

Part B

Taxes

Property Tax

Property Tax Administration

Homestead Property Tax Credit for Federal Employees Stationed Out of State

Senate Bill 520/House Bill 199 (both passed) enables homeowners employed by the federal government who are stationed out of state for not more than six consecutive years to be eligible to continue to receive the tax credit in the taxable year following their resumption of living in the residence, provided they are otherwise eligible for the tax credit. The tax credit will be calculated on the prior year's taxable assessment determined as if the tax credit had not been lost when the homeowner was stationed outside of Maryland.

Notice of Appeal

House Bill 6 (passed) requires a sales contract for specified single-family residential real property to contain notice of the purchaser's right to appeal the classification or valuation of the property by the State Department of Assessments and Taxation (SDAT) within 60 days of the sale if the property is transferred after January 1 but before July 1.

Semi-annual Payment Schedule for Small Business Property

Property taxes for owner-occupied residential property are due under a semiannual schedule. The first installment is due on July 1 and may be paid without interest on or before September 30. The second installment is due on December 1 and may be paid without interest on or before December 31. Local governments are authorized to impose a maximum service charge of up to 1.65% of the second payment to cover lost interest for the three-month delay in taxes collected and associated administrative fees. However, homeowners may elect to pay the full year's property tax on or before September 30 to avoid the service charge or interest.

Property taxes for property other than owner-occupied residential property are due on July 1 and may be paid without interest on or before September 30.

House Bill 484 (passed) requires county and municipal governments to establish a semiannual payment schedule for State, county, municipal, and special taxing district property taxes for small business property with a total property tax bill of \$50,000 or less.

Tax Sales

Foreclosure of Right of Redemption

Senate Bill 372 (passed) alters the existing notice procedures a certificate of sale purchaser must follow prior to filing a complaint to foreclose the right of redemption. *Senate Bill 372* requires the second of two notices to be sent by first-class certified mail, postage prepaid, return receipt requested, and bearing a postmark from the U.S. Postal Service. The envelope must also be prominently marked “Notice of Delinquent Property Tax.” If an affidavit filed prior to a final judgment foreclosing the right of redemption provides evidence that the affidavit was sent by certified mail in compliance with the bill’s provisions, then the notice provisions are deemed satisfied and the failure of the tax-delinquent owner to receive the required notice does not invalidate the proceeding.

Senate Bill 373 (Ch. 65) is emergency legislation that authorizes the Mayor and City Council of Baltimore City to file a complaint to foreclose all rights of redemption in specified abandoned property at any time after the city becomes the purchaser by operation of law. *Senate Bill 373* also exempts the Mayor and City Council of Baltimore City from issuing specified required notices for such property. However, for properties to which the notice requirement applies, the bill establishes that the notice indicate costs, rather than attorney’s fees, for recording the certificate of sale must be paid to redeem the property.

Auctioneer’s Fees – Howard and Prince George’s Counties

The auctioneer’s fee for properties sold at a tax sale auction in Howard and Prince George’s counties is currently set at a maximum of \$10 on a day when up to three properties are sold and \$3 per property on a day when four or more properties are sold. *House Bill 277 (passed)* alters the auctioneer fee for property sold at a tax sale in Howard and Prince George’s counties by setting the fee at \$10 for each property sold.

Bi-county Commissions

Currently, Prince George’s County does not apply the homestead property tax credit on county tax rates imposed for the Maryland-National Capital Park and Planning Commission (M-NCPPC), the Washington Suburban Transit Commission (WSTC), and the Washington Suburban Sanitary Commission (WSSC). As such, these rates are not subject to the county’s homestead cap which was 3% for fiscal 2009, 5% for fiscal 2010, and 0% for fiscal 2011. This means that these tax rates are applied to each homeowner’s phased-in assessment, rather than their taxable assessment after the homestead tax credit is applied.

