

Part B Taxes

Property Tax

Homeowners' Property Tax Credit and Renters' Property Tax Relief Programs

Rising property tax assessments have generated interest among members of the General Assembly to alter the homeowners' property tax credit and renters' tax relief programs to provide additional property tax relief for seniors and low-income homeowners and renters.

Homeowners' Property Tax Credit Program: The Homeowners' Property Tax Credit Program (Circuit Breaker) is a State-funded program (i.e., the State reimburses local governments) that provides credits against State and local real property taxation for homeowners who qualify based on a sliding scale of property tax liability and income. The program has not been significantly altered in several years – the maximum assessment against which the credit may be calculated has not increased since July 1, 1990, and the income brackets were last changed in 1998. Chapter 588 of 2005 altered the calculation of total real property tax for the Homeowners' Property Tax Credit Program by subtracting the homestead tax credit amount from the total assessment rather than the \$150,000 maximum assessment specified under the credit.

Renters' Property Tax Relief Program: The Renters' Property Tax Relief Program provides relief for elderly or disabled renters from the burden attributable to State and local real property taxes. The concept behind the program is that renters indirectly pay property taxes as part of their rent and thus should have some protection, as do homeowners. It is not actually a tax credit, but rather a payment directly to an eligible renter to provide relief for the “assumed property tax” that renters indirectly pay as part of their rent. The maximum annual relief allowed for a renter is currently \$600.

Senate Bill 382 (Ch. 27)/House Bill 5 (passed) make several changes to the Homeowners' Property Tax Credit Program and increase the maximum annual amount that can be received under the Renters' Property Tax Relief Program from \$600 to \$750, as shown in **Exhibit B-1**. The Homeowners' Property Tax Credit changes apply to all taxable years

beginning after June 30, 2006, with the Renters' Tax Relief change effective for calendar 2006 and beyond.

It is estimated that the changes to the programs could increase general fund expenditures by approximately \$18.1 million in fiscal 2007, rising to just over \$19 million by fiscal 2011. The fiscal 2007 budget assumes \$16.7 million in additional general fund expenditures for the Homeowners' Property Tax Credit Program.

Exhibit B-1
Comparison of Changes to Homeowners' Property Tax Credit
and Renters' Tax Relief Programs

	<u>Current Law</u>	<u>SB 382/HB 5</u>
Definition of Assets	n/a	Excludes the cash value of IRAs or qualified retirement savings plans
Definition of Gross Income	n/a	Includes any withdrawal, payment, or distribution from IRAs or qualified retirement savings plans
Maximum Assessment	\$150,000	\$300,000
Calculation Formula	<ul style="list-style-type: none"> • 0% of the first \$4,000 of combined income • 1% of the second \$4,000 of combined income • 4.5% of the third \$4,000 of combined income • 6.5% of the fourth \$4,000 of combined income • 9% of combined income over \$16,000 	<ul style="list-style-type: none"> • 0% of the first \$8,000 of combined income • 4% of the next \$4,000 of combined income • 6.5% of the next \$4,000 of combined income • 9% of combined income over \$16,000
Income Limitation	n/a	\$60,000
Maximum Renters Tax Relief	\$600	\$750

Source: Department of Legislative Services

Property Tax Administration

Homestead Property Tax Credit – Transferred Property

House Bill 173 (passed) clarifies a specified application procedure for the Homestead Property Tax Credit regarding dwellings transferred by deed between January 1 and June 30, when the deed is recorded with the Clerk of the Court after July 1. Under current law, the new owner may submit a written application to the State Department of Assessments and Taxation (SDAT) within 60 days of settlement requesting that SDAT accept the date of the deed as the date of transfer. *House Bill 173* clarifies that a property owner applying to SDAT under these circumstances is applying to be recognized as the property owner as of July 1.

Homestead Property Tax Credit for Razed and Improved Property

Senate Bill 277/House Bill 275 (both passed) provide that, if during the previous year a residential dwelling was razed for the purpose of replacing it with a new dwelling or was vacated by the homeowner for the purpose of making substantial improvements to the property, the full benefit of the homestead property tax credit received in the previous taxable year must be reflected in the taxable assessment of the total property for the current taxable year and one succeeding taxable year, regardless of the homeowner's actual occupancy of the dwelling. The full benefit of the credit existing at the beginning of the tax year in which the razing or beginning of substantial improvements occurs may not be reduced, except under certain circumstances. The calculation of the credit associated with the first taxable assessment after the new improvements are added must include the revaluation, as provided under current law. These provisions only apply to homeowners who have lived in the dwelling for at least the three prior taxable years and if the dwelling was eligible for the homestead property tax credit in the previous taxable year.

