

Chapter 743

(Senate Bill 200)

AN ACT concerning

Income Tax Credit – Qualified Research and Development Expenses – Credit Amounts

FOR the purpose of altering the total amount of research and development tax credits that the Department of Commerce may approve in a calendar year; providing for the application of this Act; and generally relating to certain credits against the State income tax based on certain expenses paid or incurred for certain research and development conducted in the State.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–721(b)
Annotated Code of Maryland
~~(2010 Replacement Volume and 2016 Supplement)~~
(2016 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–721(c)
Annotated Code of Maryland
~~(2010 Replacement Volume and 2016 Supplement)~~
(2016 Replacement Volume)

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

Article – Tax – General

10–721.

(b) Subject to the limitations of this section, an individual or a corporation may claim credits against the State income tax in an amount equal to:

(1) 3% of the Maryland qualified research and development expenses, not exceeding the Maryland base amount for the individual or corporation, paid or incurred by the individual or corporation during the taxable year; and

(2) 10% of the amount by which the Maryland qualified research and development expenses paid or incurred by the individual or corporation during the taxable year exceed the Maryland base amount for the individual or corporation.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the Maryland qualified research and development expenses were incurred, an individual or corporation shall submit an application to the Department for the credits allowed under subsection (b)(1) and (2) of this section.

(2) (i) Except as provided under paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(1) of this section may not exceed **[\$4,500,000 for any calendar year]:**

1. **\$4,500,000 IN CALENDAR YEAR 2016; AND**

2. ~~**\$6,000,000 IN CALENDAR YEAR 2017; \$5,500,000 IN CALENDAR YEAR 2017 AND EACH CALENDAR YEAR THEREAFTER.**~~

~~3. **\$8,000,000 IN CALENDAR YEAR 2018; AND**~~

~~4. **\$10,000,000 IN CALENDAR YEAR 2019 AND EACH CALENDAR YEAR THEREAFTER.**~~

(ii) Subject to paragraph (4) of this subsection, if the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b)(1) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b)(1) of this section in the calendar year.

(3) (i) Except as provided in paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(2) of this section may not exceed **[\$4,500,000 for any calendar year]:**

1. **\$4,500,000 IN CALENDAR YEAR 2016; AND**

2. ~~**\$6,000,000 IN CALENDAR YEAR 2017; \$6,500,000 IN CALENDAR YEAR 2017 AND EACH CALENDAR YEAR THEREAFTER.**~~

~~3. **\$8,000,000 IN CALENDAR YEAR 2018; AND**~~

~~4. **\$10,000,000 IN CALENDAR YEAR 2019 AND EACH CALENDAR YEAR THEREAFTER.**~~

(ii) Subject to paragraph (4) of this subsection, if the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b)(2) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b)(2) of this section in the calendar year.

(4) (i) For any calendar year, if the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section, the maximum specified under paragraph (3)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section.

(ii) For any calendar year, if the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section, the maximum specified under paragraph (2)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section.

(5) By December 15 of the calendar year following the end of the taxable year in which the Maryland qualified research and development expenses were incurred, the Department shall certify to the individual or corporation the amount of the research and development tax credits approved by the Department for the individual or corporation under subsection (b)(1) and (2) of this section.

(6) To claim the approved credits allowed under this section, an individual or corporation shall:

(i) file an amended income tax return for the taxable year in which the Maryland qualified research and development expense was incurred; and

(ii) attach a copy of the Department's certification of the approved credit amount to the amended income tax return.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017, and shall be applicable to all Maryland research and development tax credits certified after December 15, 2016.

Approved by the Governor, May 25, 2017.