SB 848

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 848 (Senator Serafini)
Budget and Taxation Ways and Means

Income Tax Credit - Wineries and Vineyards - Procedures to Claim Credit and Sunset Extension

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This bill extends the termination date of the wineries and vineyards income tax credit to June 30, 2021. The bill also alters the method by which an individual or corporation may claim the tax credit by allowing a taxpayer to attach a copy of the tax credit certification to an income tax return filed for any taxable year after the taxable year in which the qualified capital expenses were incurred. **The bill takes effect June 1, 2018, and is applicable to all credits certified after December 31, 2017.**

Fiscal Summary

State Effect: General fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues decrease by a total of $500,000 annually in FY 2020 through 2022. The Comptroller's Office and the Department of Commerce (Commerce) can implement the bill with existing resources.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF/SF Rev.	$0	($500,000)	($500,000)	($500,000)	$0
Expenditure	0	0	0	0	0
Net Effect	$0	($500,000)	($500,000)	($500,000)	$0

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

Local Effect: Local highway user revenues decrease minimally in FY 2020 through 2022 as a result of credits claimed against the corporate income tax. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 659 of 2013 created a nonrefundable 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. Commerce is required to administer the credit and is authorized to award a maximum of $500,000 in credits annually.

An organization or individual seeking the tax credit must apply to Commerce 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, Commerce must reduce the amount of the credit by the proportionate amount of the excess. To claim the tax credit, an individual or corporation must file an amended income tax return for the taxable year in which the qualified capital expenses were incurred and attach a copy of the tax credit certification to the amended income tax return. Any unused amount of the credit can be carried forward for 15 tax years. The tax credit terminates on June 30, 2018.

State Revenues: In tax year 2013, 31 businesses had $2.74 million in qualified expenditures and were awarded $500,000 in credits. In tax year 2014, 37 businesses had $2.37 million in qualified expenditures and were awarded $500,000 in credits. In tax year 2015, 38 businesses had $3.11 million in qualified expenditures and were awarded $500,000 in credits. Thus, it is assumed that Commerce awards a maximum of $500,000 in credits annually. Taxpayers claiming the credit must receive certification which occurs by December 15 of the calendar year following the end of the taxable year in which the expenses were paid or incurred, so revenue losses occur in the fiscal year following the year in which the credit was earned. As a result, general fund, HEIF, and TTF revenues decrease by a total of $500,000 annually in fiscal 2020 through 2022. To the extent that the tax credit exceeds a taxpayer's tax liability or that taxpayers are not claiming the awarded credits, revenue losses will be less than estimated.

The bill also allows a taxpayer to attach a copy of the tax credit certification to an income tax return filed for any taxable year after the taxable year in which the qualified capital expenses were incurred. Since this provision of the bill only shifts the timing of receiving tax credits, State revenues are not materially impacted over the long term from this provision. Taxpayers still have the option to file an amended tax return to claim the tax credit. The Department of Legislative Services (DLS) assumes taxpayers will choose to file an amended tax return to claim the credit for the taxable year in which the expenses were incurred if those taxpayers have sufficient tax liability in that year to use the credit.

If taxpayers who earned the tax credit do not have a tax liability in the tax year that expenses were incurred, they receive no immediate benefit from filing an amended tax return. The credit is carried forward until they have sufficient tax liability to use the credit. DLS

assumes these taxpayers will choose to claim the tax credit in a tax year after the taxable year in which costs were incurred. In this scenario, allowing a taxpayer the option of claiming the credit in a later year instead of filing an amended tax return does not impact tax revenues since the taxpayer did not receive an immediate benefit from filing an amended return and claiming the credit in the tax year that the expenses were incurred.

To the extent that a taxpayer has a tax liability in the year that expenses were incurred and opts to claim the tax credit in a future tax year instead of filing an amended tax return, general fund, TTF, and HEIF revenues may increase in the first year and decrease by a corresponding amount in later years. Since the bill only shifts the timing of receiving tax credits, State revenues are not impacted over the long term.

However, some taxpayers never claim tax credits that they have earned. To the extent that the bill encourages taxpayers who have not claimed the credit to now do so, general fund, TTF, and HEIF revenues may decrease.

The Comptroller's Office can implement the bill with existing resources. The bill may result in the Comptroller's Office not having to process as many amended tax returns, but any operational efficiencies are offset from the Comptroller's Office having to take additional steps to ensure that tax credits were not already claimed in an earlier tax year. Generally, taxpayers have 3 years from the date the original return was due to file an amended State tax return, but the bill allows the tax credit to be claimed in up to 15 of the years following the year after in which expenses were incurred. Thus, the Comptroller's Office may have to check the 15 prior tax returns to see if a taxpayer has previously claimed the credit.

Local Revenues: Local highway user revenues may decrease minimally in fiscal 2020 through 2022 as a result of any credits claimed against the corporate income tax.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Department of Commerce; Department of Legislative Services

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