For taxable years beginning after June 30, 2003, but before July 1, 2006, the State, counties, and municipal corporations must provide refunds of any property tax that a homeowner paid in excess of the property tax properly imposed on the dwelling after reflecting the homestead property tax credit. A claim for a refund that is submitted on or before December 31, 2006 must be allowed, notwithstanding the expiration of the statutory time period for filing refund claims.

Property Tax Credit for Repaired or Reconstructed Dwellings

Chapters 536 and 616 of 2005 required local governments to provide two local property tax credits (a five-year credit, followed by a three-year credit) to homeowners whose homes were damaged or destroyed by a natural disaster and then subsequently repaired or reconstructed, for the taxes owed on the increased assessment over the assessment prior to the natural disaster. Eligible homeowners are also exempt from State property taxes to the same extent as the local credit. During the 2005 interim, the Attorney General wrote that Chapters 536 and 616 are unconstitutional because there is not uniform treatment of taxpayers since an inequity exists for more than five years due to the mandatory nature of the credits and the State tax exemption.

House Bill 354 (Ch. 89) addresses the uniformity issue by changing the mandatory three-year credit to a local option tax credit and also provides local governments the ability to consider additional credit eligibility criteria. The Act also limits the State exemption to coincide with the five-year mandatory local credit.

Assessment of Conservation Property

Senate Bill 361/House Bill 1275 (both passed) establish conservation property as a separate subclass of real property and provide that it be valued at a rate equivalent to the highest rate used for agricultural use land. Conservation property includes land that is subject to a perpetual conservation easement approved by the Board of Public Works before June 30, 1986, and land that currently receives a property tax credit for conservation land.

Agricultural Land Use Assessment for Elderly or Disabled Property Owners

House Bill 724 (Ch. 98) authorizes SDAT to grant a waiver from specified requirements used to determine eligibility for an agricultural land use assessment to property owners who are at least 70 years of age or are disabled. Currently, a waiver may only be sought by land owners at least 70 years old or disabled who have 20 acres of land or less. The Act standardizes the requirements for seeking a land use assessment waiver regardless of the parcel size, and provides farmers the opportunity to seek a waiver from land use assessment requirements if they are no longer able to actively farm the land due to age or disability.

Real Property Information – Web-based Services

Taxpayers have the right to obtain, at no charge, a brochure explaining the valuation and assessment process as well as the record card and assessment work sheet for the property that is the subject of an assessment. *House Bill 953 (passed)* requires SDAT to provide information regarding the calculation of the assessment of a particular property, as well as a description of the property, on the Department's web site. *House Bill 953* applies to all assessment notices sent out after October 1, 2008.

Property Tax Assessment Appeals Board – Comparables

House Bill 208 (passed) alters the time by which the Supervisor of Assessments must supply a list of properties that will be used as comparables at a hearing before the Property Tax Assessment Appeals Board. Specifically, *House Bill 208* requires the supervisor to supply the requested list at least 30 days before the date that the hearing has been scheduled in response to a written request made at least 35 days before the hearing or within 5 days for a request made between 35 days and 15 days before the hearing.

Property Tax Exemption – Surviving Spouse of a Veteran

House Bill 114 (passed) provides a property tax exemption for the surviving spouse of a veteran of the U.S. Armed Forces who receives Dependency and Indemnity Compensation benefits from the U.S. Department of Veterans Affairs if the veteran qualifies posthumously for a

100 percent service connected disability. Surviving spouses who qualify for the property tax exemption based on receipt of Dependency and Indemnity Compensation as of June 1, 2006, have three years to apply for the exemption. *House Bill 114* is intended to provide property tax relief for surviving spouses of individuals who died of exposure to Agent Orange during and after the Vietnam War and before Agent Orange exposure was declared a service connected disability by the U.S. government.

Enterprise Zones – Property Tax Credit Extension

Maryland’s enterprise zone program is a joint effort between the State and local governments to provide tax incentives to businesses and property owners located in economically distressed areas. The program was created in 1982 and has grown to include enterprise zones in 14 jurisdictions. Currently, businesses located within an enterprise zone are eligible for local property tax credits and State income tax credits for a 10 year period. *Senate Bill 764/House Bill 941 (both passed)* allow any business located in an enterprise zone to continue being eligible for property tax credits for an additional three years after the expiration of the enterprise zone designation. Businesses are required to meet all other qualifications for the property tax credits as provided under current law.

Local Homeowners’ Property Tax Credit Supplement Programs

Since fiscal 1992, the counties and Baltimore City have been authorized to grant a local supplement to the Homeowners’ Property Tax Credit Program. SDAT administers a local supplement granted by a county, but the cost of the supplement is borne by the local government. For purposes of the local supplement, counties are authorized to alter the maximum assessment taken into account in calculating the credit, as well as the percentages and income levels specified in the calculation formula. The counties are also authorized to impose limitations on eligibility for a local supplement in addition to the requirements specified for the State credit.

