Part B
Taxes

Property Tax

Property Tax Administration

Homestead Property Tax Credit Eligibility

Under current law, homeowners are required to file an application with the State Department of Assessments and Taxation (SDAT) to qualify for the homestead property tax credit program. When a property transfers between January 1 and July 1 and the deed is not recorded until after July 1, the new property owner has 60 days from the date of transfer to submit an application to receive the homestead property tax credit. Along with the application, the property owner must submit a copy of the deed and request that the date of the deed be used as the date of transfer rather than the recordation date.

Senate Bill 87 ***(passed)*** extends to September 1 the deadline for filing an application for the homestead property tax credit program when a property transfers to a new owner between January 1 and July 1 and the deed is not recorded until after July 1. In addition, ***Senate Bill 87*** authorizes SDAT to reinstate the homestead property tax credit to a homeowner who fails to file the required application for the tax credit by a specified deadline.

Exempt Manufacturing Personal Property

Except for property used exclusively for charitable or educational purposes or property owned by a housing authority, property tax on wholly exempt property is abated for the taxable year that follows the date on which the property became exempt. If an owner of property subject to an exemption on June 30 files an application for abatement with SDAT on or before the following September 1, the tax is abated for the taxable year.

Senate Bill 88 ***(passed)*** specifies that the property tax exemption for manufacturing personal property will be granted for a taxable year, if the owner files an application with SDAT for an exemption within six months of receiving the first assessment notice for the taxable year that includes the manufacturing personal property.

Revaluation of Home Improvements

Real property is valued and assessed once every three years. No adjustments are made in the interim, except in the case of (1) a zoning change; (2) a substantial change in property use; (3) substantially completed improvements which add at least $50,000 in value to the property; or (4) a prior erroneous assessment.

Senate Bill 538 ***(passed)*** alters one of the property revaluation criteria by specifying that substantially completed improvements to real property that add at least $100,000 in value to a dwelling will trigger a real property revaluation.

Tax Sales

Fees for Reimbursement

Senate Bill 348/***House Bill 169*** ***(both passed)*** clarify the types of expenses for which a holder of a certificate of sale from a tax sale may be reimbursed. If an action to foreclose the right of redemption has not been filed, and the property is redeemed more than four months after the date of the tax sale, the holder of a certificate of sale may be reimbursed for costs for recording the certificate of sale, a title search fee up to $250, and reasonable attorney's fees up to $500. ***Senate Bill 348***/***House Bill 169*** apply prospectively and do not apply to any tax sale or related proceeding held prior to the effective date of the legislation.

Auctioneer's Fees – Caroline County

The auctioneer's fee for properties sold at a tax sale in Caroline County is currently set at $10 per property sold, but in no event may the auctioneer's fee be less than $50 a day or greater than $200 a day. ***Senate Bill 328***/***House Bill 269*** ***(both passed)*** alter the auctioneer's fee for property sold at a tax sale in Caroline County by setting the fee at $10 for each property sold.

Renewable Energy Incentives

Property Tax Assessment of Alternative Energy Property

Alternative Energy Incentive Act of 2009: ***House Bill 1171*** ***(passed)*** exempts residential wind energy property used to generate electricity for a residential structure on the property from State and local real property taxes. ***House Bill 1171*** also clarifies that solar energy property, for property tax exemption purposes, includes equipment that uses solar thermal electric energy.

For a more detailed discussion of the sales tax provision of this bill, see subpart "Sales Tax" within Part B – Taxes of this *90 Day Report*.

Exemptions for Solar Energy Property: ***Senate Bill 621*** ***(passed)*** extends the existing property tax exemption for specified solar energy property to include solar energy property used to generate electricity supplied to the electric grid. ***Senate Bill 621*** is intended to account for solar energy property that is purchased and which may send electricity back to the grid via net-metering.

For a more detailed discussion of the sales tax provision of this bill, see subpart "Sales Tax" within Part B – Taxes of this *90 Day Report*.

