

Chapter 233

(House Bill 472)

AN ACT concerning

Income Tax Credit – Qualified Farms – Food Donation Pilot Program

FOR the purpose of allowing certain qualified farms a credit, up to a certain amount, against the State income tax equal to a certain percentage of the value of certain food donations; providing for the carry forward of the credit; providing for the calculation of the amount of the credit; requiring the Secretary of Agriculture to establish certain values on a weekly basis; requiring the Secretary, in consultation with the Comptroller, to establish a certain certification procedure for certain tax credit administrators; requiring a tax credit certificate administrator that receives a certain donation to issue a certain tax credit certificate; requiring that a tax credit certificate contain certain information; requiring the Secretary, in consultation with the Comptroller, to prepare certain tax credit certificate forms; requiring the Secretary to notify certain administrators to stop issuing certain certificates if a certain limit is reached; providing that the total amount of tax credit certificates issued may not exceed a certain amount for certain fiscal years; requiring the Secretary, in consultation with the Comptroller, to submit a certain report by a certain date in certain years; requiring the Secretary, in consultation with the Comptroller, to adopt certain regulations; defining certain terms; and generally relating to a tax credit for certain food donations.

BY adding to

Article – Tax – General
Section 10–741
Annotated Code of Maryland
(2016 Replacement Volume)

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

Article – Tax – General

10–741.

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

(2) “CERTIFIED ORGANIC PRODUCE” MEANS AN ELIGIBLE FOOD DONATION THAT IS CERTIFIED UNDER TITLE 10, SUBTITLE 14 OF THE AGRICULTURE ARTICLE AS AN ORGANICALLY PRODUCED COMMODITY.

(3) “ELIGIBLE FOOD DONATION” MEANS FRESH FARM PRODUCTS FOR HUMAN CONSUMPTION.

(4) “QUALIFIED FARM” MEANS A FARM BUSINESS THAT IS LOCATED IN ANNE ARUNDEL COUNTY, CALVERT COUNTY, CHARLES COUNTY, MONTGOMERY COUNTY, PRINCE GEORGE’S COUNTY, OR ST. MARY’S COUNTY.

(5) “SECRETARY” MEANS THE SECRETARY OF AGRICULTURE OR THE SECRETARY’S DESIGNEE.

(6) “TAX CREDIT CERTIFICATE ADMINISTRATOR” MEANS A PERSON OR AN ORGANIZATION THAT IS AUTHORIZED BY THE STATE DEPARTMENT OF AGRICULTURE UNDER SUBSECTION (E) OF THIS SECTION TO RECEIVE ELIGIBLE FOOD DONATIONS.

(B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2016, BUT BEFORE JANUARY 1, 2020, A QUALIFIED FARM MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT STATED ON ANY TAX CREDIT CERTIFICATES ISSUED TO THE QUALIFIED FARM DURING THE TAXABLE YEAR.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR ANY TAXABLE YEAR, THE AGGREGATE AMOUNT OF CREDITS AUTHORIZED UNDER THIS SUBSECTION FOR A QUALIFIED FARM MAY NOT EXCEED \$5,000.

(II) FOR ANY TAXABLE YEAR, THE SECRETARY MAY INCREASE THE CREDIT LIMITATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR A QUALIFIED FARM BY AN AMOUNT NOT TO EXCEED \$5,000.

(3) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE STATE INCOME TAX, ANY UNUSED CREDIT MAY BE CARRIED FORWARD AND APPLIED FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

(I) THE DATE ON WHICH THE FULL AMOUNT OF THE CREDIT IS USED; OR

(II) THE DATE OF THE EXPIRATION OF THE 5TH YEAR AFTER THE TAXABLE YEAR FOR WHICH THE CREDIT WAS ALLOWED.

(C) (1) A QUALIFIED FARM THAT MAKES AN ELIGIBLE FOOD DONATION IS ELIGIBLE FOR A TAX CREDIT CERTIFICATE WITH A STATED TAX CREDIT AMOUNT EQUAL TO 50% OF THE VALUE OF THE ELIGIBLE FOOD DONATION.

(2) A QUALIFIED FARM THAT MAKES A DONATION OF CERTIFIED ORGANIC PRODUCE IS ELIGIBLE FOR A TAX CREDIT CERTIFICATE WITH A STATED TAX CREDIT AMOUNT EQUAL TO 75% OF THE VALUE OF THE DONATED CERTIFIED ORGANIC PRODUCE.