Municipal corporations are also authorized to provide a supplement to the Homeowners’ Property Tax Credit Program. Under the enabling authority for municipal corporations, a municipal supplement is limited to 50 percent of the State credit.

Senate Bill 853 (passed) alters the calculation and eligibility criteria of the municipal supplement to make it consistent with the current calculation and eligibility criteria authorized under the county supplement program. *Senate Bill 853* also alters the amount of a supplemental municipal credit that may be granted by repealing the limitation that a municipal supplement may not exceed 50 percent of the State Homeowners’ Property Tax Credit.

Local Option Property Tax Credits

Individuals at Least 70 Years of Age

House Bill 288 (passed) authorizes any county, municipality, or Baltimore City to provide local property tax credits for real property that is owned and used as the principal residence of an individual who is at least 70 years old and of limited income.

Nonprofit Swim Clubs

Senate Bill 982/House Bill 1158 (both passed) authorize Baltimore City, counties, and municipal corporations to grant, by law, a county property tax credit against the tax imposed on a nonprofit swim club that uses its facilities exclusively to provide a recreational outlet for a local community.

Structures Using Qualifying Energy Conservation Devices for Electricity Generation

House Bill 1532 (passed) adds another purpose for which a local government may grant a local property tax credit for high performance buildings that use energy conservation devices. Under *House Bill 1532*, a building containing a device (such as solar panels) that is used to generate electricity to be used in the building could qualify for a property tax credit.

Local Property Taxes

Allegany County

House Bill 426 (passed) authorizes Allegany County or a municipal corporation in the county to grant, by law, a property tax credit against the county or municipal property tax for property that is owned by the Allegany County Agricultural Expo, Inc.

Calvert County

House Bill 1183 (passed) authorizes Calvert County to grant, by law, a property tax credit against the county property tax imposed on real property owned by a new or expanding business that meets specified criteria. If the business is one that generates electricity, the credit may be granted for the county tax imposed on both personal and real property owned by the business. To be eligible for the tax credit, the new or expanding business must (1) employ at least 25 new additional full-time employees, the salaries for which must be greater than the county annual average salary in the economic development target market sector, as determined by the county; and (2) acquire at least \$2.5 million in land, improvements to the land, or equipment in the county.

Cecil County

Property Tax Credit for Fire Companies: *Senate Bill 204/House Bill 215 (both passed)* provide that Cecil County or a municipality in Cecil County may grant a property tax credit for property owned by a fire company in Cecil County that is leased for more than 60 days under contractual agreement for the operation of the fire company's fire hall and that would otherwise qualify for an exemption under specified circumstances.

Property Tax Credit for Little Leagues: *House Bill 502 (passed)* authorizes a county or municipal property tax credit for property in Cecil County that (1) is owned by a little league organization or a nonprofit organization that allows a little league organization in Cecil County to use its property for youth amateur athletics; and (2) is actually used exclusively for the purpose of a little league organization in the county.

Charles County

Property tax deferral programs typically give low-income elderly homeowners the opportunity to defer payment of their property taxes. Under most deferral programs, deferred property taxes become a lien against the value of the taxpayer's home and any back taxes and interest are due when the home is sold. If the homeowner dies, any deferred taxes must be paid upon settlement of the estate. Several Maryland counties offer property tax deferral programs.

House Bill 7 (passed) authorizes Charles County to provide, by law, a payment deferral of the county property tax for residential real property occupied as the principal residence of the owner, provided that at least one of the owners has lived in the dwelling for the previous five years and meets various eligibility requirements specified by the county.

Garrett County

House Bill 440 (passed) authorizes Garrett County to grant, by law, a property tax credit against the county property tax imposed on property owned by the Adventure Sports Center, Inc.

Harford County

House Bill 1566 (passed) authorizes Harford County to grant a property tax credit for real property that is adjacent to a family farm and owned by a child of the family farm owner if the child continues to help operate the family farm. Specifically, the property tax credit may be granted to real property (1) that is adjacent to property that is operated as a family farm and located in the Harford County Agricultural District or is subject to an agricultural preservation easement that has been conveyed to Harford County or to the Maryland Agricultural Land Preservation Foundation (MALPF); (2) that was subdivided from the adjacent property, withdrawn from the agricultural district or agricultural easement, and conveyed to a child of the owner of the adjacent property under a child lot exclusion to build a home on the property; and (3) the owner of which is a child of the owner of the adjacent property and continues to help operate the adjacent property as a family farm.