Local Option Property Tax Credits

Marine Trade Waterfront Property

Senate Bill 644 ***(passed)*** authorizes a local government to grant a property tax credit for "marine trade waterfront property." Marine trade waterfront property is defined as real property that (1) is adjacent to the tidal waters of the State; (2) is used primarily for an activity or business that requires direct access to, or location in, marine waters due to the nature of the activity or business; and (3) for the most recent three-year period, has produced an average annual gross income of at least $1,000. Marine trade waterfront property includes marinas, boat ramps, boat hauling and repair facilities, fishing facilities, and any other boating facilities; and land that is adjacent to or under improvements used primarily for an activity or business that requires access to, or location in, marine waters due to the nature of the activity or business.

Senior Citizens

Chapter 455 of 2006 authorized Baltimore City, counties, and municipalities to grant a tax credit against the county or municipal property tax imposed on 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. ***House Bill 781*** ***(passed)*** lowers the minimum age requirement from 70 to 65 years of age for this property tax credit.

Local Property Taxes

Baltimore City

Baltimore City may currently grant a property tax credit against city property taxes imposed on newly constructed dwellings owned by qualified owners. After June 30, 2009, additional owners of such properties may not be granted the credit.

Senate Bill 227/House Bill 143 ***(both passed)*** modify the existing Baltimore City property tax credit for newly constructed dwellings and extend the tax credit's termination date to June 30, 2014. In addition to extending the termination date of the tax credit, ***Senate Bill 227/House Bill 143*** authorize Baltimore City to (1) establish maximum limits on the cumulative amount of the credit that may be allowed for any year; (2) establish two application periods for the tax credit; and (3) grant a one-time amnesty period for owners who previously failed to meet the application deadline and who were denied the tax credit.

Baltimore County

Senate Bill 158 ***(passed)*** authorizes Baltimore County to grant a property tax credit against the county property tax for real property owned by the Civic League of Inverness.

House Bill 795 ***(Ch. 154)*** authorizes Baltimore County to grant a property tax credit against the county property tax for real property owned by the Loreley Beach Community Association.

Dorchester and Talbot Counties

Senate Bill 335/***House Bill 42*** ***(both passed)*** authorize Dorchester and Talbot counties or a municipality in either county to grant a property tax credit against the county or municipal property tax for specified real property owned by Habitat for Humanity of Talbot and Dorchester counties.

Harford County

Continuing Care Facility for the Aged: ***Senate Bill 821*** ***(passed)*** authorizes Harford County or a municipality in Harford County to grant a property tax credit for property owned or operated by a continuing care facility for the aged. In order to qualify for the credit, the property must be exempt, or be owned or operated by a person that is exempt, from federal income tax under Section 501(c)(3) of the Internal Revenue Code. The property must also be available for use in connection with the facility.

Homes Near a Refuse Disposal System: ***Senate Bill 228***/***House Bill 865*** ***(both passed)*** alter the eligibility criteria of the existing Harford County property tax credit for specified owner occupied residential properties located near a refuse disposal system by (1) repealing the requirement that the residential property be completed on or before June 30, 1988; and (2) extending the property tax credit to properties completed by January 1, 1989 and located in an area that consists of Magnolia Road to Trimble Road to Fort Hoyle Road and to Magnolia Road.

Prince George's County

Senate Bill 403/***House Bill 959*** ***(both passed)*** authorize Prince George's County to grant a property tax credit for real or personal property owned or leased by a certified green business. A green business is defined as a business that is certified by Prince George's County and primarily (1) distributes, manufactures, markets, or sells green products; (2) provides services relating to green products; or (3) provides research and development relating to green products. Green products are products that are energy or water efficient, use healthy, nontoxic materials, are made from recycled or renewable resources, or make current products more energy efficient.

Washington County

House Bill 1184 ***(passed)*** authorizes Washington County to provide 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, is at least 65 years old, and meets specified income requirements. ***House Bill 1184*** also authorizes Washington County or a municipality in the county to grant a three-year property tax credit for specified residential rental property.

Income Taxes

Budget Reconciliation and Financing Act

Among other items, ***House Bill 101*** ***(passed)***, the Budget Reconciliation and Financing Act (BRFA) of 2009, includes several income tax provisions related to recently enacted federal tax legislation.