(D) (1) EACH WEEK THE SECRETARY SHALL ESTABLISH AND PUBLISH THE CATEGORIES AND VALUE OF CERTIFIED ORGANIC PRODUCE AND ELIGIBLE FOOD DONATIONS.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE VALUE OF EACH CATEGORY OF CERTIFIED ORGANIC PRODUCE AND ELIGIBLE FOOD DONATIONS IS THE WHOLESALE VALUE OF THE CATEGORY ESTABLISHED BY THE STATE DEPARTMENT OF AGRICULTURE AND BASED ON UNITED STATES DEPARTMENT OF AGRICULTURE REPORTS ON MARYLAND PRODUCTS SOLD AT MARYLAND MARKETS.

(3) IF THE SECRETARY DETERMINES THAT THE VALUE ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS INSUFFICIENT TO PAY FOR THE COST OF HARVESTING A CATEGORY OF CERTIFIED ORGANIC PRODUCE OR ELIGIBLE FOOD DONATION, THE SECRETARY MAY ESTABLISH A VALUE IN EXCESS OF THE VALUE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(E) (1) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER, SHALL ESTABLISH A PROCESS TO CERTIFY A PERSON OR AN ORGANIZATION TO ACT AS A TAX CREDIT CERTIFICATE ADMINISTRATOR.

(2) A TAX CREDIT CERTIFICATE ADMINISTRATOR THAT RECEIVES A DONATION OF CERTIFIED ORGANIC PRODUCE OR AN ELIGIBLE FOOD DONATION FROM A QUALIFIED FARM SHALL ISSUE THE QUALIFIED FARM A TAX CREDIT CERTIFICATE.

(3) THE TAX CREDIT CERTIFICATE SHALL:

- (I) STATE THE DATE OF THE DONATION;**
- (II) IDENTIFY THE QUALIFIED FARM;**
- (III) DESCRIBE THE TYPE OF DONATION;**
- (IV) STATE THE WEIGHT OF THE DONATION;**
- (V) IDENTIFY THE VALUE OF THE DONATION;**

(VI) STATE THE MAXIMUM AMOUNT OF THE TAX CREDIT FOR WHICH THE QUALIFIED FARM IS ELIGIBLE; AND

(VII) PROVIDE ANY OTHER INFORMATION THE STATE DEPARTMENT OF AGRICULTURE OR COMPTROLLER REQUIRES.

(4) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER, SHALL PREPARE TAX CREDIT CERTIFICATE FORMS FOR THE USE OF THE TAX CREDIT CERTIFICATE ADMINISTRATORS.

(5) WITHIN 30 DAYS AFTER ISSUING A TAX CREDIT CERTIFICATE, THE TAX CREDIT CERTIFICATE ADMINISTRATOR SHALL PROVIDE A COPY OF THE TAX CREDIT CERTIFICATE TO THE SECRETARY AND THE COMPTROLLER.

(6) (I) THE SECRETARY SHALL NOTIFY EACH TAX CREDIT CERTIFICATE ADMINISTRATOR TO STOP ISSUING TAX CREDIT CERTIFICATES IF THE AMOUNT OF TAX CREDIT CERTIFICATES ISSUED DURING THE FISCAL YEAR EQUALS OR EXCEEDS THE AMOUNT OF TAX CREDIT CERTIFICATES AUTHORIZED TO BE ISSUED DURING THE FISCAL YEAR UNDER SUBSECTION (F) OF THIS SECTION LESS \$50,000.

(II) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER, SHALL ADOPT REGULATIONS PROVIDING PROCEDURES TO ISSUE THE REMAINING \$50,000 OF TAX CREDIT CERTIFICATES UNDER THIS PARAGRAPH.

(F) (1) FOR EACH FISCAL YEAR, THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES ISSUED UNDER THIS SECTION MAY NOT EXCEED \$250,000.

(2) IF THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES ISSUED DURING ANY FISCAL YEAR TOTALS LESS THAN THE MAXIMUM AMOUNT PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, ANY EXCESS AMOUNT MAY BE CARRIED FORWARD AND ISSUED UNDER TAX CREDIT CERTIFICATES IN A SUBSEQUENT FISCAL YEAR.

(3) A TAX CREDIT CERTIFICATE MAY NOT BE ISSUED AFTER DECEMBER 31, 2019.

(G) ON OR BEFORE JANUARY 1, 2018, AND JANUARY 1 EACH YEAR THEREAFTER UNTIL JANUARY 1, 2021, THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER, SHALL SUBMIT A REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE USE AND IMPACT OF THE TAX CREDIT ESTABLISHED UNDER THIS SECTION.

(H) THE SECRETARY, IN CONSULTATION WITH THE COMPTROLLER, SHALL ADOPT REGULATIONS TO ADMINISTER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, April 18, 2017.