Senate Bill 683 (passed) specifies that the homestead property tax credit applies to any State, county, or municipal property tax, including a tax imposed by a bi-county commission. Bi-county commission includes M-NCPPC, WSSC, and WSTC. The homestead tax credit percentage that will be used for taxes imposed for a bi-county commission is 10%. For the tax year beginning July 1, 2010, bi-county commission property taxes will be subject to a 10% homestead tax credit cap applied to the prior year's taxable assessment for State property tax purposes.

Disabled Veterans

The real property of disabled veterans is exempt from taxation if specified requirements are met. A disabled veteran is an individual who is honorably discharged or released under honorable circumstances from active service in any branch of the U.S. Armed Forces. In addition, real property owned by the surviving spouse of a disabled veteran and the surviving spouse of an individual who died in the line of duty while in active military, naval, or air service of the United States is exempt from taxation.

Senate Bill 139 (passed) alters the definition of disabled veteran for purposes of this property tax exemption. A disabled veteran is defined as an individual who is honorably discharged or released under honorable circumstances from active military, naval, or air service as defined in 38 U.S.C. Section 101. This extends coverage to include commissioned officers of the Public Health Services and the National Oceanic and Atmospheric Administration.

Local Option Property Tax Credits

Urban Agricultural Property

House Bill 1062 (passed) authorizes local governments to grant a five-year property tax credit for urban agricultural property. Urban agricultural property is defined as real property that is at least one eighth of an acre and not more than two acres in size; located in a priority funding area; and used exclusively for urban agricultural purposes. Urban agricultural purposes is defined as (1) crop production activities, including the use of mulch or cover crops to ensure maximum productivity and minimize runoff and weed production; (2) environmental mitigation activities, including stormwater abatement and groundwater protection; (3) community development activities, including recreational activities, food donations, and food preparation and canning classes; (4) economic development activities, including employment and training opportunities, and direct sales to restaurants and institutions; and (5) temporary produce stands used for the sale of produce raised on the premises.

Grocery Stores in Low-income Areas

House Bill 1135 (passed) authorizes a local government to grant a property tax credit for real property that is used for a grocery store located in a low-income area. A grocery store is defined as an establishment whose primary business is selling food at retail to the general public for off-premises consumption and at least 20% of the gross receipts of which are derived from

the retail sale of fresh produce, meats, and dairy products. A low-income area must be designated by each local government for the purposes of the property tax credit.

Habitat for Humanity

Senate Bill 652/House Bill 850 (both passed) authorize local governments to grant a property tax credit against the county or municipal property tax for real property owned by Habitat for Humanity that is used exclusively for the purpose of rehabilitation and transfer to a private owner and is not occupied by administrative or warehouse buildings owned by Habitat for Humanity. Habitat for Humanity must submit an annual report to the appropriate jurisdiction where a tax credit has been granted each year that documents the organization's real property holdings in the jurisdiction and all transactions involving such holdings.

Tax Credit for Replacement Homes – Eminent Domain

Chapters 558 and 559 of 2007 authorized local governments to grant a property tax credit for a property that is purchased as a replacement for a principal residence which was acquired either through condemnation or negotiation under the threat of condemnation for public use by the State, a political subdivision, or instrumentality of the State. The credit lasts for five years and may not exceed 100% of the property tax attributable to the eligible homestead assessment granted on the acquired dwelling in the first taxable year, and is then reduced by 20% in each subsequent year over the five-year life of the credit.

Senate Bill 413 (passed) alters the existing local property tax credit for a replacement home purchased after a homeowner is displaced through eminent domain by repealing the five-year phase-out of the tax credit.

Local Property Taxes

Allegany County

Senate Bill 552/House Bill 623 (both passed) authorize Allegany County or a municipality in the county to grant a property tax credit for any property within the area known as the Memorial Hilltop Centre. The tax credit may not be granted for more than 10 years.

Senate Bill 947/House Bill 1219 (both passed) authorize Allegany County or a municipality in the county to grant a property tax credit for specified properties that were formerly designated and operated as the Western Maryland Health System (WMHS) Braddock Hospital. The tax credit may not be granted for more than 10 years.