Federal Stimulus Tax Provisions

On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act (ARRA) into law. Several of the federal tax provisions affecting individuals also impact the calculation of Maryland income tax liability. State revenues will be impacted by an exclusion from income for up to $2,400 of unemployment compensation in tax year 2009, an income tax deduction for qualified motor vehicle excise taxes paid on vehicle purchases made between November 12, 2008, and January 1, 2010, and a temporary expansion of the earned income credit.

The Budget Reconciliation and Financing Act of 2002 (Chapter 440) included a general one-year "decoupling" provision. Under this provision, within 60 days after an amendment of the Internal Revenue Code (IRC) is enacted, the Comptroller must submit a report to the Governor and the General Assembly that outlines the changes in the IRC, the impact on State revenues, and how different types of taxpayers will be affected. If the Comptroller determines that the federal tax change will impact State revenues by at least $5 million (positive or negative) in the fiscal year that begins during the calendar year in which the federal tax change was enacted, the federal tax change does not apply for Maryland income tax purposes for any taxable year that begins in the calendar year in which the federal tax change is enacted. After this first tax year, amendments to the IRC apply for Maryland income tax purposes unless otherwise explicitly provided by law.

House Bill 101 states that the automatic decoupling provision described above does not apply to any amendment of the Internal Revenue Code enacted under ARRA. The State will not decouple from the temporary expansion of the earned income credit or from the deductions for unemployment compensation and motor vehicle excise taxes paid. As a result, general fund revenues will decrease by $35.9 million in fiscal 2010 and by $10.0 million in fiscal 2011.

The American Recovery and Reinvestment Act also includes significant business tax incentives, including three provisions from which the State is permanently "decoupled": (1) Section 179 expensing; (2) bonus depreciation; and (3) a five-year carryback election of net operating losses for losses incurred by eligible small businesses. Based on the language in ARRA related to the carryback of net operating losses, ***House Bill 101*** contains language that clarifies that the State is permanently decoupled from the carryback of qualifying net operating losses.

Under current federal law, taxpayers must generally recognize income when the taxpayer cancels or repurchases its debt for an amount less than its adjusted issue price. ARRA allows certain businesses to delay recognition of this income under specific circumstances in tax year 2009 and 2010. In response to concerns that this provision could significantly decrease State revenues, ***House Bill 101*** permanently decouples the State from the cancellation of debt income provisions enacted by ARRA.

Heritage Structure Rehabilitation Tax Credit Program

Established in 1996, the Heritage Structure Rehabilitation Tax Credit Program provides, subject to certain limitations, a credit for 20% of the qualified expenditures for rehabilitating a certified historic structure. In 2004, the General Assembly substantially altered the tax credit program, including converting the commercial credit part of the program from a traditional tax credit program to a tax credit program that is subject to an annual budgetary appropriation with an aggregate limit.

As proposed by the Governor, ***Senate Bill 258***/***House Bill 309*** ***(both failed)*** would have extended the Maryland Heritage Structure Rehabilitation Tax Credit Program through June 30, 2014 and made several changes to the program including:

- converting the commercial program to a conventional tax credit program that is not subject to an annual appropriation;
- eliminating the reserve fund used to offset future revenue losses from the commercial program;
- eliminating the geographic restriction on and competitive awarding of commercial credits; and
- increasing the value of the credit to 25% for the commercial rehabilitation of a building that meets or exceeds specified green building standards.

The bill would have authorized the Maryland Historic Trust to award a total of $100 million in commercial credits on a first-come, first-served basis to applicants as well as an unlimited amount of residential credits.

Employees with Disabilities Tax Credit Extension

The Qualifying Employees with Disabilities Tax Credit allows employers who hire a qualified individual with disabilities to claim a tax credit for certain wages paid to the employee. ***Senate Bill 604*** ***(passed)*** extends the Qualifying Employees with Disabilities Tax Credit through June 30, 2010, and authorizes credits to be claimed on behalf of individuals hired through that date.

