

HOUSE BILL 1017

Q3

3lr2721

By: Delegates Barve, Myers, ~~and Branch~~ Branch, Afzali, Harper, A. Miller, Serafini, Stukes, and A. Washington

Introduced and read first time: February 8, 2013

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 **Income Tax Credit – Wineries and Vineyards**

3 FOR the purpose of allowing a credit against the State income tax for certain qualified
4 expenditures at certain wineries and certain vineyards; requiring the ~~Maryland~~
5 Department of ~~Agriculture~~ Business and Economic Development to administer
6 a certain tax credit; providing for the maximum amount of tax credits that may
7 be issued by the Department each year; requiring the Department of
8 ~~Agriculture~~ Business and Economic Development and the Comptroller jointly to
9 adopt certain regulations; requiring the Comptroller to adopt certain
10 regulations; providing that the credit allowed under this Act is subject to the
11 Tax Credit Evaluation Act; defining certain terms; providing for the application
12 of this Act; providing for the termination of this Act; and generally relating to
13 an income tax credit for certain expenditures at certain wineries and certain
14 vineyards.

15 BY repealing and reenacting, with amendments,

16 Article – Tax – General

17 Section 1–303(e)

18 Annotated Code of Maryland

19 (2010 Replacement Volume and 2012 Supplement)

20 BY adding to

21 Article – Tax – General

22 Section 10–733

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2012 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Tax – General**

6 1-303.

7 (e) On or before July 1, 2017, an evaluation shall be made of the tax credits
8 under:

9 (1) § 9-230 of the Tax – Property Article, § 6-116 of the Insurance
10 Article, and § 10-704.8 of this article (new job creating businesses); [and]

11 (2) § 10-726 of this article (biotechnology investment incentive); AND

12 (3) § 10-733 OF THIS ARTICLE (WINERIES AND VINEYARDS).

13 **10-733.**

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
15 MEANINGS INDICATED.

16 (2) “DEPARTMENT” MEANS THE ~~STATE~~ DEPARTMENT OF
17 ~~AGRICULTURE~~ BUSINESS AND ECONOMIC DEVELOPMENT.

18 (3) ~~“MARYLAND VINEYARD” MEANS AGRICULTURAL LANDS~~
19 ~~LOCATED IN THE STATE CONSISTING OF AT LEAST 1 CONTIGUOUS ACRE~~
20 ~~DEDICATED TO THE GROWING OF GRAPES THAT ARE USED OR ARE INTENDED TO~~
21 ~~BE USED IN THE PRODUCTION OF WINE BY A MARYLAND CLASS 3 OR CLASS 4~~
22 ~~WINERY AS WELL AS ANY PLANTS OR OTHER IMPROVEMENTS LOCATED~~
23 ~~THEREON.~~

24 (4) ~~“MARYLAND WINERY” MEANS AN ESTABLISHMENT LICENSED~~
25 ~~BY THE COMPTROLLER AS EITHER A CLASS 3 OR CLASS 4 WINERY UNDER~~
26 ~~ARTICLE 2B, §§ 2-204 AND 2-205 OF THE CODE.~~

27 (5) (3) “QUALIFIED CAPITAL EXPENSES” MEANS ALL
28 EXPENDITURES MADE BY THE TAXPAYER FOR THE PURCHASE AND
29 INSTALLATION OF EQUIPMENT OR AGRICULTURAL MATERIALS FOR USE IN THE
30 PRODUCTION OF AGRICULTURAL PRODUCTS FOR WINEMAKING AT A VINEYARD,
31 OR IN A WINERY, INCLUDING BUT NOT LIMITED TO:

- 1 **(I) BARRELS;**
- 2 **(II) BINS;**
- 3 **(III) BOTTLING EQUIPMENT;**
- 4 **(IV) CANOPY MANAGEMENT MACHINES;**
- 5 **(V) CAPSULING EQUIPMENT;**
- 6 **(VI) CHEMICALS;**
- 7 **(VII) CORKERS;**
- 8 **(VIII) CRUSHERS;**
- 9 **(IX) DESTEMMERS;**
- 10 **(X) FERMENTERS OR OTHER RECOGNIZED FERMENTATION**
11 **DEVICES;**
- 12 **(XI) FERTILIZER AND SOIL AMENDMENTS;**
- 13 **(XII) FILTERS;**
- 14 **(XIII) FRUIT HARVESTERS;**
- 15 **(XIV) FRUIT PLANTS;**
- 16 **(XV) HOSES;**
- 17 **(XVI) IRRIGATION EQUIPMENT;**
- 18 **(XVII) LABELING EQUIPMENT;**
- 19 **(XVIII) LUGS;**
- 20 **(XIX) MOWERS;**
- 21 **(XX) POLES;**
- 22 **(XXI) POSTS;**
- 23 **(XXII) PRESSES;**

- 1 (XXIII) PRUNING EQUIPMENT;
2 (XXIV) PUMPS;
3 (XXV) REFRACTOMETERS;
4 (XXVI) REFRIGERATION EQUIPMENT;
5 (XXVII) SEEDERS;
6 (XXVIII) SOIL;
7 (XXIX) SMALL TOOLS;
8 (XXX) TANKS;
9 (XXXI) TRACTORS;
10 (XXXII) VATS;
11 (XXXIII) WEEDING AND SPRAYING EQUIPMENT;
12 (XXXIV) WINE TANKS;
13 (XXXV) WIRE; AND
14 (XXXVI) ANY OTHER ITEMS AS APPROVED BY THE
15 DEPARTMENT.