St. Mary's County

Chapter 195 of 2005 authorized St. Mary's County to grant a property tax credit against the county property tax for individuals who are at least 70 years of age and of limited income. The county was authorized to provide, by law, eligibility criteria for the credit, the amount and duration of the tax credit, regulations and procedures for the application and uniform processing of requests for the tax credit, and any other provision necessary to carry out the tax credit. The credit applied to tax years from July 1, 2005, through June 30, 2008.

Senate Bill 1081/House Bill 623 (both passed) extend the termination date of the St. Mary's County property tax credit for individuals over age 70 from June 30, 2008, to June 30, 2010.

Washington County

Property Tax Credit: *House Bill 1065 (passed)* authorizes Washington County to provide a property tax credit on a dwelling for the taxable year beginning July 1, 2006. If the property tax credit is granted, it must equal the county property tax imposed on the lesser of (1) the assessed value of the dwelling; or (2) the amount that the governing body of Washington County sets by law. Any homeowners' and homestead property tax credits must be disregarded for purposes of calculating the credit, and any tax credit authorized would be disregarded for purposes of calculating the homeowners' and homestead tax credits. The combined amount of the credit allowed and the amount of the homeowners' and homestead credits granted could not exceed the total county property tax imposed on the dwelling.

Businesses That Create New Jobs: *House Bill 731 (passed)* alters the definition of new permanent full-time position for purposes of the Businesses That Create New Jobs Tax Credit, so as to include, for Washington County, a contract position of definite duration lasting at least 12 months with an unlimited renewal option. *House Bill 731* makes the definition of a full-time position for the tax credit the same for Washington County as it is currently for Montgomery County.

Income Tax

Military Retirement Income

For several years the General Assembly has considered various legislative initiatives that would provide income tax benefits to active duty and retired military personnel. In the 2006 session, both the Senate and the House passed legislation with respect to the taxation of military retirement income. Initially, each chamber passed legislation providing for a limited subtraction modification for military retirement income and each chamber also included income tax benefits for other individuals or other types of retirement income. As discussed below, the General Assembly ultimately passed *Senate Bill 22 (passed)*, which only addresses a subtraction modification for certain military retirement income.

Senate Bill 22 expands the existing military retirement income subtraction modification by allowing a subtraction from taxable income for the first \$5,000 of military retirement income. To qualify for the subtraction, the income must have resulted from service in an active or reserve component of the armed forces of the United States, membership in the Maryland National Guard, or separation after July 1, 1991, from active duty with the Commissioned Corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey. The bill repeals the existing military retirement income subtraction modification, which provided a \$2,500 subtraction modification to individuals at least 55 years old who were active duty enlisted members at the time of retirement and met specified income limits. Retirement income that is subtracted from taxable income under the bill cannot also be subtracted under the existing State pension exclusion. It is estimated that **Senate Bill 22** will result in a general fund revenue decrease of \$14.3 million in fiscal 2007, \$10.2 million in fiscal 2008, \$10.9 million in fiscal 2009, \$11.5 million in fiscal 2010, and \$12.1 million in fiscal 2011.

As amended and initially passed by the Senate, **Senate Bill 22** would have allowed an individual to subtract from taxable income the first \$5,000 in military retirement income if the individual was 60 years of age or older and the first \$2,500 if the individual was under 60 years of age. The proposal would also have increased the additional income tax exemption amount allowed for individuals age 65 and older and blind individuals from \$1,000 to \$2,400, if the individual met specified income requirements.

As amended and initially passed by the House, **House Bill 35 (failed)** would have allowed an individual to subtract from taxable income the first \$10,000 in military retirement income if the individual was 55 years of age or older. In addition, an individual would have been able to subtract from taxable income the first \$7,500 in retirement income resulting from service as a federal, State, or local law enforcement officer, firefighter, or emergency medical services personnel if the individual was 55 years of age or older. For both subtractions, individuals would have been required to meet specified income requirements in order to qualify.

Tax Credits and Subtraction Modifications

Maryland Clean Energy Incentive Act of 2006

Senate Bill 314/House Bill 395 (both passed) reauthorize the clean energy incentive tax credit for producers of qualified energy resources. Qualified energy resources includes energy produced by wind, closed loop biomass, forest thinnings and brush, and methane or other combustible gas resulting from the decomposition of certain organic materials. The Maryland Energy Administration (MEA) is authorized to award a total of \$25 million in initial credit certificates until December 31, 2010, on a first-come, first-served basis.

Producers that are issued initial tax credit certificates under the program may claim a credit over a five-year period, not to exceed a total of \$2.5 million, that is equal to 85 cents for each kilowatt hour of electricity produced.

If a producer does not claim on average at least 10 percent of the maximum credit amount awarded over a three-year period, MEA is permitted to cancel a portion of the remaining credit.