Other Tax Credit Legislation

Maryland's Biotechnology Investment Tax Credit program provides income tax credits for investments in qualified Maryland biotechnology companies. ***Senate Bill 800***/***House Bill 493*** ***(both passed)*** clarify several provisions related to the existing biotechnology investment tax credit program, accelerates applicability of recently enacted changes to the program, and alters the time period in which the credit can be recaptured as provided in current law.

Under the Neighborhood and Community Assistance Tax Credit Program, a business entity can claim tax credits for 50% of contributions in excess of $500 made to Department of Housing and Community Development approved projects conducted by nonprofit organizations in a priority funding area. ***House Bill 1399*** ***(Ch. 166)*** expands eligibility of the Neighborhood and Community Assistance Tax Credit to include donations made by individuals.

Senate Bill 554 ***(passed)*** prohibits a person from installing or replacing an on-site sewage disposal system on property in the Chesapeake and Atlantic Coastal Bays Critical Area unless the system utilizes the best available nitrogen removal technology. The bill also creates a subtraction modification against the individual income tax for certain costs of upgrading a septic system. A more detailed discussion of this issue may be found under the subpart "Environment" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Tax Administration

Senate Bill 96/***House Bill 810*** ***(both passed)*** require income tax return preparers who prepare more than a specified number of State income tax returns each tax year to file these returns with the Comptroller electronically.

Senate Bill 698/***House Bill 883*** ***(both passed)*** require the Comptroller, beginning in 2011, to directly deposit an income tax refund into at least two accounts at one or more financial institutions at the request of a taxpayer.

Sales Tax

Sales to Veterans' Organizations

Chapters 217 and 218 of 2006 provided for a State sales and use tax exemption for sales made to a bona fide nationally organized and recognized veterans' organization or auxiliary of an organization or its units if the organization is qualified as tax exempt under Section 501(c)(19) of the Internal Revenue Code (IRC). Under current law, the exemption expires on June 30, 2009.

Senate Bill 44 ***(passed)*** extends the termination date for the sales and use tax exemption for sales to veterans' organizations that are qualified as tax exempt under Section 501(c)(19) of the IRC from June 30, 2009 to June 30, 2012.

Alternative Energy Incentives

Two bills providing sales tax incentives for the use of alternative energy sources passed during the 2009 session.

Current law provides exemptions under the State sales and use tax for the purchase of solar energy equipment used to heat or cool a structure, generate electricity to be used in a structure, or provide hot water for use in a structure and for the purchase of geothermal equipment that uses ground loop technology to heat and cool a structure. ***Senate Bill 621*** ***(passed)*** extends the existing sales and use tax exemption for solar energy equipment to include solar energy equipment used to generate electricity supplied to the electric grid. ***Senate Bill 621*** is intended to account for solar energy equipment used to send electricity back to the grid via net-metering.

House Bill 1171 ***(passed)*** provides a sales and use tax exemption for the purchase of equipment installed on residential property that uses wind energy to generate electricity for a residential structure on the property.

Senate Bill 621 and ***House Bill 1171*** also provide property tax exemptions for solar energy property installed to generate electricity to be supplied to the electric grid and for residential wind energy equipment. For a further discussion of the property tax provisions of these bills, see subpart "Property Tax" within Part B – Taxes of this *90 Day Report*.

Miscellaneous Taxes

Tax Amnesty Program

Senate Bill 552 ***(passed)*** requires the Comptroller to declare an amnesty period for delinquent taxpayers from September 1, 2009, through October 30, 2009, for civil penalties and one-half of the interest due and attributable to the nonpayment, nonreporting, or underreporting of income taxes, withholding taxes, sales and use taxes, or admissions and amusement taxes. Taxpayers may qualify for the amnesty provided under the bill if the delinquent tax, together with one-half of any interest due, is paid during the amnesty period or if the taxpayer during the amnesty period enters into a payment agreement with the Comptroller to pay the full amount due before January 1, 2011.

The amnesty program does not apply to (1) any business that, as of September 1, 2009, has more than 500 employees in the United States or is a member of a corporate group that has more than 500 employees in the United States; (2) any tax for which a taxpayer was granted amnesty under the Maryland Tax Amnesty Program in 2001; or (3) any taxpayer that was eligible to participate in the July 1 through November 1, 2004, Settlement Period relating to the use of Delaware Holding Companies by corporate taxpayers.