16 (4) “VINEYARD” MEANS AGRICULTURAL LANDS LOCATED IN THE
17 STATE CONSISTING OF AT LEAST 1 CONTIGUOUS ACRE DEDICATED TO THE
18 GROWING OF GRAPES THAT ARE USED OR ARE INTENDED TO BE USED IN THE
19 PRODUCTION OF WINE BY A WINERY AS WELL AS ANY PLANTS OR OTHER
20 IMPROVEMENTS LOCATED THEREON.

21 (5) “WINERY” MEANS AN ESTABLISHMENT LICENSED BY THE
22 COMPTROLLER AS EITHER A CLASS 3 OR CLASS 4 WINERY UNDER ARTICLE 2B,
23 §§ 2-204 AND 2-205 OF THE CODE.

24 (B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL
25 OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN
26 AN AMOUNT EQUAL TO 25% OF THE QUALIFIED CAPITAL EXPENSES MADE IN
27 CONNECTION WITH:

1 (1) THE ESTABLISHMENT OF NEW ~~MARYLAND~~ WINERIES OR
2 ~~MARYLAND~~ VINEYARDS; OR

3 (2) THE CAPITAL IMPROVEMENTS MADE TO EXISTING ~~MARYLAND~~
4 WINERIES OR ~~MARYLAND~~ VINEYARDS.

5 (c) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE
6 END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE
7 PAID OR INCURRED, AN INDIVIDUAL OR A CORPORATION SHALL SUBMIT AN
8 APPLICATION TO THE DEPARTMENT FOR THE CREDIT ALLOWED UNDER THIS
9 SECTION.

10 (2) (i) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE
11 DEPARTMENT UNDER THIS SECTION FOR A TAXABLE YEAR MAY NOT EXCEED
12 \$2,000,000.

13 (ii) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY
14 ALL INDIVIDUALS AND CORPORATIONS UNDER THIS SECTION EXCEEDS THE
15 MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE
16 DEPARTMENT SHALL APPROVE A CREDIT UNDER THIS SECTION FOR EACH
17 APPLICANT IN AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE
18 CREDIT APPLIED FOR BY THE APPLICANT TIMES A FRACTION:

19 1. THE NUMERATOR OF WHICH IS THE MAXIMUM
20 SPECIFIED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH; AND

21 2. THE DENOMINATOR OF WHICH IS THE TOTAL OF
22 ALL CREDITS APPLIED FOR BY ALL APPLICANTS IN THE CALENDAR YEAR.

23 (iii) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING
24 THE END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES
25 WERE PAID OR INCURRED, THE DEPARTMENT SHALL CERTIFY TO THE
26 INDIVIDUAL OR CORPORATION THE AMOUNT OF THE TAX CREDIT APPROVED BY
27 THE DEPARTMENT FOR THE INDIVIDUAL OR CORPORATION UNDER THIS
28 SECTION.

29 (3) TO CLAIM THE APPROVED CREDIT ALLOWED UNDER THIS
30 SECTION, AN INDIVIDUAL OR A CORPORATION SHALL:

31 (i) FILE AN AMENDED INCOME TAX RETURN FOR THE
32 TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR
33 INCURRED; AND

1 **(II) ATTACH A COPY OF THE DEPARTMENT'S**
2 **CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME**
3 **TAX RETURN.**

4 **(D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE**
5 **YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE INDIVIDUAL OR**
6 **CORPORATION FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR CORPORATION**
7 **MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL:**

8 **(1) THE FULL AMOUNT OF THE EXCESS IS USED; OR**

9 **(2) THE EXPIRATION OF THE 15TH TAXABLE YEAR AFTER THE**
10 **TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR**
11 **INCURRED.**

12 **(E) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT**
13 **REGULATIONS TO:**

14 **(1) IMPLEMENT THE PROVISIONS OF THIS SECTION; AND**

15 **(2) SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION FOR,**
16 **APPROVAL OF, AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX**
17 **CREDIT UNDER THIS SECTION.**

18 **(F) THE COMPTROLLER SHALL ADOPT REGULATIONS PROVIDING FOR:**

19 **(1) DETERMINATION OF THE AMOUNT OF THE CREDIT UNDER**
20 **THIS SECTION IN THE CASE OF TRADES OR BUSINESSES, WHETHER OR NOT**
21 **INCORPORATED, THAT ARE UNDER COMMON CONTROL;**

22 **(2) PASS-THROUGH AND ALLOCATION OF THE CREDIT IN THE**
23 **CASE OF ESTATES AND TRUSTS, PARTNERSHIPS, UNINCORPORATED TRADES OR**
24 **BUSINESSES, AND S CORPORATIONS;**

25 **(3) ADJUSTMENTS IN THE CASE OF ACQUISITIONS AND**
26 **DISPOSITIONS DESCRIBED IN § 41(F)(3) OF THE INTERNAL REVENUE CODE;**
27 **AND**

28 **(4) DETERMINATION OF THE CREDIT IN THE CASE OF SHORT**
29 **TAXABLE YEARS.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 July 1, 2013, and shall be applicable to all taxable years beginning after December 31,
32 2012. It shall remain effective for a period of 5 years and, at the end of June 30, 2018,

1 with no further action required by the General Assembly, this Act shall be abrogated
2 and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.