Senate Bill 314/House Bill 395 also authorize the State credit to be claimed in addition to any federal renewable energy production credits.

Employment Tax Credits

The General Assembly passed two bills that extend or reestablish targeted employment tax credits. *Senate Bill 193 (passed)* reestablishes the Pilot Program for the Long-Term Employment of Qualified Ex-Felons, which expired in 2004. The Department of Labor, Licensing, and Regulation, in consultation with the Governor's Workforce Investment Board, is to reestablish the program effective January 1, 2007. The pilot program is intended to provide incentives for the hiring of up to 150 qualified ex-felons each year through existing one-stop employment and training centers in at least two of the State's Workforce Investment Areas. The one-stop centers will work with community organizations and any State or local government entities that provide services to ex-felons and will also provide outreach and education to employers about the program.

A business entity that hires a qualified ex-felon through the pilot program will be able to obtain a one-year federal fidelity bond for the qualified ex-felon for the first year of employment. The department is required to purchase federal fidelity bonds and provide those bonds to the designated one-stop centers for up to 150 qualified ex-offender participants each year. A business entity may claim a tax credit for wages paid to a qualified ex-felon employee. For each taxable year, a credit is allowed in an amount equal to (1) 30 percent of up to the first \$6,000 of the wages paid to the qualified ex-felon employee during the first year of employment; and (2) 20 percent of up to the first \$6,000 of the wages paid to the qualified ex-felon employee during the second year of employment. A tax-exempt organization may apply the credit against income tax due on unrelated business taxable income or taxes that the organization is required to withhold from the wages of employees and is required to pay to the Comptroller.

In addition to reestablishing the pilot program described above, *House Bill 1391 (passed)* also extends for a one-year period, the State Employment Opportunity Credit (Work, Not Welfare Tax Credit) and Qualifying Employees with Disabilities Tax Credits. Under current law, these programs terminate June 30, 2006, and the credits can only be claimed for qualifying individuals hired through June 30, 2006. The bill extends the termination date of the programs to June 30, 2007, and credits may be claimed on behalf of individuals hired through that date.

Neighborhood and Community Assistance Tax Credit

Senate Bill 1076 (passed) alters the existing Neighborhood and Community Assistance Tax Credit Program by expanding eligibility for the tax credit to include real property contributions and increasing the maximum value of the credit from \$125,000 to \$250,000. The existing program allows businesses to claim credits of up to 50 percent of a contribution to a project conducted by a nonprofit organization in a Priority Funding Area and approved by the Department of Housing and Community Development, subject to an overall limitation on the total credits that may be awarded in a fiscal year.

Foreign Earned Income of U.S. Government Employees

Senate Bill 557/House Bill 994 (both passed) create a subtraction modification under the State income tax for the foreign earned income of an individual employed by the U.S. government or an agency of the U.S. government. The amount of the subtraction may not exceed \$3,500 in any taxable year and applies to tax years 2007, 2008, and 2009.

Tax Administration and Compliance

Senate Bill 93 (Ch. 36) extends the date for when State personal income tax payments are due if the individual files income taxes electronically and pays the amount due to the later of April 30 or the date an electronic return is due for federal income tax purposes. This change is effective beginning with tax year 2006 returns.

Senate Bill 94 (Ch. 37) requires employers or payors of payments subject to State withholding taxes to submit required withholding tax information on magnetic media, in other machine-readable form, or in another electronic format required by the Comptroller if the employer or payor submits to the Comptroller 150 or more statements in 2006, or 100 or more statements in 2007 and beyond. If the employer or payor is subject to a lower threshold for federal income tax reporting purposes, the federal threshold applies for State withholding requirements.

Senate Bill 319 (Ch. 45) clarifies that the pass-through entity tax includes business trusts that are not taxed for State purposes as corporations. *Senate Bill 319* codifies existing practice of the Comptroller's Office.

Senate Bill 484/House Bill 1434 (both passed) authorize the Comptroller to extend the deadline for filing a corporate income tax return from six to seven months, if good cause exists. Any taxes owed by a corporation must still be paid at the time originally due.

Senate Bill 640/House Bill 448 (both passed) authorize the Comptroller to establish a reciprocal agreement with the federal government whereby the State intercepts the tax refunds and vendor payments of individuals who have delinquent federal nontax liabilities and the federal government intercepts federal payments of individuals who have unpaid State tax liabilities. Under *Senate Bill 640/House Bill 448*, expense reimbursements payable to State or local employees are subject to interception but salaries, wages, or pension income may not be subject to interception.

