

HOUSE BILL 14

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Q3

2000 Regular Session
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(PRE-FILED)

By: Delegates Taylor, Dewberry, Hurson, Arnick, Busch, Guns, Harrison, Hixson, Howard, Kopp, Montague, Rawlings, Owings, Rosenberg, Vallario, and Wood Wood, W. Baker, Barve, Bohanan, Bozman, Brown, Cane, Clagett, Cole, Conroy, Conway, D'Amato, DeCarlo, Donoghue, Doory, Dypski, Finifter, Franchot, Frush, Giannetti, Goldwater, Griffith, Hammen, Healey, Hecht, Heller, Hubers, James, V. Jones, Klausmeier, Krysiak, Love, Mandel, McHale, Mitchell, Moe, Petzold, Pitkin, Rosso, Rudolph, Snodgrass, Stern, Turner, Valderrama, Weir, Zirkin, Cryor, Bartlett, Carlson, and Shriver

Requested: November 15, 1999
Introduced and read first time: January 12, 2000
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 9, 2000

CHAPTER _____

1 AN ACT concerning

2 **Maryland Research and Development Tax Credit**

3 FOR the purpose of allowing a credit against the State income tax for certain research
4 or development expenses incurred by an individual or corporation; providing for
5 applications to the Department of Business and Economic Development for
6 approval of the credit and certification by the Department to taxpayers of
7 approved credit amounts; limiting the total amount of credits that the
8 Department may approve for any calendar year to a certain amount; requiring
9 the Department to approve a prorated credit for each applicant if the total
10 amount applied for exceeds the maximum that may be approved; providing that
11 certain unused credits may be carried forward to certain taxable years;
12 requiring the Department of Business and Economic Development to adopt
13 certain regulations; defining certain terms; providing for the application and
14 termination of this Act; and generally relating to a credit against the State
15 income tax for certain research or development expenses incurred by an
16 individual or corporation.

17 BY adding to
18 Article - Tax - General

1 Section 10-718
2 Annotated Code of Maryland
3 (1997 Replacement Volume and 1999 Supplement)

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

6 **Article - Tax - General**

7 10-718.

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

10 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF BUSINESS AND
11 ECONOMIC DEVELOPMENT.

12 (3) "MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES"
13 MEANS EXPENSES THAT:

14 (I) ARE INCURRED FOR RESEARCH OR DEVELOPMENT THAT:

15 1. IS CONDUCTED IN THIS STATE; AND

16 2. IS NOT FUNDED, WITHIN THE MEANING OF ~~§ 41(H)(D)(4)(H)~~
17 § 41(D)(4)(H) OF THE INTERNAL REVENUE CODE, BY ANY GRANT, CONTRACT, OR
18 OTHERWISE BY A PERSON OR GOVERNMENTAL ENTITY OTHER THAN THE PERSON
19 CLAIMING THE CREDIT UNDER THIS SECTION; AND

20 (II) QUALIFY AS:

21 1. RESEARCH OR EXPERIMENTAL EXPENDITURES
22 DEDUCTIBLE UNDER §174 OF THE INTERNAL REVENUE CODE, DETERMINED
23 WITHOUT REGARD TO § 280C(C) OF THE INTERNAL REVENUE CODE OR ANY
24 ELECTIONS MADE BY A TAXPAYER TO AMORTIZE EXPENSES ON ITS FEDERAL INCOME
25 TAX RETURN THAT WERE OTHERWISE DEDUCTIBLE; OR

26 2. BASIC RESEARCH PAYMENTS AS DEFINED UNDER § 41 OF
27 THE INTERNAL REVENUE CODE.

28 (B) 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 3% OF THE MARYLAND QUALIFIED RESEARCH AND
31 DEVELOPMENT EXPENSES PAID OR INCURRED BY THE INDIVIDUAL OR
32 CORPORATION DURING THE TAXABLE YEAR.

