

**Department of Legislative Services**  
 Maryland General Assembly  
 2015 Session

**FISCAL AND POLICY NOTE**

House Bill 359 (Delegates Jameson and Hixson)  
 Ways and Means

**Income Tax Credit - Qualified Farms - Food Donation Pilot Program**

This emergency bill creates a tax credit against the State income tax for eligible food donations made by a qualified farm located in Anne Arundel, Calvert, Charles, Prince George’s, or St. Mary’s counties. The value of the credit is equal to 50% of the value of the eligible food donation (75% for certified organic produce), not to exceed \$5,000. A maximum of \$250,000 in credits may be awarded annually in tax years 2015, 2016, and 2017.

The bill also re-establishes the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region and expands the task force to include Anne Arundel and Prince George’s counties. The task force terminates June 30, 2018.

**Fiscal Summary**

**State Effect:** General fund revenues decrease by \$250,000 annually in FY 2016 through 2018. General fund expenditures increase by \$35,700 in FY 2016 due to one-time implementation costs at the Maryland Department of Agriculture (MDA) and the Comptroller’s Office.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	(\$250,000)	(\$250,000)	(\$250,000)	\$0	\$0
GF Expenditure	\$35,700	\$0	\$0	\$0	\$0
Net Effect	(\$285,700)	(\$250,000)	(\$250,000)	\$0	\$0

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

**Local Effect:** Local highway user revenues will decrease in FY 2016 through 2018 as a result of any credits claimed against the corporate income tax. Local expenditures are not affected.

**Small Business Effect:** Meaningful.

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## **Analysis**

**Bill Summary:** A qualified farm can claim an income tax credit for eligible food donations. The farm business must be located in Anne Arundel, Calvert, Charles, Prince George's, or St. Mary's counties. The value of the credit is equal to 50% of the value of the eligible food donation (75% for certified organic produce), not to exceed \$5,000 in the taxable year. The Secretary of Agriculture can increase this limit by up to an additional \$5,000 in the taxable year. Any unused amount of the credit may be carried forward for five taxable years. Certified organic produce must be certified as an organically produced commodity under Title 10, Subtitle 14 of the Agriculture Article.

In order to qualify, eligible donations must be made to an organization that is authorized by MDA to act as a tax credit administrator. Tax credit administrators are required to issue tax credit certificates to eligible farms upon receipt of an eligible food donation and provide within 30 days a copy of the certificate to the Comptroller and MDA.

A maximum of \$250,000 in credits may be awarded annually in tax years 2015, 2016, and 2017. Credits may not be issued after December 31, 2017.

The Secretary of Agriculture is required to:

- publish weekly the categories and value of certified organic produce and eligible food donations;
- establish a process, in consultation with the Comptroller, to certify tax credit administrators;
- notify tax credit administrators to stop issuing tax credit certificates if a total of \$200,000 in certificates have been issued in a calendar year;
- adopt regulations, in consultation with the Comptroller, that establish the procedures for issuing remaining certificates once the total amount of certificates issued has reached the limit above;
- adopt regulations, in consultation with the Comptroller, implementing the tax credit program; and
- in consultation with the Comptroller and the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region, report annually to the Governor and General Assembly on the use and impact of the tax credit.

The bill also re-establishes, effective June 1, 2015, the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region and

expands the task force to include Anne Arundel and Prince George's counties. The task force terminates June 30, 2018.

**Current Law:** No similar State tax credit exists.

Taxpayers may generally claim a subtraction modification for the value of farm products donated to a gleaning cooperative. The farm products must be suitable for human consumption when donated and must either be donated to or harvested or collected, free of charge, by the cooperative. A gleaning cooperative is a tax-exempt nonprofit organization that is organized and operated to provide and distribute food free of charge to needy individuals, including unemployed and low-income individuals. The subtraction modification equals the amount by which the wholesale market value of the donated farm products exceeds the amount attributable to the donated farm products that the individual claims as a deduction for a charitable contribution under Section 170 of the Internal Revenue Code.

**Background:** Chapters 292 and 293 of 2013 established the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region, including Charles, Calvert, and St. Mary's counties, to provide the low-income, working poor, and unemployed populations of that region with fresh farm products.

The final report of the task force, issued in December 2013, recommended creating a pilot distribution system in Southern Maryland whereby fresh produce is donated to a "hub" and then repackaged and distributed to "spokes" for dispersal into the community. The task force recommended creating a tax credit, which it determined would increase the amount of local food donations.

**State Revenues:** The bill authorizes an annual maximum of \$250,000 in credits in tax years 2015 through 2017. As a result, general fund revenues will decrease by \$250,000 in fiscal 2016 through 2018, assuming the maximum amount of credits are claimed against the personal income tax.

Credits claimed against the corporate income tax will decrease Transportation Trust Fund (TTF) and Higher Education Investment Fund revenues. To the extent MDA does not award the maximum amount of credits in each year, revenue losses will be less than estimated.

**State Expenditures:** General fund expenditures increase by \$35,700 in fiscal 2016 due to implementation costs at MDA and the Comptroller's Office.

MDA advises that it would incur additional costs as a result of hiring one seasonal marketing trainee from May to October in the first year of the program. As a result, general fund expenditures increase minimally in fiscal 2015 and by \$4,700 in fiscal 2016.

The Comptroller's Office reports that it will incur a one-time expenditure increase of \$31,000 in fiscal 2016 to add the tax credit to the personal income tax form. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Seasonal Contractual Position	1
Salary and Fringe Benefits	\$4,300
Operating Expenses	400
<b>MDA Expenditures</b>	<b>\$4,700</b>
<b>Comptroller Expenditures</b>	<b><u>\$31,000</u></b>
<b>Total FY 2016 Expenditures</b>	<b><u>\$35,700</u></b>

**Local Revenues:** Local governments receive a portion of TTF revenues in the form of local highway user revenues for the purpose of constructing and maintaining local roads. Accordingly, local highway user revenues will decrease as a result of any credits claimed against the corporate income tax in fiscal 2016 through 2018.

**Small Business Impact:** A limited number of farms that are small businesses will benefit from the tax credit program. MDA estimates that there are 239 produce farms located in the eligible counties, of which 16 are certified organic producers.

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### **Additional Information**

**Prior Introductions:** SB 670 of 2014, a similar bill, received a favorable with amendments report from the Senate Budget and Taxation Committee, passed the Senate and received a hearing in the House Ways and Means Committee, but no further action was taken. Its cross file, HB 1083, received a hearing in the House Ways and Means Committee, but no further action was taken.

**Cross File:** SB 280 (Senator Middleton) - Budget and Taxation.

**Information Source(s):** Comptroller's Office, Internal Revenue Service, Maryland Department of Agriculture, Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2015  
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