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OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

April 18, 2013

The Honorable Martin O'Malley
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401-1991

Re: Senate Bill 482

Dear Governor O'Malley:

We have reviewed and hereby approve Senate Bill 482, "Income Tax - Security Clearance - Employer Costs," for constitutionality and legal sufficiency. While we approve the bill, we note an oversight in the bill that it might be desirable to correct in the next session.

Senate Bill 482 amends Tax-General Article, § 10-732, which was enacted by Chapter 478 of 2012 to create a tax credit for security clearance administrative expenses and construction and equipment costs for the construction or renovation of a sensitive compartmented information facility (SCIF). As introduced, this year's bill simply raised the limits on the amount of the credit available and on the total amount of credits that the Department of Business and Economic Development may approve. The bill was amended, however, to extend the credit to "expenses incurred for rental payments owed during the first year of a rental agreement for spaces leased in the State if the individual or corporation is a small business that performs security-based contracting, not to exceed \$200,000."

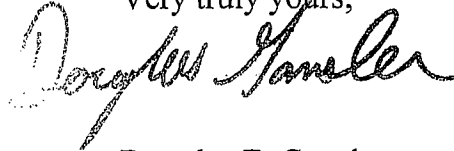
While a new credit raises no legal or constitutional problems in itself, we note that no parallel amendment was made to Tax-General Article, § 10-204(j) or § 10-305(d)(5), to require that any deductions for these costs are added back into federal adjusted gross income before Maryland taxes are calculated and the credit taken.¹ As a result, an

¹ Chapter 478 of 2012 made this change for the original credits granted by the section.

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individual or corporation claiming this credit on the basis of rental payments would be entitled to both a deduction and a credit at least until this apparent oversight can be corrected in a subsequent session.²

Very truly yours,



Douglas F. Gansler
Attorney General

DFG/kmr/kk

cc: The Honorable John P. McDonough
Stacy Mayer
Karl Aro

² We also note that § 10-204(j) refers to § 10-731, which is how § 10-732 was designated in Chapter 478 of 2012. Because Chapter 3 of 2012 also created a new § 10-731, however, the section from Chapter 478 was redesignated as § 10-732. This cross-reference can be addressed in the corrective bill.