

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 Enrolled - Revised

House Bill 403

(Delegates Ebersole and P. Young)

Ways and Means

Budget and Taxation

Income Tax Credit - Qualified Farms - Food Donation Pilot Program -  
 Expansion and Extension

This bill extends the food donation income tax credit for qualified farms for two additional tax years through tax year 2021 and expands the program so that all qualified farm businesses located in the State, not just in specified counties, also qualify for the credit. Additionally, the bill decreases the maximum amount of tax credit certificates that the Maryland Department of Agriculture (MDA) may issue annually from \$250,000 to \$100,000. It is the General Assembly’s intent that MDA continue to fund the marketing of the tax credit program and facilitate the donation of eligible food donations by qualified farms through the reimbursement of transportation costs or direct assistance with the transportation of eligible food donations. **The bill takes effect July 1, 2019.**

Fiscal Summary

**State Effect:** General fund revenues decrease by up to \$100,000 annually in FY 2021 and 2022 due to credits claimed against the income tax. MDA and the Comptroller’s Office can implement the bill with existing resources.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
GF Revenue	\$0	(\$100,000)	(\$100,000)	\$0	\$0
Expenditure	0	0	0	0	0
Net Effect	\$0	(\$100,000)	(\$100,000)	\$0	\$0

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

**Local Effect:** To the extent that income tax credits are claimed against the corporate income tax, local highway user revenues decrease minimally in FY 2021 and 2022. Local expenditures are not affected.

**Small Business Effect:** Minimal.

## Analysis

**Current Law:** Chapters 232 and 233 of 2017 created a tax credit against the State income tax for eligible food donations made by a qualified farm located in Anne Arundel, Calvert, Charles, Montgomery, Prince George's, or St. Mary's counties. A maximum of \$250,000 in credits may be awarded annually in tax years 2017, 2018, and 2019.

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. Credits may not be issued after December 31, 2019.

To qualify, eligible donations must be made to an organization that is authorized by MDA to act as a tax credit certificate administrator. These 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.

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 certificate administrators;
- notify tax credit certificate administrators to stop issuing certificates if a total of \$200,000 in certificates has 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, report annually to the Governor and General Assembly on the use and impact of the tax credit.

**Background:** MDA advises that for tax year 2017, one farmer received tax credits amounting to \$10,000 for produce donations. For tax year 2018, two farmers had qualified for tax credits totaling \$5,290. In addition, one farm has donated 252 pounds of various cuts of pork and another farm donated 405 pounds of cheddar cheese. Pricing on the pork and cheese donations is currently being determined with assistance of the U.S. Department of Agriculture.

MDA has promoted the program through a press release and speaking engagements. Currently there are five nonprofits approved as tax credit administrators. In 2019, MDA plans to increase promotion of the program to ensure farmers are aware of the opportunity. MDA advises that many farmers sell produce to food banks instead of donating food.

**State Revenues:** The bill expands the food donation tax credit to all qualified farms in the State beginning in tax year 2019, decreases the maximum amount of tax credit certificates that may be awarded annually, and extends the program for two additional years. An annual maximum of \$100,000 in food donation credits may be awarded through tax year 2021. The Department of Legislative Services assumes that lowering the cap on tax credit certificates does not materially affect income tax revenues in fiscal 2020 since tax credit certificates have not exceeded \$100,000 since the program started.

General fund revenues decrease by up to \$100,000 in fiscal 2021 and 2022, assuming the credits are claimed against the personal income tax. To the extent MDA does not award the maximum amount of credits in each year, revenue losses will be less than estimated.

To the extent that credits are claimed against the corporate income tax, Transportation Trust Fund (TTF) and Higher Education Investment Fund revenues will decrease in fiscal 2021 and 2022. A portion of TTF revenues are used to provide capital transportation grants to local governments. To the extent that TTF revenues decrease as a result of taxpayers claiming the subtraction modification against the corporate income tax, TTF expenditures decrease by 13.5% of the TTF revenue decrease. TTF revenues also fund the State capital program; thus, a decrease in TTF revenues decreases expenditures for the State capital program.

**Local Revenues:** To the extent that income tax credits are claimed against the corporate income tax, local highway user revenues decrease minimally in fiscal 2021 and 2022.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller's Office; Maryland Department of Agriculture; Department of Legislative Services

**Fiscal Note History:**  
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