House Bill 859 (passed) alters the calculation of the annual interest rate that the Comptroller's Office sets for tax refunds by using an interest rate equal to the greater of 13 percent or three percentage points above the average prime rate of interest in the previous fiscal year. Under current law, the interest rate for tax refunds is equal to 2 percent above the average investment yield on State money for the previous fiscal year. *House Bill 859* makes the interest rate used for calculating refunds the same rate used for monies owed to the State.

House Bill 1248 (passed) allows an employer who withheld \$15,000 or more in the previous calendar year to apply to the Comptroller for a waiver to file monthly if the employer is allowed to file monthly for federal withholding tax purposes.

Senate Bill 754/House Bill 1476 (both passed) require the Department of Health and Mental Hygiene (DHMH) to provide for voluntary withholding of any applicable federal and State income taxes for self-employed providers of health care services. Eligible individuals for the voluntary tax withholding include attendants, personal care aides, personal care providers, and respite care workers that provide services to recipients participating in the home- and community-based services waiver for the Older Adults Program or the Medicaid program. Eligible health care providers may not be employed by an agency. *Senate Bill 754/House Bill 1476* also provide that the voluntary withholding may not be construed to alter a self-employed provider's contractual relationship with DHMH or to confer any employment status or benefits.

Sales Tax

Exemption for Sales to Veterans' Organizations

In addition to expanding the exemption under the income tax for military retirement income (see the discussion of *Senate Bill 22 (passed)* under the subpart "Income Tax" within this Part B – Taxes), further tax relief for veterans was provided in the form of a sales and use tax exemption for sales made to qualified veterans' organizations. Purchases made by a nonprofit charitable, educational, or religious organization for the purpose of carrying on its work are generally exempt from the sales and use tax. However, not all organizations that are "tax-exempt" for income tax purposes under the Internal Revenue Code qualify as "charitable, educational, or religious organizations" eligible for the sales tax exemption. Current law also provides a sales tax exemption under various circumstances to several other organizations, including tax-exempt cemetery companies, senior citizens' organizations, volunteer fire departments, and other specified types of nonprofit organizations.

Senate Bill 227/House Bill 308 (both passed) provide a three-year sales and use tax exemption for sales made to a bona fide nationally organized and recognized veterans' organization or an auxiliary of the organization or its units, if the organization is qualified as tax exempt under Section 501 (c)(19) of the Internal Revenue Code. The provisions of *Senate Bill 227/House Bill 308* terminate on June 30, 2009.

The fiscal 2007 budget assumes a general fund revenue decrease of \$275,000 for the exemption for sales to qualified veterans' organizations.

Auction Sales by Religious and Nonprofit Organizations

In addition to the exemption for sales to qualified nonprofit organizations, a limited exemption from the sales tax is provided under current law for sales made by certain organizations, including, under specified circumstances, a bona fide church or religious organization, a gift shop at a mental hospital operated by the Department of Health and Mental

Hygiene, a hospital thrift shop operated by volunteers, specified vending facilities operated under the Maryland Vending Program for the Blind, or an elementary or secondary school or a nonprofit parent-teacher organization for the sale of magazine subscriptions in a fundraising campaign.

House Bill 1624 (passed) expands this exemption, providing a sales and use tax exemption for sales made by bona fide churches, religious, or nonprofit organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, if the sales are made at an auction sale and the proceeds are used to carry out the exempt purposes of the church or organization. The exemption is limited to the portion of the sale price that qualifies for a deduction under the federal income tax as a charitable contribution.

Taxable Laundering Services

Senate Bill 389/House Bill 1223 (both passed) address an inconsistency in the current State sales and use tax statute, which exempts from the tax purchases made by a commercial textile product (e.g., uniforms and linens) rental business, yet tax purchases made by a commercial laundry that performs essentially the same service as a textile product rental business. *Senate Bill 389/House Bill 1223* alter the definition of production activity under the sales and use tax to include laundering, maintaining, or preparing textile products in providing the taxable service of commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles. As a result, specified tangible personal property purchased by persons involved in the commercial cleaning or laundering of textiles is exempt from the sales and use tax.

Sales through Bulk Vending Machines

A bulk vending machine is a vending machine that contains unsorted merchandise and on insertion of a coin, dispenses the unsorted merchandise in approximately equal portions at random, without selection by the customer. Under current law, if the taxable price of the merchandise in a bulk vending machine is 25 cents or less, it is exempt from the sales and use tax. The current 25-cent exemption was enacted in 2000.

Senate Bill 920/House Bill 951 (both passed) increase from 25 cents to 75 cents the maximum taxable price of tangible personal property sold through a vending machine that may qualify for the exemption.