Anne Arundel County

Senate Bill 658/House Bill 724 (both passed) authorize Anne Arundel County or a municipality in the county to grant a property tax credit for specified property owned by Arundel Habitat for Humanity, Inc.

Baltimore County

Senate Bill 112/House Bill 595 (Chs. 38 and 39) authorize Baltimore County to grant a property tax credit against the county property tax for real property owned by the Rosewald Beach Civic League.

Carroll County

Senate Bill 925/House Bill 1112 (both passed) expand the Carroll County green building tax credit to include all property on which a person installs environmentally friendly or “green” technologies. Environmentally friendly technologies include conserving water, incorporating recycled or recyclable materials, and incorporating renewable and energy efficient power generation.

Charles County

House Bill 796 (passed) authorizes Charles County to grant a four-year property tax credit for owner-occupied real property that was (1) formerly owned by Habitat for Humanity of Charles County with the intention of relinquishing ownership; (2) used by Habitat for Humanity of Charles County exclusively for the purpose of rehabilitation and transfer to a private owner; and (3) was transferred to a private owner who meets the criteria established by Habitat for Humanity of Charles County. The amount of the property tax credit is equal to 100% in the first taxable year after the transfer; 75% in the second taxable year; 50% in the third taxable year; 25% in the fourth taxable year; and is phased out after the fourth taxable year.

Frederick County

Senate Bill 450/House Bill 476 (both passed) is emergency legislation that requires Frederick County, for fiscal 2011, to grant a property tax setoff to its municipalities in an amount at least equal to the tax setoffs granted for fiscal 2009. For fiscal 2012, the property tax setoffs must be at least equal to the amounts granted in the prior year. The required tax setoff amounts are to be adjusted based on the percentage by which the county property tax rate exceeds the constant yield tax rate.

Harford County

Senate Bill 1013/House Bill 1117 (both passed) expand an existing Harford County property tax credit for specified owner-occupied residential properties located near a refuse disposal system to include additional properties.

Montgomery County

House Bill 861 (passed) authorizes Montgomery County, or a municipality in the county, to provide a property tax credit for improvements made by an eligible business entity to qualified enterprise zone property; and for personal property owned by an eligible business entity located on qualified enterprise zone property. In addition, a business entity that receives an enterprise

zone property tax credit or the new property tax credit provided in the bill must provide to a tenant under a lease agreement an amount equivalent to the enterprise zone property tax credit or the additional credit that is attributable to any improvements made by the tenant.

An eligible business entity is defined as a person who operates or conducts a trade or business on qualified enterprise zone property but does not own the property. Qualified enterprise zone property is defined as real property that (1) is used in a trade or business by an eligible business entity; (2) is not used for residential purposes; and (3) is located in an enterprise zone and eligible for an enterprise zone property tax credit.

Queen Anne's County

Senate Bill 752/House Bill 592 (both passed) authorize Queen Anne's County to grant a property tax credit for property owned by the foster parent of a child.

St. Mary's County

House Bill 1466 (passed) authorizes St. Mary's County or a municipality in the county to grant a property tax credit for property that is leased to a nonprofit school and is used exclusively for primary or secondary educational purposes.

Income Taxes

Job Creation and Recovery Tax Credit

Senate Bill 106 (Ch. 1) creates a State income tax credit for employers who hire qualified individuals between the effective date of the Act (March 25, 2010) and December 31, 2010. The amount of the credit is \$5,000 per eligible employee hired, not to exceed \$250,000 per taxpayer. The Department of Labor, Licensing, and Regulation is authorized to award \$20 million in credits on a first-come, first-served basis.

A qualified employee is an individual who at the time of hiring (1) is a State resident; (2) is receiving unemployment insurance benefits or has exhausted unemployment insurance benefits within the past 12 months; and (3) is not employed full time. The Act also establishes the tax credit application and certification process and specifies the circumstances under which the credit may be claimed. If the maximum amount of credits are awarded, credits could be claimed for about 4,000 individuals who were receiving or had exhausted unemployment insurance benefits, resulting in an estimated reduction of \$19 million in general fund revenues and \$1 million in Transportation Trust Fund revenues in fiscal 2011.

