

## CHAPTER 605

(Senate Bill 800)

AN ACT concerning

### **Biotechnology Investment Incentive Tax Credit**

FOR the purpose of altering the definition of “qualified investor” under a certain tax credit allowed for certain investments in certain biotechnology companies; clarifying the taxable year for which the credit may be claimed; repealing certain obsolete language; altering a certain applicability provision; clarifying certain provisions requiring the recapture of the credit under certain circumstances; and generally relating to a certain tax credit allowed for certain investments in certain biotechnology companies.

BY repealing and reenacting, with amendments,  
Article – Tax – General  
Section 10–725(a)(6)(i), (b)(1), and (f)(1) and (2)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing  
Article – Tax – General  
Section 10–725(e)(3)(vii)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 518 of the Acts of the General Assembly of 2008  
Section 2

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

#### **Article – Tax – General**

10–725.

(a) (6) (i) “Qualified investor” means any **INDIVIDUAL OR** entity that invests at least \$25,000 in a qualified Maryland biotechnology company and that is required to file an income tax return in any jurisdiction.

(b) (1) Subject to paragraphs (2) and (3) of this subsection and subsections (d) and (e) of this section, **FOR THE TAXABLE YEAR IN WHICH AN INVESTMENT IN A**

**QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY IS MADE**, a qualified investor may claim a credit against the State income tax in an amount equal to the amount of tax credit stated in the final credit certificate approved by the Secretary for [an] **THE** investment [in a qualified Maryland biotechnology company] as provided under this section.

(e) (3) [(vii) A qualified investor may redeem a final tax credit certificate for a taxable year beginning after December 31, 2006.]

(f) (1) The credit claimed under this section shall be recaptured as provided in paragraph (2) of this subsection if within 2 years from the close of the taxable year [in] **FOR** which the credit is [approved] **CLAIMED**:

(i) the qualified investor sells, transfers, or otherwise disposes of the ownership interest in the qualified Maryland biotechnology company that gave rise to the credit; or

(ii) the qualified Maryland biotechnology company that gave rise to the credit ceases operating as an active business with its headquarters and base of operations in the State.

(2) The amount required to be recaptured under this subsection is the product of multiplying:

(i) the total amount of the credit claimed or, in the case of an event described in paragraph (1)(i) of this subsection, the portion of the credit attributable to the ownership interest disposed of; and

(ii) 1. 100%, if the event requiring recapture of the credit occurs during the taxable year [in] **FOR** which the tax credit is [approved] **CLAIMED**;

2. 67%, if the event requiring recapture of the credit occurs during the first year after the close of the taxable year for which the tax credit is [approved] **CLAIMED**; or

3. 33%, if the event requiring recapture of the credit occurs more than 1 year but not more than 2 years after the close of the taxable year for which the tax credit is [approved] **CLAIMED**.

### **Chapter 518 of the Acts of 2008**

**SECTION 2. AND BE IT FURTHER ENACTED**, That this Act shall take effect July 1, 2008[, and shall be applicable to all taxable years beginning after December 31, 2008]. **A TAX CREDIT FOR AN INVESTMENT IN A QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY UNDER THE PROVISIONS OF § 10-725 OF THE TAX –**

**GENERAL ARTICLE AS AMENDED BY SECTION 1 OF THIS ACT SHALL BE CLAIMED FOR THE TAXABLE YEAR IN WHICH THE INVESTMENT IS MADE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, May 19, 2009.**