Miscellaneous Taxes

Estate Tax

The federal Economic Growth and Tax Relief and Reconciliation Act of 2001 provided for the reduction and ultimate repeal of the credit allowed under the federal estate tax for state death taxes paid (known as the “federal credit”). Maryland, like most states, had an estate tax that was linked directly to the federal credit. Without statutory changes by the General

Assembly, the repeal of the federal credit under the 2001 federal tax legislation would have automatically repealed the State estate tax because of the link between the State tax and the federal credit. Statutory changes were implemented in legislation enacted in 2002 and 2004 to “decouple” the Maryland estate tax from the changes to the federal estate tax under the 2001 Act.

As part of the Budget Reconciliation and Financing Act (BRFA) of 2002, the Maryland estate tax was partially decoupled from the federal estate tax, thereby continuing the State tax notwithstanding the phase-out and repeal of the federal credit. After the 2002 BRFA, the Maryland estate tax remained tied to the “unified credit” under the federal estate tax, which effectively sets an “applicable exclusion amount” and sets the threshold for taxability of an estate. Under the 2001 federal changes, the applicable exclusion amount was increased, from \$700,000 to \$1.0 million for 2002 and 2003, \$1.5 million for 2004 and 2005, \$2 million for 2006 through 2008, and \$3.5 million in 2009.

The 2002 BRFA did not decouple the Maryland estate tax from the scheduled increases in the unified credit. The 2004 BRFA, however, further decoupled the Maryland estate tax from the 2001 federal estate tax changes, by establishing \$1 million as the maximum applicable exclusion amount for Maryland estate tax purposes, notwithstanding the future scheduled increases for federal estate tax purposes.

Several bills were introduced in the 2006 session to partially or fully recouple the Maryland estate tax to the 2001 federal estate tax law changes. *Senate Bill 224/House Bill 307 (both failed)* would have repealed the current \$1 million limit on the applicable exclusion amount for purposes of calculating the Maryland estate tax and required that the unified credit amount used to calculate the Maryland estate tax be equal to the unified credit in effect for federal purposes on the date of the decedents’ death. Recoupling to the federal unified credit amount as proposed under *Senate Bill 224/House Bill 307* would have resulted in an estimated \$32 million revenue loss for fiscal 2007, growing to over \$85 million by fiscal 2011. In a similar vein and with a similar fiscal impact on State revenues, *House Bill 138 (failed)* would have, among other changes, increased the limit on the applicable exclusion amount from \$1 million to \$2 million. *House Bill 340 (failed)* would have increased the applicable exclusion amount limit to \$1.25 million. *Senate Bill 295/House Bill 1348 (both failed)* would have recoupled the estate tax to the federal unified credit amount and repealed provisions related to the deduction for State death taxes allowed under the federal estate tax. *House Bill 154 (failed)* would have gone even further, completely recoupling the Maryland estate tax to the 2001 federal estate tax law changes and, in light of the repeal of the federal credit, would have effectively repealed the Maryland estate tax, at an estimated loss to State revenue of \$116 million for fiscal 2007, growing to over \$200 million by fiscal 2011.

Senate Bill 2/House Bill 1219 (both passed) clarify Maryland estate tax law to reflect the partial decoupling of the Maryland estate tax from the federal estate tax. The bills also clarify a number of practical aspects of implementing the decoupled Maryland estate tax. Among other things, the bills (1) clarify who is responsible for filing a Maryland estate tax return; (2) provide for the filing of an amended Maryland estate tax return under specified conditions; (3) establish

and provide conditions for extensions to file returns; and (4) require penalties for underpayment of the Maryland estate tax.

In addition, the bills expressly allow an estate to make inconsistent elections for federal and State tax purposes regarding a common estate tax planning technique involving the marital deduction and “qualified terminable interest property” (QTIP). A common estate tax planning technique makes use of the unified credit available to the first deceased spouse, enabling married couples to defer payment of any estate tax until the death of the surviving spouse, while making maximum use of the effective exemption amount available to both spouses. This technique ultimately shelters up to twice the effective exemption amount from the estate tax.

As a result of the lower unified credit used to determine the Maryland estate tax, however, the optimal use of this technique for federal estate tax purposes could result in a Maryland estate tax liability if no federal estate tax is due. *Senate Bill 2/House Bill 1219* expressly provide that the estate of the first spouse to die may make a QTIP election to reduce the decedent’s estate to the \$1 million Maryland applicable exclusion amount, even if an inconsistent election has been made for federal tax purposes. The bills require that property as to which such an election is made must be included in the estate of the surviving spouse.

Additionally, *Senate Bill 2/House Bill 1219* limit the Maryland estate tax imposed to 16 percent of the amount by which the decedent’s taxable estate exceeds the applicable exclusion amount of \$1 million. Although the highest rate under the Maryland estate tax is currently 16 percent, for estates that are slightly larger than the applicable exclusion amount, the portion of the taxable estate above the applicable exclusion amount is taxed at a higher marginal rate of up to 41 percent. The 16 percent limit is designed to provide relief from these higher marginal tax rates. The 16 percent limit is estimated to reduce State revenues by \$7.4 million in fiscal 2007.

