

DEPARTMENT OF TAXATION

2018 Fiscal Impact Statement

1. **Patron** Kathy J. Byron

2. **Bill Number** HB 1382

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Agricultural Best Management Practices Tax
Credit; Refundability for Corporations

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would make the corporate Agricultural Best Management Practices Tax Credit refundable. This bill would also prohibit taxpayers from claiming this credit and another credit under a similar Virginia law for costs related to the same eligible practices.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") and the Department of Conservation and Recreation ("DCR") consider implementation of this bill as routine and do not require additional funding.

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2019. The majority of credits are claimed by individuals, either in their individual capacity or as members of an LLC or other pass-through entity. Accordingly, the impact in Fiscal Year 2020 and thereafter would likely be minimal. The table below shows the amount of credits claimed on individual and corporate income tax returns during Fiscal Years 2013 through 2017.

Fiscal Year	Individual Income Tax		Corporate Income Tax	
	Returns	Amount	Returns	Amount
2013	419	\$858,504	28	\$38,755
2014	470	\$798,586	20	\$23,363
2015	471	\$1,144,933	19	\$24,380
2016	412	\$1,008,216	23	\$39,508
2017	306	\$687,381	12	\$15,131

This bill would not prohibit taxpayers with credit carryovers from claiming a refund for such carryover amounts. Therefore, it is anticipated that there would be a larger revenue impact in Fiscal Year 2019 due to corporations claiming refunds for such carryover amounts. The table below shows the amount of outstanding credits for Taxable Years 2011 through 2016.

Taxable Year	Unused Credits Remaining
2011	\$21,109
2012	\$20,628
2013	\$22,002
2014	\$38,701
2015	\$98,433
2016	\$57,601
Total	\$258,474

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Conservation and Recreation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Virginia provides both an individual and corporate income tax credits to agricultural producers who use agricultural best management practices that help Virginia address its pollution water quality objectives. Agricultural best management practices are those practices approved by the Virginia Soil and Water Conservation Board which will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and are consistent with other state and federal programs that address agricultural, nonpoint-source-pollution management.

Individuals and corporations are allowed to claim a credit against their income tax equal to 25 percent of the first \$70,000 expended for best management practices. The maximum credit allowed is \$17,500. To be eligible for a tax credit as an individual, the taxpayer must be engaged in agricultural production for market or have equines that create needs for

agricultural best management practices to reduce nonpoint source pollutants and have in place a soil conservation plan approved by the local Soil and Water Conservation District ("SWCD"). To be eligible for a credit as a corporation, the taxpayer must be engaged in agricultural production for market and have in place a soil conservation plan approved by the local SWCD.

As originally enacted in 1996 by House Bill 1222 (1996 *Acts of Assembly*, Chapter 629), both the credit allowed to individuals and the credit allowed to corporations were non-refundable. If the amount of the credit exceeded the taxpayer's liability for a taxable year, the 1996 legislation allowed the excess to be carried over for credit against income taxes for up to five taxable years. Pursuant to Senate Bill 974 (2011 *Acts of Assembly*, Chapter 352), the General Assembly modified the credit allowed to individuals by making it refundable. Such legislation left the credit allowed to corporations unchanged.

For purposes of this tax credit, the term "individual" covers a wide variety of entities including LLCs, partnerships and S Corporations, and not just sole proprietors. Due to the inclusive nature of this terminology, a vast majority of taxpayers claiming the Agricultural BMP credit are considered individuals for purposes of the credit.

Proposed Legislation

This bill would make the corporate Agricultural Best Management Practices Tax Credit refundable. This bill would also prohibit taxpayers from claiming this credit and another credit under a similar Virginia law for costs related to the same eligible practices.

The effective date of this bill is not specified.

cc: Secretary of Finance

Date: 3/2/2018 RWC
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