

SENATE BILL 979

Q3

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By: **Senators Hester, Gallion, and Ready**

Introduced and read first time: February 3, 2020

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit – Value-Added Processing Expenses**

3 FOR the purpose of allowing a credit against the State income tax for certain qualified
4 capital expenses for use in value-added processing conducted in the State under
5 certain circumstances; requiring the Department of Commerce to administer the tax
6 credit; providing that the Department may not approve more than a certain amount
7 of tax credits each taxable year; prohibiting a certain business entity from claiming,
8 for the same qualified capital expenses, the credit under this Act and a certain credit
9 against the State income tax for certain expenditures at certain wineries and certain
10 vineyards; providing for the carryforward of the credit; requiring the Department
11 and the Comptroller jointly to adopt certain regulations; requiring the Comptroller
12 to adopt certain regulations; defining certain terms; providing for the application of
13 this Act; and generally relating to an income tax credit for certain expenditures for
14 the purchase or installation of equipment for use in value-added processing.

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 10-735(b)
18 Annotated Code of Maryland
19 (2016 Replacement Volume and 2019 Supplement)

20 BY adding to
21 Article – Tax – General
22 Section 10-735.1
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2019 Supplement)

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

27 **Article – Tax – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 10-735.

2 (b) (1) [Subject] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
3 **SUBSECTION AND SUBJECT** to the limitations of this section, an individual or a
4 corporation may claim a credit against the State income tax in an amount equal to 25% of
5 the qualified capital expenses made in connection with:

6 [(1)] (I) the establishment of new wineries or vineyards; or

7 [(2)] (II) the capital improvements made to existing wineries or vineyards.

8 (2) **AN INDIVIDUAL OR A CORPORATION MAY NOT CLAIM THE CREDIT**
9 **UNDER THIS SECTION WITH RESPECT TO QUALIFIED CAPITAL EXPENSES FOR WHICH**
10 **THE INDIVIDUAL OR CORPORATION HAS CLAIMED THE CREDIT ALLOWED UNDER §**
11 **10-735.1 OF THIS SUBTITLE.**

12 **10-735.1.**

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

15 (2) **“DEPARTMENT” MEANS THE DEPARTMENT OF COMMERCE.**

16 (3) (I) **“QUALIFIED CAPITAL EXPENSES” MEANS ALL**
17 **EXPENDITURES MADE BY THE TAXPAYER FOR THE PURCHASE OR INSTALLATION OF**
18 **EQUIPMENT FOR USE IN VALUE-ADDED PROCESSING.**

19 (II) **“QUALIFIED CAPITAL EXPENSES” DOES NOT INCLUDE ANY**
20 **AMOUNT OF FEDERAL OR STATE GRANT FUNDING RECEIVED BY THE TAXPAYER AND**
21 **APPLIED TOWARD THE PURCHASE OR INSTALLATION OF THE EQUIPMENT.**

22 (4) **“VALUE-ADDED PROCESSING” MEANS A PROCESS THAT**
23 **TRANSFORMS A RAW AGRICULTURAL, SILVICULTURAL, OR AQUACULTURAL**
24 **PRODUCT INTO A NEW PRODUCT, INCLUDING FERMENTING, PACKAGING, COOLING,**
25 **DRYING, EXTRACTING, AND OTHER PROCESSES THAT CHANGE A PRODUCT FROM ITS**
26 **ORIGINAL RAW FORM.**

27 (B) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION**
28 **AND SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR A**
29 **CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN**
30 **AMOUNT EQUAL TO 25% OF THE QUALIFIED CAPITAL EXPENSES MADE IN**
31 **CONNECTION WITH VALUE-ADDED PROCESSING CONDUCTED IN THE STATE, IF THE**
32 **QUALIFIED CAPITAL EXPENSES INCURRED BY THE INDIVIDUAL OR CORPORATION**

1 EXCEED \$10,000 IN THE AGGREGATE.

2 (2) AN INDIVIDUAL OR CORPORATION MAY NOT CLAIM THE CREDIT
3 UNDER THIS SECTION WITH RESPECT TO QUALIFIED CAPITAL EXPENSES FOR WHICH
4 THE INDIVIDUAL OR CORPORATION HAS CLAIMED THE CREDIT ALLOWED UNDER §
5 10-735 OF THIS SUBTITLE.

6 (c) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END
7 OF THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR
8 INCURRED, AN INDIVIDUAL OR A CORPORATION SHALL SUBMIT AN APPLICATION TO
9 THE DEPARTMENT FOR THE CREDIT ALLOWED UNDER THIS 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 \$1,000,000.

13 (ii) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL
14 INDIVIDUALS AND CORPORATIONS UNDER THIS SECTION EXCEEDS THE MAXIMUM
15 SPECIFIED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE DEPARTMENT
16 SHALL APPROVE A CREDIT UNDER THIS SECTION FOR EACH APPLICANT IN AN
17 AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE CREDIT APPLIED FOR BY
18 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 ALL
22 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 WERE
25 PAID OR INCURRED, THE DEPARTMENT SHALL CERTIFY TO THE INDIVIDUAL OR
26 CORPORATION THE AMOUNT OF THE TAX CREDIT APPROVED BY THE DEPARTMENT
27 FOR THE INDIVIDUAL OR CORPORATION UNDER THIS SECTION.

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

30 (i) 1. FILE AN AMENDED INCOME TAX RETURN FOR THE
31 TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE PAID OR
32 INCURRED; AND

33 2. ATTACH A COPY OF THE DEPARTMENT'S

CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME TAX RETURN; OR

(II) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ATTACH A COPY OF THE DEPARTMENT'S CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO AN INCOME TAX RETURN FILED FOR ANY TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE QUALIFIED CAPITAL EXPENSES WERE INCURRED.

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

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

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

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

(1) IMPLEMENT THE PROVISIONS OF THIS SECTION; AND

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

(F) THE COMPTROLLER SHALL ADOPT REGULATIONS PROVIDING FOR:

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

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

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.