Heritage Structure Rehabilitation Tax Credit Program

Established in 1996, the Heritage Structure Rehabilitation Tax Credit program provides, subject to certain limitations, a credit for a portion 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. Under current law, the credit is scheduled to expire as of July 1, 2010.

As proposed by the Governor, *House Bill 475 (passed)* would have reestablished the Heritage Structure Rehabilitation Tax Credit Program as the Sustainable Communities Tax Credit Program, transforming the program into a traditional tax credit program not subject to an annual appropriation. As introduced, *House Bill 475* also would have increased funding for the program by authorizing the Maryland Historical Trust (MHT) to award a total of \$50 million in commercial credits over fiscal 2011 through 2013, as well as expanding eligibility requirements for the program to include certain nonhistoric residential and commercial properties.

As passed by the General Assembly, *House Bill 475* extends and alters the existing Heritage Structure Rehabilitation Tax Credit Program to be the Sustainable Communities Tax Credit Program but retains the commercial program as a budgeted tax credit. The bill also makes several changes to the program as discussed below.

Under the expiring program, the credit was generally equal to 20% of qualified rehabilitation expenditures, not to exceed \$3 million for commercial rehabilitations and \$50,000 for a single-family, owner-occupied residence. The bill retains these credit values and increases the value of the credit to 25% for a commercial rehabilitation that meets specified energy efficiency standards. Eligibility for the credit is also expanded to qualified rehabilitated (nonhistoric) commercial buildings located in a Main Street Maryland Community or, beginning in fiscal 2012, a sustainable community as defined by the bill. Under the bill, the credit for these qualified rehabilitated structures is equal to 10% of qualified rehabilitation expenses; no more than 10% of commercial credits awarded in each fiscal year may be awarded to these qualified rehabilitated structures. In addition to expanding eligibility under the commercial program to qualified rehabilitated structures, the bill alters the criteria by which MHT awards commercial credits. The bill requires the Governor to provide an appropriation for the commercial credit in fiscal 2011 through 2014.

MHT's authority to award an unlimited amount of residential credits under the program is extended to applications received through June 30, 2014. While the bill also retains most of the current residential program's certification process and eligibility criteria, the bill alters the definition of a qualifying single-family, owner-occupied residence to mean a structure or a portion of a structure occupied by the owner and the owner's immediate family as their primary or secondary residence, including a residential unit in a cooperative project owned or leased to a cooperative housing corporation and leased for exclusive occupancy to, and occupied by, a member of the corporation and the member's immediate family.

The bill also includes provisions relating to the designation of areas in the State as sustainable communities, including various changes relating to the Community Legacy and Neighborhood Business Development Programs, Base Realignment and Closure zones, transit-oriented development zones, and the Smart Growth Subcabinet. For a discussion of these

issues, see the subpart “Planning and Land Use” within Part D – Local Government of this *90 Day Report*.

For fiscal 2011, the State budget as enacted by the General Assembly includes \$10 million for the Sustainable Communities Tax Credit.

Income Tax Credits

Sunset Extensions

Senate Bill 64 (passed) extends from June 30, 2012, to June 30, 2021, the termination date for research and development income tax credits awarded to businesses for Maryland qualified research and development expenses. The time period in which tax credits may be earned is extended to tax years 2011 through 2019.

Senate Bill 221 (passed) extends the Qualifying Employees with Disabilities Tax Credit, allowed for employers who hire qualified individuals with disabilities, through June 30, 2011, and authorizes credits to be claimed on behalf of individuals hired through that date.

House Bill 464 (passed) extends the termination date of the clean energy incentive tax credit to December 31, 2015. The bill also (1) extends to January 1, 2016, the date by which a facility must begin producing qualified energy in order to claim the credit; (2) prohibits the Maryland Energy Administration from issuing an initial credit certificate for less than \$1,000; and (3) makes the credit refundable.