Inheritance Tax Exemption – Domestic Partners

Senate Bill 785 ***(passed)*** exempts from the State inheritance tax the receipt by a decedent's domestic partner of an interest in a joint primary residence that at the time of the death was held in joint tenancy by the decedent and the domestic partner.

Estate Tax Returns

Under current law, Maryland estate tax returns and inheritance tax returns must be filed with the county register of wills where the decedent resided at the time of death. Each register is required to certify to the Comptroller the amount of inheritance tax paid for each decedent for whom a Maryland estate tax return is filed with the register. ***Senate Bill 156*** ***(passed)*** allows estate tax returns to be filed with either the Comptroller or the register of wills.

Maryland-mined Coal Credit

Chapters 247 and 248 of 2006 imposed a cap on the total amount of Maryland-mined coal credits that may be claimed against the public service company franchise tax or income tax each year, phasing out the credit completely over a 15-year period. Under current law, the maximum amount of credits that may be approved in each tax year is $9 million in calendar 2009 and 2010; $6 million in calendar 2011 through 2014; and $3 million in calendar 2015 through 2020. ***House Bill 101*** ***(passed),*** the Budget Reconciliation and Financing Act of 2009, reduces the cap to $4.5 million for each of calendar 2009 through 2012. Under the bill, the cap will return to $6 million for 2013 and 2014, then fall to $3 million for 2015 through 2020, before the credit is phased out completely in 2021.

Alcoholic Beverage Tax – Procedures and Penalties

All taxes administered by the Comptroller, except the alcoholic beverage tax, are subject to an appeals process. Under current law, a person wishing to appeal an alcoholic beverage tax assessment must make the appeal to the Maryland Tax Court. ***Senate Bill 64*** ***(passed)***, makes several changes to the administration of the State alcoholic beverage tax by (1) establishing an administrative appeals process for persons who are subject to an alcoholic beverage tax assessment; (2) authorizing the Comptroller to alter or abate an alcoholic beverage tax assessment; and (3) increasing the maximum penalty for failure to pay the alcoholic beverage tax, from 10% to 25% of the tax due.

Miscellaneous Local Taxes

Anne Arundel County

Under current law, Anne Arundel County is authorized to impose a tax on space rentals, including a hotel rental tax, and any revenue generated within the boundaries of the City of Annapolis from the hotel rental tax is retained by the City of Annapolis. ***Senate Bill 11*** ***(passed)*** requires that portions of the Anne Arundel County hotel tax, including portions of the City of Annapolis's share, be distributed to the Arts Council of Anne Arundel County and the Annapolis and Anne Arundel County Conference and Visitors Bureau.

Under ***Senate Bill 11***, for fiscal 2010 and 2011, from the county's share of the hotel tax revenues, Anne Arundel County is required to distribute 7% to the Conference and Visitors Bureau and $260,000 to the Arts Council. Beginning in fiscal 2012, the bill provides for a phased increase in the percentages of the county's share of the hotel tax revenue to be distributed to the Conference and Visitors Bureau and the Arts Council and also requires a portion of the City of Annapolis's share to be distributed to the Conference and Visitors Bureau and the Arts Council. For fiscal 2014 and subsequent fiscal years, ***Senate Bill 11*** requires that, from both the county's and the city's shares of the hotel tax revenues, 3% be distributed to the Arts Council and 17% be distributed to the Conference and Visitors Bureau.

Charles County

House Bill 1370 ***(passed)*** authorizes Charles County to create special taxing districts for the financing, refinancing, or reimbursement of costs associated with the development of resort hotels and conference centers within a waterfront planned community. Under the bill, the county is authorized to impose within the boundaries of a special taxing district a hotel rental tax in addition to the hotel rental tax imposed generally in the county and to pledge the revenues from that tax for payment of bonds issued for purposes of the special taxing district. The rate of the special hotel rental tax may not exceed the general hotel rental tax rate, as imposed by Charles County on the date that the special taxing district is created (currently 5%).