Maryland.

Analysis

Bill Summary: The bill creates a tax credit against the State income tax for 25% of qualified capital expenses made to either establish a new winery or vineyard or make capital improvements to an existing winery or a vineyard in the State. DBED is required to administer the credit and is authorized to award a maximum of $500,000 in credits annually.

A vineyard is defined as agricultural lands located in the State consisting of at least one contiguous acre dedicated to the growing of grapes that are used or intended to be used in the production of wine by a Maryland Class 3 or Class 4 winery as well as any plants or other improvements located thereon. A winery is an establishment licensed by the Comptroller as either a Class 3 or Class 4 winery.

The bill establishes the application and certification process for the awarding and claiming of credits. An organization or individual seeking the tax credit must apply to DBED for certification of the eligible expenses it incurs; if the total amount of credits applied for in the application period exceeds the total amount available, DBED is required to reduce the amount of the credit by the proportionate amount of the excess. Any amount of the credit claimed cannot exceed the tax liability for that tax year. Any unused amount of the credit can be carried forward for 15 tax years.

Current Law: No State tax credit of this type exists. However, federal and State income tax provisions provide for special treatment of business investments as discussed below.

The Tax Credit Evaluation Act of 2012 establishes a process for evaluating certain State tax credits. The Act provides for a legislative committee evaluation process in consultation with the Comptroller's Office, the Department of Budget and Management, and the Department of Legislative Services (DLS). The tax credit evaluation dates are staggered over a four-year period from July 1, 2014, through July 1, 2017, and the tax credits must be reevaluated every five years.

Background: Under the federal income tax, capital investments made by a business can be expensed or depreciated. Expensing is the treatment for tax purposes of a cost of doing business as an ordinary and necessary expense rather than a capital expenditure. Ordinary and necessary costs are deducted in the year in which they are incurred, whereas capital costs typically are recovered over longer periods according to depreciation methods and schedules specified in the Internal Revenue Code. Except for recent federal legislation providing for increased expensing and depreciation for certain property, the State generally conforms to the federal tax treatment of capital investments.

In addition, the federal income tax has numerous other provisions providing for special tax treatment for qualifying investments.

The Internal Revenue Service (IRS) provides detailed guidance on the timing and treatment of vineyard development costs. For example, the process of transforming grapes into wine is classified as a manufacturing process; wineries must generally account for these costs as a manufacturer using the Uniform Capitalization (UNICAP) rules. If UNICAP applies, all costs are capitalized until the vineyard starts producing a crop. The IRS *Wine Industry Audit Technique Guide* provides the determination of whether a cost can be expensed or capitalized, depending on the type and timing of the expenditure.

State Revenues: DBED may award a maximum of $500,000 in credits annually. Taxpayers claiming the credit must receive certification and file an amended tax return. It is assumed that revenue losses will occur in the fiscal year following the year in which the credit was earned. As a result, general fund, HEIF, and TTF revenues may decrease by a total of $500,000 annually in fiscal 2015 through 2019.

To the extent DBED does not award the maximum amount of credits in each fiscal year, revenue losses will be less than estimated.

State Expenditures: The Comptroller's Office reports that it will incur a one-time expenditure increase of $31,000 in fiscal 2014 to add the tax credit to the personal and corporate income tax forms. This amount includes changes to the SMART income tax return processing and imaging systems. DLS can evaluate the credit with existing resources.

Local Revenues: Local highway user revenues will decrease in fiscal 2015 through 2019 as a result of credits claimed against the corporate income tax.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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