Other Income Tax Legislation

Income Tax Checkoffs

Senate Bill 318/House Bill 830 (both passed) establish a Developmental Disabilities Waiting List Equity Fund Contribution checkoff on the individual income tax return. After the Comptroller deducts administrative expenses, contributions will be credited to the Waiting List Equity Fund within the Department of Health and Mental Hygiene.

Senate Bill 141 (passed), BRFA of 2010, includes a provision repealing an income tax checkoff on the individual income tax return for the Fair Campaign Financing Fund. For a discussion of other provisions of *Senate Bill 141* relating to the Fair Campaign Financing Fund, see the subpart “Elections” within Part C – State Government of this *90 Day Report*. For a discussion of the provisions of *Senate Bill 141* generally, see the subpart “Operating Budget” within Part A – Budget and State Aid of this *90 Day Report*.

Maryland Business Tax Reform Commission

Senate Bill 336/House Bill 395 (both passed) accelerate the due date for the final report of the Maryland Business Tax Reform Commission from December 15, 2011, to December 15, 2010.

Sales and Use Tax

Veterans Organizations

Current law provides a State 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 § 501(c)(19) of the Internal Revenue Code (IRC). The current exemption for § 501 (c)(19) veterans' organizations and veterans' auxiliary organizations is scheduled to terminate at the end of June 30, 2012.

Senate Bill 237/House Bill 203 (both passed) provide a State sales and use tax exemption for sales made to veterans' organizations that are organized under § 501(c)(4) of the IRC. Veterans' organizations were originally tax exempt under IRC § 501(c)(4) as social welfare organizations. However, the IRC was amended in 1972 to include a category of tax exempt organizations specifically for veterans' organizations. While many veterans organizations in Maryland have reclassified under § 501(c)(19), some of the smaller organizations have remained classified under § 501(c)(4) while providing similar services as the organizations classified under § 501(c)(19). Therefore, *Senate Bill 237/House Bill 203* apply only to veterans' organizations that did not reclassify under IRC § 501(c)(19), such as the Jewish War Veterans and the Military Order of the Purple Heart.

Corporate Lodging Facilities

House Bill 855 (passed) exempts from the State sales and use tax the sale of a right to occupy a room or lodgings as a transient guest at a dormitory or other lodging facility that (1) is operated solely in support of a corporate or any other headquarters, training, conference, or awards facility or campus; (2) provides lodging solely for employees, contractors, vendors, and other invitees of the corporation that owns the dormitory or lodging facility; and (3) does not offer lodging services to the general public.

Authorized Rebate Programs for Household Appliances

Senate Bill 1081 (passed) specifies that prior to a State agency issuing or authorizing a rebate to be issued by a nongovernment entity to reduce the cost of retail sales of household appliances under a program to promote energy efficiency, the State agency or nongovernment entity must require the buyer to certify that the household appliance was purchased in the State or that the applicable State sales and use tax was paid.

Miscellaneous Taxes

Motor Vehicle Excise Tax

Tax Credit for Electric Vehicles

House Bill 469 (passed) establishes a tax credit against the motor vehicle titling tax in an amount equal to 100% of the tax imposed for the purchase of qualified plug-in electric vehicles, not to exceed \$2,000. The credit is limited to 1 vehicle per individual and 10 vehicles per business entity. The credit is available for the purchase of a qualifying vehicle between October 1, 2010, and June 30, 2013.

Recordation and Transfer Taxes

Debt Forgiven in “Short Sale”

For purposes of local recordation taxes, which are applied to the consideration payable for, or of the principal amount of the debt secured by, an instrument of writing, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee. For purposes of the State transfer tax, the consideration payable to which the tax applies also includes the amount of any mortgage or deed of trust assumed by the grantee.

