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July 11, 2005

Mr. Steve Huett  
24666 Joy Chapel Lane  
Hollywood, Maryland 20636

Dear Mr. Huett:

This letter is in response to your inquiry regarding the Maryland income tax credit for aquaculture oyster floats as found under Md. Code Ann., Tax-Gen. § 10-724. You inquired about a husband and wife filing joint income tax returns and their ability to each claim a credit against the Maryland income tax for the purchase of aquaculture oyster floats during the taxable year.

The credit, allowed by Md. Code Ann., Tax-Gen. § 10-724(b), reads, in relevant part, as follows: "Subject to the limitation of this section, an individual may claim a credit against the State income tax in an amount equal to 100% of the purchase price of aquaculture oyster floats purchased during the taxable year." This permits the person who made the expenditure (the purchase of the floats) to claim one credit. The amount allowed as a credit is limited to \$500 or the amount of the Maryland income tax calculated after application of other credits, whichever is less.

The application of this rule to the case of a husband and wife, who file a Maryland joint income tax return, is illustrated in the following examples:

Example (1): Husband and wife purchase \$1,000 worth of the aquaculture oyster floats. The husband and wife file a joint income tax return for that taxable year. On their joint return, because there are two individuals filing the joint return, one spouse can claim \$500 as a credit, and the other spouse can claim \$500 as a credit. This presupposes that each spouse has sufficient income to generate at least a \$500 tax in order to each be able to claim a credit.

Example (2): Husband and wife purchase \$400 worth of the aquaculture oyster floats. The husband and wife file a joint income tax

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return. On that joint return, one spouse can claim \$200 as a credit and the other spouse can claim \$200 as a credit.

Example (3): Husband purchases \$600 worth of the floats. The husband and wife file a Maryland joint income tax return. On that joint return, only the husband can claim a \$500 credit.

These examples demonstrate that when the husband and wife both purchase the floats, they each can claim an aquaculture oyster floats credit, but only up to the expenditure price. For instance, in the case of Example (2), each spouse can claim a credit for only \$200. Each spouse cannot claim a credit for \$400. This is because the couple made one expenditure and the full benefits arrived at from this expenditure may not be taken twice simply because a joint income tax return is filed.

Explained in another way, if in Example (2), the husband and wife filed their income tax returns as married persons filing separately (meaning two Maryland individual income tax returns were filed), each spouse is still only entitled to a maximum \$200 credit. Thus, in this case, the husband cannot claim a credit of \$400 for the expenditure on his individual income return and the wife cannot claim a credit of \$400 for the expenditure on her individual income tax return. This illustrates a general tax law principal that the same expenditure may not be claimed more than once.

If you wish to discuss this or if you need additional information, please do not hesitate to contact me at (410) 260-6181.

Sincerely,



Lauri L. Lombardo, Esq.  
Tax Consultant I

cc: The Honorable Anthony O'Donnell  
Katheryn Glacken, Compliance Division

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