33 (C) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF
34 THE TAXABLE YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND
35 DEVELOPMENT EXPENSE WAS INCURRED, AN INDIVIDUAL OR CORPORATION SHALL

1 SUBMIT AN APPLICATION TO THE DEPARTMENT FOR THE CREDIT UNDER THIS
2 SECTION.

3 (2) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DEPARTMENT
4 UNDER THIS SECTION MAY NOT EXCEED \$10,000,000 FOR ANY CALENDAR YEAR.

5 (3) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL
6 INDIVIDUALS AND CORPORATIONS EXCEEDS \$10,000,000, THE DEPARTMENT SHALL
7 APPROVE FOR EACH APPLICANT A CREDIT IN AN AMOUNT EQUAL TO THE PRODUCT
8 OF MULTIPLYING THE CREDIT APPLIED FOR BY THE APPLICANT TIMES A FRACTION:

9 (I) THE NUMERATOR OF WHICH IS \$10,000,000; AND

10 (II) THE DENOMINATOR OF WHICH IS THE TOTAL OF ALL CREDITS
11 APPLIED FOR BY ALL APPLICANTS IN THE CALENDAR YEAR.

12 (4) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF
13 THE TAXABLE YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND
14 DEVELOPMENT EXPENSE WAS INCURRED, THE DEPARTMENT SHALL CERTIFY TO
15 THE INDIVIDUAL OR CORPORATION THE AMOUNT OF THE RESEARCH AND
16 DEVELOPMENT TAX CREDIT APPROVED BY THE DEPARTMENT FOR THE INDIVIDUAL
17 OR CORPORATION.

18 (5) TO CLAIM THE APPROVED CREDIT ALLOWED UNDER THIS SECTION,
19 AN INDIVIDUAL OR CORPORATION SHALL:

20 (I) FILE AN AMENDED INCOME TAX RETURN FOR THE TAXABLE
21 YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT
22 EXPENSE WAS INCURRED; AND

23 (II) ATTACH A COPY OF THE DEPARTMENT'S CERTIFICATION OF
24 THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME TAX RETURN.

25 (D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR
26 EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, AN INDIVIDUAL OR
27 CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME
28 TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

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

30 (2) THE EXPIRATION OF THE 15TH TAXABLE YEAR AFTER THE TAXABLE
31 YEAR IN WHICH THE MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT
32 EXPENSE WAS INCURRED.

33 (E) (1) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT
34 SHALL ADOPT REGULATIONS TO PRESCRIBE STANDARDS FOR DETERMINING WHEN
35 RESEARCH OR DEVELOPMENT IS CONSIDERED CONDUCTED IN THE STATE FOR
36 PURPOSES OF DETERMINING THE CREDIT UNDER THIS SECTION.

1 (2) IN ADOPTING REGULATIONS UNDER THIS SUBSECTION, THE
2 DEPARTMENT MAY CONSIDER:

3 (I) THE LOCATION WHERE SERVICES ARE PERFORMED;

4 (II) THE RESIDENCE OR BUSINESS LOCATION OF THE PERSON OR
5 PERSONS PERFORMING SERVICES;

6 (III) THE LOCATION WHERE SUPPLIES USED IN RESEARCH AND
7 DEVELOPMENT ARE CONSUMED; AND

8 (IV) ANY OTHER FACTORS THAT THE DEPARTMENT DETERMINES
9 ARE RELEVANT FOR THE DETERMINATION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That:

11 (a) Except as otherwise provided in this section, this Act shall be applicable to
12 all taxable years beginning after December 31, 1999 but before January 1, 2005.

13 (b) If a taxpayer's taxable year for income tax purposes is not the calendar
14 year:

15 (1) for the taxable year that ends in calendar year 2000, the taxpayer
16 may apply for a prorated credit for research and development expenses paid or
17 incurred in the taxable year for that part of the taxable year that falls in calendar
18 year 2000; and

19 (2) for the taxable year that begins in calendar year 2004, the taxpayer
20 may apply for only a prorated credit for research and development expenses paid or
21 incurred in the taxable year for that part of the taxable year that falls in calendar
22 year 2004.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2000. It shall remain effective for a period of 6 years and, at the end of June
25 30, 2006, with no further action required by the General Assembly, this Act shall be
26 abrogated and of no further force and effect.