Anne Arundel County recently decided to charge the recordation tax not only on the amount paid by a buyer, but also on the amount of debt forgiven by the seller’s lender in a “short sale” in which the lender allows the sale of property for less than the amount owed on the mortgage. The county based its tax assessment on the notion that the debt forgiven by the lender in the “short sale” should be treated as consideration and added to the price actually paid for the property by the buyer to determine the amount of the recordation tax.

In response to questions regarding the county’s decision, the Attorney General opined that the county’s decision was not supported by State law and that counties do not have the authority to include debt forgiven by the seller’s lender in calculating the consideration on which the recordation tax is based. As a result, the county reversed its original decision to impose the recordation tax on the amount of debt forgiven by the seller’s lender in a short sale.

Senate Bill 657/House Bill 590 (both passed) clarify that, for purposes of local recordation taxes and State and county transfer taxes, the consideration payable for an instrument of writing to which the taxes apply includes only the amount paid or delivered in return for the sale of the property and does not include any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

Agricultural Land Transfer Tax

Senate Bill 59 (passed) alters the distribution of revenues from the agricultural land transfer tax by repealing recently enacted changes to the law regarding the dedication of revenues for use as part of the Maryland Agricultural and Resource-Based Industry Development

Corporation's installment purchase agreement program. For a further discussion of *Senate Bill 59*, see the subpart "Agriculture" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Dorchester County Transfer Tax

Dorchester County imposes a transfer tax of 0.75% on the value of real property transactions. Under current law, this authority expires June 30, 2014. *Senate Bill 223 (passed)* repeals the termination date for Dorchester County's authority to impose a transfer tax.

Inheritance Tax

Exemption for Surviving Spouses

House Bill 443 (passed) exempts from the State inheritance tax the receipt of property that passes from a decedent to a surviving spouse of (1) a deceased child of the decedent; or (2) a deceased lineal descendent of a child of the decedent, if the surviving spouse has not remarried.

Estate Tax

Payment Deferral for Qualified Agricultural Property

Senate Bill 396 (passed) requires the Comptroller to allow a payment deferral for up to three years for the Maryland estate tax imposed on qualified agricultural property that passes from a decedent to or for the use of a qualified recipient. Qualified agricultural property is real or personal property that is used primarily for farming purposes. A qualified recipient is an individual who enters into an agreement to use qualified agricultural property for farming purposes after the decedent's death. Any deferred tax is due immediately if the qualified agricultural property ceases to be used for farming purposes.

The amount of tax eligible for deferral is the amount, up to a maximum of \$375,000, equal to the Maryland estate tax owed multiplied by the percentage resulting from dividing the value of the qualified agricultural property that passes from the decedent to or for the use of a qualified recipient by the value of the gross estate of the decedent. Under the bill, the deferred tax is required to be paid, without interest, in accordance with a payment schedule prescribed by the Comptroller over a three-year period beginning in the fourth year after the due date.

Miscellaneous Local Taxes

Gross Receipts Tax – Heavy Equipment Rental Property

Senate Bill 685 (passed) replaces the local personal property tax on certain heavy equipment rental property with a 2% tax on the gross receipts from the short-term lease or rental of heavy equipment property by a person whose principal business is the short-term lease or

rental of heavy equipment property at retail. The gross receipts tax does not apply to a business located in a county or municipality that does not impose a personal property tax.

Under the bill, a person who owns a business with gross receipts subject to the tax must collect the tax from rental customers and remit the tax on a quarterly basis. A person with gross receipts subject to the tax is required to file an annual report on personal property with the State Department of Assessments and Taxation and to the county or municipal corporation where the heavy equipment rental business is located. Local governments must calculate the difference between the total gross receipts tax remitted during the previous calendar year and the amount of property tax calculated that would have been due. The local government must then provide a statement to each person who owns a business with gross receipts subject to the tax regarding the total gross receipts tax remitted during the previous calendar year, the total personal property tax calculated that would have been due, and the “gross receipts shortage” or “gross receipts surplus.” To the extent there is a gross receipts shortage between the calculated personal property tax owed and the amount of gross receipts taxes paid, the person must pay the difference to the appropriate local government.