Inheritance Tax

Senate Bill 545 (Ch. 30) clarifies existing law regarding the inheritance tax by providing an exemption for property passing from a decedent to a partnership or limited liability company if all the partners or members are direct beneficiaries of the decedent, i.e., a grandparent, parent, spouse, child, lineal descendant, spouse of a child or lineal descendant, or brother or sister. Corporations where all stockholders are direct beneficiaries are already exempt under current law.

Maryland-mined Coal Credit

Under current law, public service companies in Maryland may claim a \$3 per ton credit against the public service company franchise tax for Maryland-mined coal purchased in a calendar year. A similar credit is allowed against the State income tax for specified cogenerators and electricity suppliers that are not subject to the public service company franchise tax. Under current law, there is no limit on the amount of the credit that can be claimed. In recent years, approximately \$15 million has been claimed in annual credits for purchases of Maryland-mined coal.

Senate Bill 335/House Bill 487 (both passed) impose a cap on the total amount of Maryland-mined coal credits that may be claimed each year, and phases out the credit completely over a 15-year period. Beginning in calendar 2007, a cogenerator, public service company, or electricity supplier claiming the credit must apply to the State Department of Assessments and Taxation (SDAT) for approval of the amount of the credit to be claimed by January 15 of the following year in which the Maryland-mined coal was purchased. The maximum amount of credits that SDAT may approve in each tax year is \$9 million in calendar 2007 through 2010; \$6 million in calendar 2011 through 2014; and \$3 million in calendar 2015 through 2020. The credit may not be claimed for any calendar year after 2020. Of the total credits allowed in calendar 2007 through 2020, \$2.25 million is reserved annually for a facility that uses Maryland-mined coal in a Maryland facility.

Motor Vehicle Excise Tax

Under current law, the motor vehicle excise tax applies to the minimum fair market value of a used trailer when the trailer is sold by any person other than a dealer. If a used trailer is seven years or older, the fair market value is equal to the greater of \$640 or the total purchase price. For many small used trailers, however, the purchase price is often much less than \$640. *House Bill 51 (passed)* requires that the minimum fair market value upon which the excise tax is imposed for used trailers is equal to the greater of \$320 or the total purchase price of the used trailer.

Miscellaneous Local Taxes

Baltimore County

House Bill 1514 (passed) exempts activities related to agricultural tourism from the Baltimore County admissions and amusement tax. Agricultural tourism refers to the act of visiting a working farm or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation.

Dorchester County

Senate Bill 898/House Bill 1537 (both passed) add to the list of authorized uses of Dorchester County transfer tax revenues certain costs associated with school buildings, including renovations, facilities maintenance, and new construction.

Eastern Shore Code Counties

Senate Bill 476/House Bill 593 (both passed) change the date by which a hotel must submit its hotel rental tax return to a code county on the Eastern Shore (Caroline, Kent, Queen Anne's, and Worcester counties) from the tenth of each month to the twenty-first of each month.

Frederick County

Chapter 690 of 2001 authorized the Frederick County Commissioners to impose a building excise tax for financing public road facilities. *House Bill 561 (passed)* repeals the requirement that the county commissioners receive State matching funds before expending building excise tax revenues for improvements on State highways. Instead, the county commissioners may obtain matching funds from a variety of sources, including the State, municipalities, and developers.

Garrett County

Local governments may not impose a tax on any alcoholic beverage, except in Garrett County, in which the county must impose a tax on beer sold or delivered in the county. *Senate Bill 342/House Bill 421 (both passed)* repeal the county tax imposed on beer sold or delivered in Garrett County.

Prince George's County

House Bill 1026 (passed) provides an exemption from the Prince George's County transfer tax for the transfer of property to a Prince George's County police officer or a municipal police officer who is a first-time homebuyer. The county transfer tax on subsequent home purchases by county and municipal police officers is capped at 1 percent.

Talbot County

Senate Bill 609/House Bill 351 (both passed) provide for the continuation of the current 4 percent hotel rental tax rate in Talbot County by repealing a provision reducing the maximum rate to 3 percent on or after January 1, 2007.

Washington County

House Bill 1407 (passed) specifies that the building excise tax in Washington County does not apply to the first 50,000 square feet of nonresidential addition construction. A building is only eligible for this exemption once in a five-year period. *House Bill 1407* also enables the Washington County Commissioners to provide individual exemptions to the building excise tax for specific construction projects on request, and requires the county commissioners to report annually to the members of the Washington County legislative delegation regarding individual exemptions that are applied for and granted.

