Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 176 (Senator Glassman)
Budget and Taxation

Income Tax Credit - Agricultural Land - Diminution in Value of Real Property

This bill creates a State income tax credit for an owner of agricultural land for the diminished value of real property that occurs as a result of (1) the Sustainable Growth and Agricultural Preservation Act of 2012 (Chapter 149) or (2) regulations concerning the nutrient management plans adopted under Code of Maryland Regulations (COMAR) 15.20.07 and 15.20.08, including any provisions incorporated by reference concerning stream fencing.

The bill takes effect July 1, 2014, and applies to tax year 2014 and beyond.

Fiscal Summary

State Effect: General fund revenues may decrease significantly beginning in FY 2015 due to tax credits claimed against the State income tax. General fund expenditures increase by $31,000 in FY 2015 due to one-time implementation costs at the Comptroller's Office.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill creates a State income tax credit for an owner of agricultural land for the diminished value of real property that occurs as a result of (1) the Sustainable Growth and Agricultural Preservation Act of 2012 or (2) regulations concerning the nutrient management plans adopted under COMAR 15.20.07 and 15.20.08, including any provisions incorporated by reference concerning stream fencing.

The value of the credit is equal to the amount by which the fair market value of the property before the enacted legislation or adoption of regulations exceeds the fair market value of the property within five years after the enactment of the legislation or adoption of the regulations. The fair market value of the property must be substantiated by a certified real estate appraisal. In order to claim the credit, a taxpayer must provide to the Comptroller the appraisal and any additional information as specified in regulations adopted by the Comptroller. If the amount of the credit exceeds the tax liability imposed in the taxable year, any unused credit amount may be carried forward until the full amount of the excess is used.

Current Law: No State tax credit of this type exists.

Background:

Sustainable Growth and Agricultural Preservation Act of 2012

Chapter 149 of 2012 established four growth tiers based on specified land use characteristics, which may be adopted by local jurisdictions. Beginning December 31, 2012, a jurisdiction may not authorize a residential major subdivision served by on-site sewage disposal systems, community sewerage systems, or shared systems unless it adopts growth tiers consistent with Chapter 149. A jurisdiction that does not adopt a growth tier may authorize either a residential minor subdivision served by on-site sewage disposal systems, or any subdivision in a "Tier I" area served by "public sewer." Chapter 149 established land use and sewerage criteria and restrictions applicable to each of the four tiers. Property within residential minor subdivisions is generally restricted from further subdivision beginning December 31, 2012. Chapter 149 also established numerous exceptions from and conditions upon these restrictions, and it allowed for the transfer of subdivision rights among specified agricultural property owners.

The fiscal and policy note for Chapter 149 estimated that it may have potentially significant but disparate impacts on the value of real property statewide. The type of impact will depend on several factors, including whether a property is currently developed or undeveloped, and which tier, if any, a property will ultimately be located within. The value of agricultural properties may be impacted both to the extent they are designated as Tier III or IV areas and because of the restrictions on future subdivision rights. The specified exemptions and separate provisions for agricultural lands may mitigate or alter the generally applicable effects Chapter 149 has on property values for those lands.

Nutrient Management Plan Regulations

Since the passage of the Water Quality Improvement Act of 1998 (Chapters 324 and 325), agricultural operations with $2,500 or more in gross annual income and livestock operations with 8,000 pounds or more of live animal weight must have and comply with a nutrient management plan for nitrogen and phosphorus. A nutrient management plan is a plan developed by a certified nutrient management consultant to manage the amount, placement, timing, and application of animal waste, commercial fertilizer, sludge, or other plant nutrients to prevent pollution by transport of nutrients and to maintain productivity on agricultural land. Different implementation dates apply to operations using chemical fertilizers and operations using sewage sludge or animal manure. Operations using sewage sludge or animal manure have been required to comply with a nutrient management plan for nitrogen and phosphorus since July 1, 2005.

COMAR 15.20.07 sets forth certain performance and technical standards that apply to nutrient management plans and was added to ensure consistency with the most up-to-date scientific findings from research conducted by the University of Maryland. The regulations generally resulted in three categories of changes: (1) changes to crop nutrient recommendations; (2) changes to nutrient application and storage guidelines; and (3) changes to clarify existing policy related to sources of nutrients.

COMAR 15.20.08 incorporates the Phosphorus Site Index (PSI-2) into the nutrient management planning process. First implemented in the 1990s, PSI is used as a tool in the nutrient management planning process to assess the risk of phosphorus loss from agricultural lands. It applies in situations when phosphorus levels in the soil exceed a threshold that is established in regulation. PSI-2 was recently developed by scientists in Maryland and Delaware with collaborative support from regional and national scientists focused on phosphorus transport.

State Revenues: Tax credits may be claimed beginning in tax year 2014. Accordingly, general fund revenues may decrease significantly beginning in fiscal 2015. However, the amount of the revenue loss cannot be reliably estimated and depends on the number of agricultural land owners that claim credits, if any, the calculated amount of the loss in the fair market value of eligible agricultural land, and the amount of credits claimed.

State Expenditures: The Comptroller's Office reports that it will incur a one-time expenditure increase of $31,000 in fiscal 2015 to add the tax credit to the personal and corporate income tax forms. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing. The Comptroller's Office also advises that if a large number of credits are claimed it may require an additional employee to verify the supporting documentation.

Small Business Impact: Any small business that owns qualifying real agricultural property that is estimated to have diminished in value as specified by the bill and claims the credit will benefit.

Additional Information

Prior Introductions: SB 427 of 2013 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. Its cross file, HB 796, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Department of Natural Resources, Maryland Department of Planning, Maryland Department of the Environment, Comptroller's Office, Department of Legislative Services

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ncs/jrb

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